APPROVED JURISDICTIONAL DETERMINATION REQUEST FOR A PORTION OF THE RESOLUTION PIPELINE CORRIDOR, PINAL COUNTY, ARIZONA

Prepared for: U.S. Army Corps of Engineers

Prepared by: WestLand Resources, Inc. *on behalf of* Resolution Copper

Date: May 15, 2020

Project No.: 807.175 02 01

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1. INTRODUCTION

Resolution Copper (Resolution, the Applicant) is requesting an Approved Jurisdictional Determination (Approved JD) for the portion of the Resolution pipeline corridor located within the Queen Creek watershed in Pinal County, Arizona (the Analysis Area, **Figure 1**). This Analysis Area is approximately 3.6 miles long and 500 feet in width, totaling approximately 216 acres. This request is intended as a supplement to three previous Approved JD requests submitted to the U.S. Army Corps of Engineers (Corps) by WestLand Resources, Inc. (WestLand) on behalf of the Applicant: the West Plant and East Plant Analysis Areas (Corps File No. SPL-2013-00050-MWL), the Near West Analysis Area (Corps File No. SPL-2014-00064-MWL), and the MARCCO Analysis Area (Corps File No. SPL-2014-00315-MWL). A portion of the current Analysis Area also crosses surface water features included in the West Plant and East Plant Analysis Areas. The fact-specific analyses and determinations of 'no Corps jurisdiction' made in these previous submittals have direct bearing on the current Analysis Area and the fact-specific analysis for these drainage reaches.

This evaluation was conducted in accordance with the June 5, 2007 *U.S. Army Corps of Engineers Jurisdictional Determination Form Instructional Guidebook* (the Guidebook) and the December 2008 Corps/Environmental Protection Agency guidance entitled *Clean Water Act Jurisdiction Following the U.S. Supreme Court's Decision in Rapanos v. United States and Carabell v. United States* (the Guidance). The Authorizations for Federal Access to the federally managed lands of the Analysis are included as **Attachment A**. Directions to the Analysis Area are provided as **Attachment B**. This memorandum includes graphics showing the Ordinary High Water Mark (OHWM) characteristics delineated within the drainages in the Analysis Area (**Attachment C**) and a completed Approved JD Form (**Attachment D**) for the delineated features. For those features previously delineated within the West Plant and East Plant Analysis Areas (Corps File No. SPL-2013-00050-MWL), the previous Approved JD Forms for those features are provided as **Attachment E**.

2. ANALYSIS AREA DESCRIPTION

The current Analysis Area consists of a pipeline corridor approximately 3.6 miles in length and located between Devil's Canyon in the vicinity of East Plant and the northern edge of the West Plant Site (**Figure 2**). The corridor crosses portions of Sections 23, 24, and 26 of Township 1 South, Range 12 East, and portions of Sections 19-21, 27, and 26 of Township 1 South, Range 13 East. This corridor is approximately 500 feet in width and includes approximately 194 acres of National Forest System lands and approximately 22 acres of privately held lands managed by the Applicant (**Figure 2**). The National Forest System lands are managed by the Mesa Ranger District as part of the Tonto National Forest.

The Analysis Area occurs entirely within the Upper Queen Creek watershed (HUC 1505010004) of the Middle Gila River sub-basin (15050100). The nearest Corps-designated Traditional Navigable

Water (TNW) downstream to the Analysis Area is the 6.9-mile reach of the Gila River between Powers Butte and Gillespie Dam, located approximately 126 river miles (94 aerial miles) from the closest portions of the Analysis Area. An aerial overview of the intervening landscape between the Analysis Area and the TNW reach of the Gila River is provided in **Figure 3**. Approximately 2 miles of the pipeline is proposed as a tunnel (**Figure 4**). This tunnel is not included in the Analysis Area as there will be no surface impacts and no OHWM is delineated in the area of the proposed tunnel. The current Analysis Area also intersects portions of the West Plant and East Plant Analysis Areas (Corps File No. SPL-2013-00050-MWL), and is located upgradient of the Near West Analysis Area (Corps File No. SPL-2014-00064-MWL) and a portion of the MARCCO Analysis Area (Corps File No. SPL-2014-00315-MWL). Some of the surface water features previously considered non-jurisdictional in the West Plant and East Plant Analysis Areas are included in the current Analysis Area. The Approved JD Forms for those previously considered features are provided as **Attachment E**.

3. ANALYSIS AREA FEATURES

All of the drainages considered in the current Analysis Area are ultimately tributary to the reach of Queen Creek upgradient of Whitlow Ranch Dam (**Figure 4**). Only one surface water feature, the isolated wetland previously considered in the West Plant and East Plant Analysis Areas (Corps File No. SPL-2013-00050-MWL) as Wetland 9 (**Figure 4**), is not. Excluding those features previously considered for the West and East Plant Analysis Areas for which there is a previous Corps determination, characteristics of an OHWM are present in approximately 13,310 linear feet of ephemeral channel within the current Analysis Area. Based on the observed width of the drainages, the estimated total area of potential non-wetland waters of the United States (Waters) is 1.735 acres.

All of the drainage features in the current Analysis Area are ephemeral drainages, flowing only briefly in direct response to storm events. No special aquatic sites beyond the isolated Wetland 9 were identified within the Analysis Area and no special aquatic sites are considered in the current determination request.

4. DOWNSTREAM CONNECTIVITY

4.1. HYDROLOGICAL CONNECTIVITY

The nearest Corps-designated TNW downgradient of the Analysis Area is the 6.9-mile reach of the Gila River between Powers Butte and Gillespie Dam, located approximately 126 river miles (94 aerial miles) from the closest portions of the Analysis Area. An aerial overview of the intervening landscape between the Analysis Area and the TNW reach of the Gila River is provided in **Figure 3**. As stated above, all of the drainages considered in the current Analysis Area are ultimately tributary to the reach of Queen Creek upgradient of Whitlow Ranch Dam.

Whitlow Ranch Dam is a significant impounding feature that alters the flow regime and condition of Queen Creek, effectively dividing Queen Creek into two separate physical reaches. Whitlow Ranch Dam is an earthfill dam constructed by the Corps in 1960 to provide flood protection to farmland and developed areas in the eastern portion of the Phoenix Basin. The dam detains stormwater flood flows and slowly meters out water impounded in the reservoir of the dam, limiting peak discharge while increasing flow duration, and allowing development such as the golf course located immediately downstream from Whitlow Ranch Dam. The Corps' reservoir regulations website acknowledges that outflow from the dam "usually percolates into the alluvial plain below the dam and rarely travels more than a few miles downstream" (Corps 2011).

The ephemeral reach of Queen Creek downgradient of the Whitlow Ranch Dam includes an approximately 11-mile stretch of the East Maricopa Floodway (EMF), a flood control channel that alternates between earthen and concrete-lined reaches. The Gila River downstream of the confluence with the EMF is classified as ephemeral to the confluence with the Salt River, a total reach length of more than 30 river miles. Beginning at the confluence of the Gila and Salt Rivers, the Gila River is an effluent-dependent water for the remainder of the 40 river miles to the TNW reach at Powers Butte (A.A.C. Title 18, Chapter 11, Appendix B).

Although a general flowpath can be discerned, a number of man-made impoundments and diversions are located between the Analysis Area and the downgradient TNW that significantly limit the transmission of flows. This is attributed to major impoundments along the flow route, including Whitlow Dam, Sonoqui Dike, the Central Arizona Project (CAP) Canal, housing developments in the greater Phoenix Valley, agriculture operations, and multiple sand and gravel mining operations. Transport of flows, nutrients, sediment, or pollutants from the Analysis Area are significantly impeded, if not completely precluded, by the presence of these significant man-made impoundments and disturbances along the downstream flowpath. This lack of hydrologic or other forms of connectivity was a significant factor in the Corps' previous determination of 'no jurisdiction' in the West Plant and East Plant, Near West, and MARCCO Approved JDs.

A coincident flow analysis was completed by JE Fuller Hydrology & Geomorphology, Inc. (JEF; 2011) for the West Plant and East Plant Approved JD and was included as supporting evidence in the Near West and MARCCO Approved JDs. This analysis is relevant to the possibility of hydrologic or other connection between the surface water features in the current Analysis Area and the TNW reach of the Gila River between Powers Butte and the Gillespie Dam. JEF (2011) identified ten gaged locations along the path of interest from the Whitlow Ranch Dam to the Gila River at the Gillespie Dam and identified an overlapping period of concurrent operation of slightly more than 10 years, between the years 2000 and 2011 (JEF 2011). Mean daily flow rate data from the gages for these 10 years, a period from 2000 to 2010, was then analyzed for instances of non-zero flow at each gage, and these instances correlated to identify potential concurrent flow.

Based on the gage data, no flow was present at the Whitlow Ranch Dam for approximately 98 percent of the 10-year period of record, and analysis of the 10-year period of record identified no instances of potential concurrent flow within the reach of interest (JEF 2011). These data suggest large transmission losses, specifically between Whitlow Ranch Dam on Queen Creek and the EMF outfall to the Gila River, were responsible for the lack of coincident flow (JEF 2011). This was attributed to the major impoundments along the flow route, including Whitlow Dam, Sonoqui Dike, housing developments in the greater Phoenix Valley, agriculture operations, and multiple sand and gravel mining operations. The data further suggested that those stormwater flows that originate in the EMF and discharge to the Gila River are lost through percolation into the alluvium of the Gila River and are not transmitted downstream (JEF 2011).

4.2. Physical/Chemical Connectivity

Within the Analysis Area, potential pollutant sources consist mainly of unconsolidated sediment and dissolved copper. Transport of sediment from the Analysis Area is significantly impeded, if not completely precluded, however, by the presence of the Whitlow Ranch Dam, the Sonoqui Dike, the Magma Flood Retarding Structure, and other man-made impoundments and disturbances along the downstream flowpath. Whitlow Ranch Dam is known to function as an effective sediment trap, as is the Sonoqui Dike, evidenced by the Section 404 Permit Public Notice for the Queen Creek Channel Improvements Project (Corps File No. SPL-2010-00916-WHM).

The 2018 Arizona Department of Environmental Quality (ADEQ) 303(d) Impaired Waters List (ADEQ 2020) categorized the reach of Queen Creek downgradient of the Analysis Area as currently impaired dissolved copper. The reach of Queen Creek immediately downstream of Whitlow Ranch Dam remains unimpaired, however, suggesting chemical connectivity to drainages downstream from the Analysis Area are limited. The 6.9-mile reach of the Gila River TNW between Powers Butte and Gillespie Dam is listed as impaired for waterborne concentrations of selenium (ADEQ 2020), as a result of current and historic agricultural activities along the TNW itself. Even if there were regular hydrologic connectivity between the ephemeral drainages of the Analysis Area and the TNW, the Analysis Area itself is too distant to contribute the pollutants causing current impairment in the TNW.

4.3. Biological Connectivity

The surface water features within the Analysis Area do not provide significant habitat or life cycle support functions for any species population found within the TNW reach of the Gila River beginning at Powers Butte. Given the distance to the TNW and the man-made impoundments, this lack of life cycle support can be extended to include potential contributions of nutrients and organic carbon to species within the TNW. There is no designated critical habitat within the Analysis Area or along the downgradient flowpath to the nearest TNW. The riparian and xeroriparian habitats within the Analysis

Area are interrupted downstream from the Analysis Area by man-made impoundments, active agriculture, and residential and commercial development in the East Phoenix Valley.

In discussing biological considerations, the Guidance notes that ephemeral tributaries in the arid west may provide habitat for wildlife and aquatic organisms in downstream TNWs. However, the surface water features within the Analysis Area were not found to provide habitat or life cycle support functions for aquatic species. Additionally, Winter (2007) notes that "nearly all streams need to have some contribution from ground water in order to provide reliable habitat for aquatic organisms."

Based on these factors, the surface water features within the Analysis Area do not have a more than insubstantial or speculative biological connection to the downgradient TNW.

5. SIGNIFICANT NEXUS ANALYSIS

As discussed in **Section 3**, there is little to no hydrological, physical, chemical, or biological connection between the surface water features within the Analysis Area and the Gila River, even in the 100-year runoff event. The significant distance between the Analysis Area and the downgradient TNW (126 river miles and 94 aerial miles), as well as the presence of several constructed impediments to flow, suggests that there is no potential for the drainages within the Analysis Area to have a more than insubstantial or speculative effect on the hydrological, physical, chemical, or biological integrity of the TNW.

The three previous Approved JDs this request is supplementing were subject to the same impounding features that precluded a significant connection to the downstream TNW and were determined to have no significant nexus to the TNW.

6. JURISDICTIONAL ANALYSIS

The Analysis Area is located approximately 126 river miles (94 aerial miles) from the 6.9-mile TNW reach of the Gila River between Powers Butte and Gillespie Dam. The potential flowpath from the Analysis Area to the TNW includes lengthy, ephemeral reaches of Queen Creek, the EMF, and the Gila River, with significant major impoundments along the flow route, including Whitlow Ranch Dam, the Sonoqui Dike, and the CAP Canal. Transport of flows, nutrients, sediment, or pollutants from the Analysis Area are significantly impeded, if not completely precluded, by the presence of these significant man-made impoundments and disturbances along the downstream flowpath. The fact-specific analyses and determinations of 'no Corps jurisdiction' made in the West Plant and East Plant (Corps File No. SPL-2013-00050-MWL), the Near West (Corps File No. SPL-2014-00064-MWL), and MARCCO Approved JDs (Corps File No. SPL-2014-00315-MWL) relied heavily on this lack of connection and it has direct bearing on the fact-specific analysis for the surface water features within the current Analysis Area.

The characteristics of the surface water features within the current Analysis Area and the flowpath to the TNW eliminate the potential for a more than insubstantial hydrologic connection to exist between the Analysis Area and the downgradient TNW. The surface water features within the current Analysis Area do not either contribute or filter pollutants, or contribute sediments at an amount or frequency that would affect the chemical or physical integrity of the downstream TNW. They do not provide significant habitat or life cycle support functions for any species population found within the TNW, do not affect the aquatic habitat of or the amount of nutrient transport to the TNW reach of the Gila River, and do not have a more than insubstantial effect on the biological integrity of this TNW. As such, there is no significant nexus between the surface water features within the current Analysis Area and the downgradient TNW and, as such, these features are not jurisdictional Waters.

ED_013248_00001422-00007

7. REFERENCES

Arizona Department of Environmental Quality (ADEQ). 2020. *Arizona's 2018 303(d) List of Impaired Waters.* Available at: https://static.azdeq.gov/pn/pn_303d_2018draft.pdf.

Army Corps of Engineers (Corps). 2011. *Whitlow Ranch Dam.* Los Angeles District, Reservoir Regulations webpage. Available at: http://www.spl.usace.army.mil/resreg/htdocs/whtl_2.html.

JE Fuller Hydrology and Geomorphology, Inc. (JEF). 2011. *Resolution Copper: Significant Nexus Evaluation.* JE Fuller Hydrology and Geomorphology, Inc., Phoenix, Arizona.

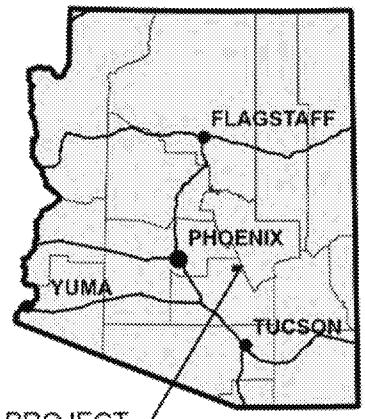
Montgomery and Associates (Montgomery). 2013. *Surface Water Baseline Report: Devils Canyon, Mineral Creek and Queen Creek Watersheds, Resolution Copper Mining LLC, Pinal County, Arizona.* Prepared for Resolution Copper. Tucson, Arizona: Montgomery and Associates Inc. May 16. Available at: https://www.resolutionmineeis.us/documents/montgomery-surface-water-baseline-20130516

Winter, Thomas C. 2007. The Role of Ground Water in Generating Streamflow in Headwater Areas and in Maintaining Base Flow. *Journal of the American Water Resources Association*, 43(1):15-25.

ED_013248_00001422-00008

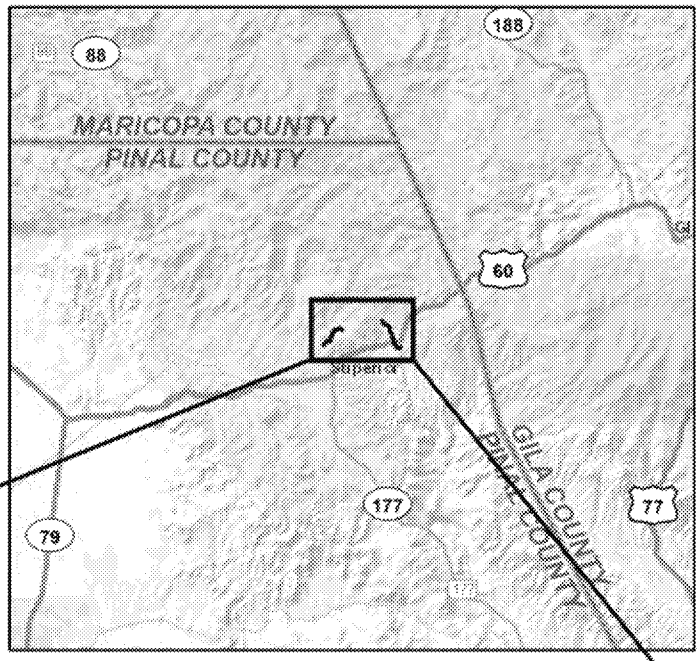
FIGURES

ARIZONA

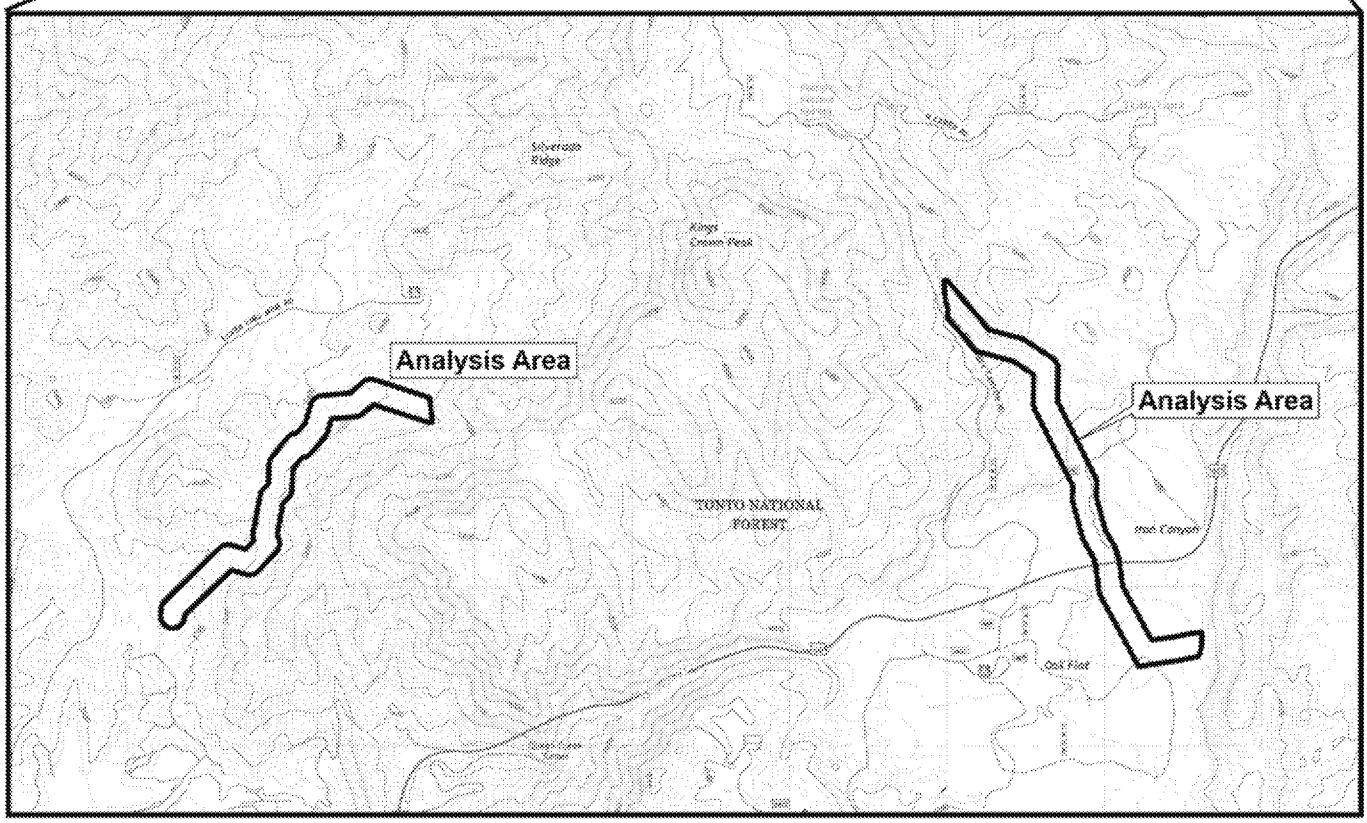


PROJECT LOCATION

PROJECT VICINITY



Approximate Scale 1 Inch = 10 Miles



T1S, R12E, Portions of Sections 23, 24, and 26,
T1S, R13E, Portions of Sections 21, 27, and 28,
Pinal County, Arizona,
Superior (2018) USGS 7.5' Quadrangle
Image Source: ArcGIS Online World Street Map

RESOLUTION COPPER

Approved Jurisdictional Determination

WestLand Resources

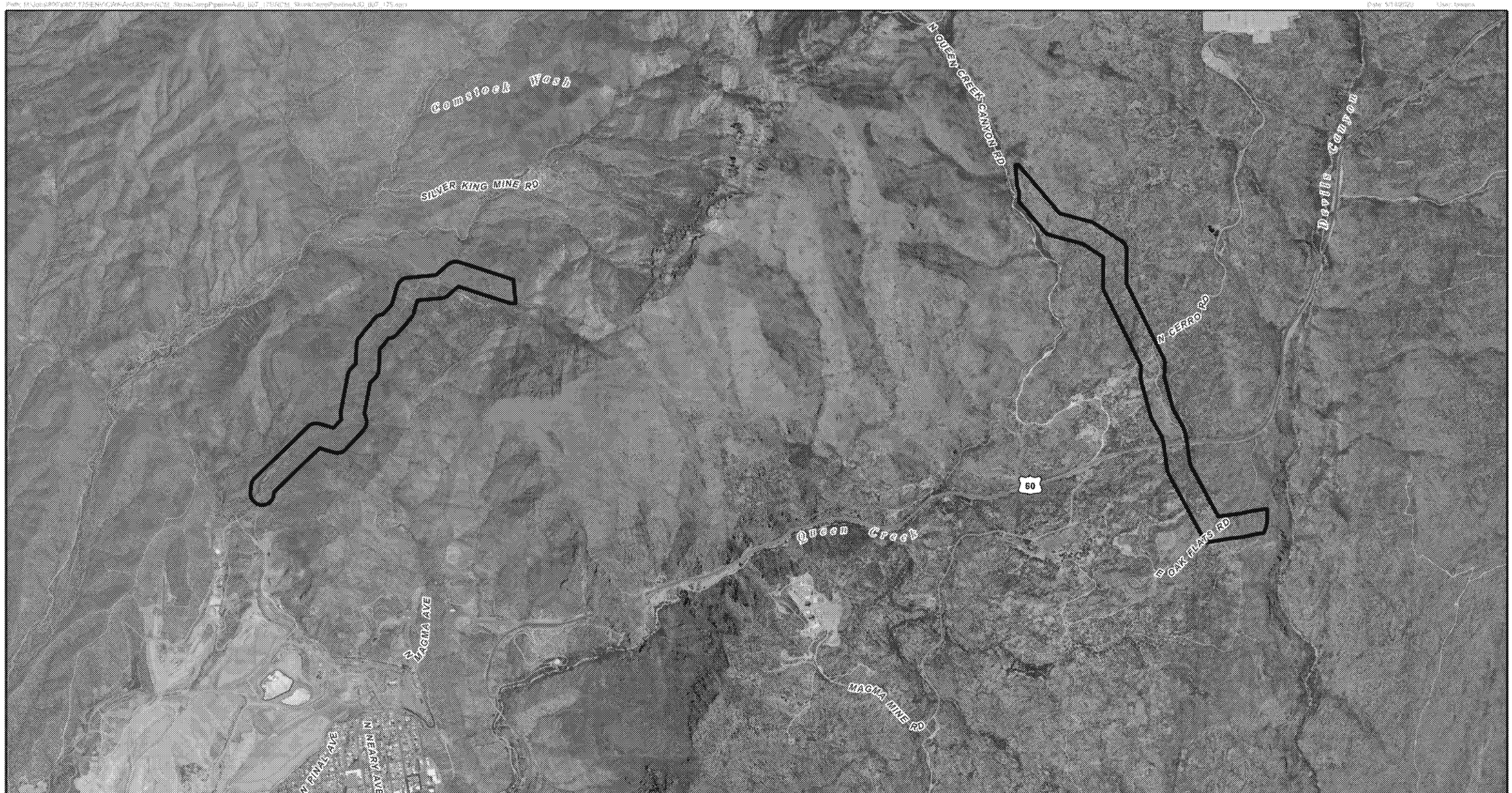
N

0 2,000 4,000 Feet

0 1,000 2,000 Meters

VICINITY MAP

Figure 1



T1S, R12E, Portions of Sections 23, 24, and 26,
T1S, R13E, Portions of Sections 21, 27, and 28,
Pinal County, Arizona,
Image Source: 2019 USDA NAIP Orthophoto

WestLand Resources

N

0 1,000 2,000 Feet

0 300 600 Meters

Legend

Analysis Area

RESOLUTION COPPER

Approved Jurisdictional Determination

AERIAL OVERVIEW

Figure 2

T1S, R12E, Portions of Sections 23, 24, and 26,
T1S, R13E, Portions of Sections 21, 27, and 28,
Pinal County, Arizona,
Image Source: 2019 USDA NAIP Orthophoto

WestLand Resources

N

0 4 8 Miles

0 8 16 Kilometers

Legend

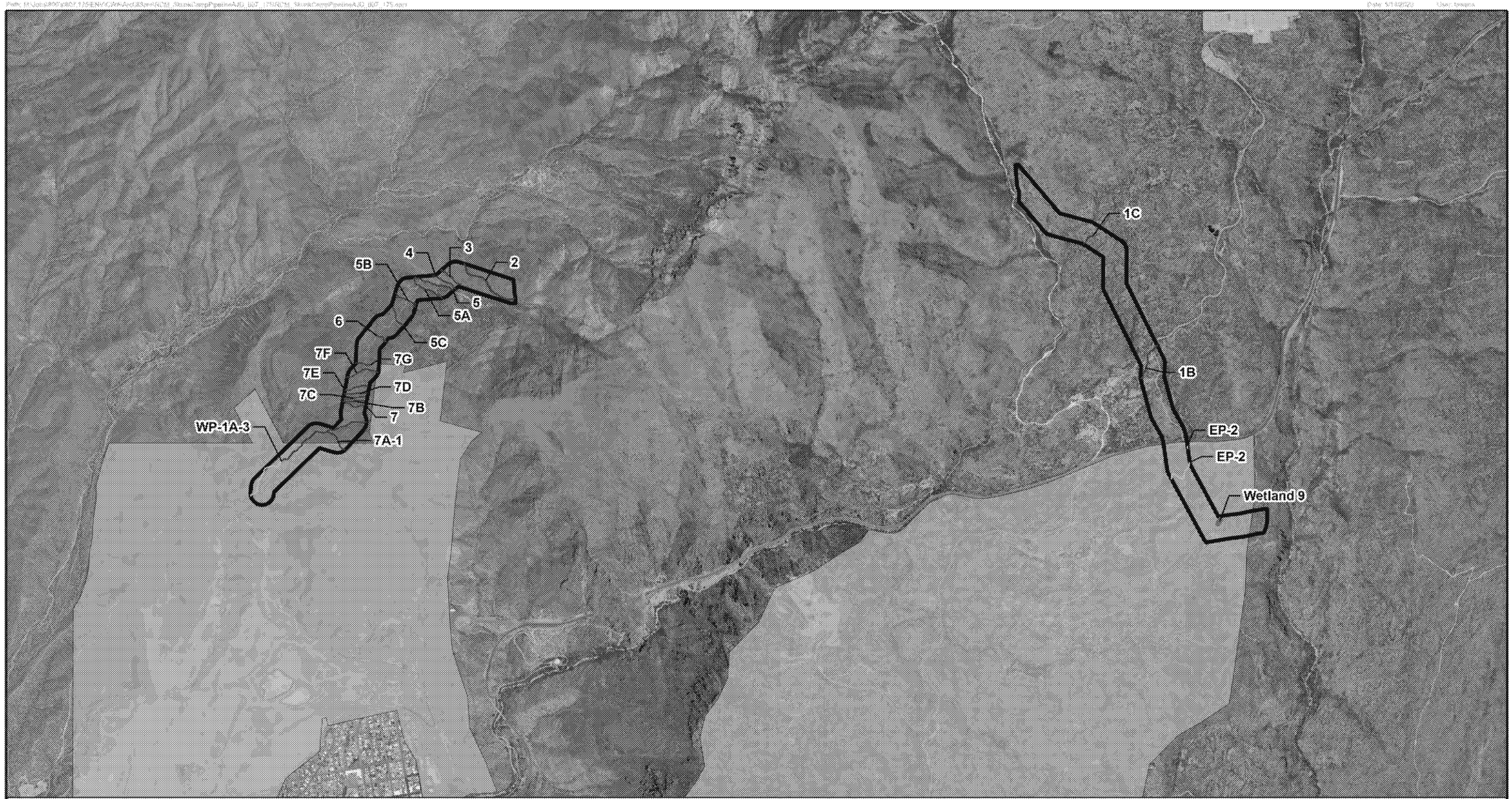
- Potential Downgradient Flow Path
- ACOE Designated Traditional Navigable Waters
- Named Wash (Arizona Land Resource Information System)
- Analysis Area

RESOLUTION COPPER

Approved Jurisdictional Determination

REGIONAL OVERVIEW

Figure 3



T1S, R12E, Portions of Sections 23, 24, and 26,
T1S, R13E, Portions of Sections 21, 27, and 28,
Pinal County, Arizona,
Image Source: 2019 USDA NAIP Orthophoto

WestLand Resources

N

0 1,000 2,000 Feet

0 300 600 Meters

Legend

- Analysis Area
- Ordinary High Water Mark
- Previously Reviewed Feature, Corps File No. SPL-2013-00050-MWL
- Previously Reviewed Wetland Feature, Corps File No. SPL-2013-00050-MWL
- East/West Plant JD Analysis Area, Corps File No. SPL-2013-00050-MWL

RESOLUTION COPPER

Approved Jurisdictional Determination

CHWM FEATURES

Figure 4

ATTACHMENT A
Authorization for Federal Access

United States Department of Agriculture
Forest Service
Tonto National Forest
2324 East McDowell Road
Phoenix, AZ 85006
602-225-5200
TDD: 602-225-5395
Fax: 602-225-5295

File Code: 1950
Date: May 18, 2020

Mr. Michael Langley
Senior Regulatory Project Manager
U.S. Army Corps of Engineers
3636 North Central Avenue, Suite 900
Phoenix, AZ 85707

RE: Acknowledgement of Approved Jurisdictional Determination Request on NFS Lands

Dear Mr. Langley:

It has come to my attention that an Approved Jurisdictional Determination (Approved JD) request has been submitted by WestLand Resources, Inc., on behalf of Resolution Copper Mining, LLC, for a portion of the proposed copper mine facilities located within the Queen Creek watershed within Pinal County, Arizona.

It's my understanding that the request is focused solely on the corridor identified for the proposed tailings slurry pipeline and that the proposed corridor alignment includes approximately 321 acres of National Forest System (NFS) lands. These are lands that are managed by the USDA Forest Service as part of the Tonto National Forest.

With this letter, the Forest Service acknowledges the Approved JD request for these lands. Please contact my Project Manager, Mary Rasmussen, at mary.rasmussen@usda.gov, if there are questions or you need additional assistance regarding this matter.

As we navigate the remaining regulatory review processes of this complex high-profile project, know that I value the cooperative relationship that has emerged between our respective agencies.

Sincerely,

X NEIL BOSWORTH
Digitally signed by NEIL BOSWORTH
Date: 2020.05.18 10:28:11 -07'00'

cc: michael.w.langley@usace.army.mil; mary.rasmussen@usda.gov; victoria.peacey@riotinto.com; cgarrett@swca.com

ATTACHMENT B
Directions to Site

Google maps

Directions to N Magma Ave
67.4 mi – about **1 hour 20 mins** – up to 1 hour 50 mins in traffic

Save trees. Go green!
Download Google Maps on your phone at **google.com/gmm**

3636 N Central Ave, Phoenix, AZ 85012

1.	Head **south** on **N Central Ave** toward **W Columbus Ave** About 4 mins	go 1.7 mi total 1.7 mi
2.	Turn left onto **E McDowell Rd** About 1 min	go 0.3 mi total 2.0 mi
3.	Take the 3rd right onto **N 3rd St** About 1 min	go 0.2 mi total 2.2 mi
4.	Turn left to merge onto **I-10 E** About 10 mins	go 9.2 mi total 11.4 mi
5.	Take exit **154** to merge onto **US-60 E** toward **Mesa - Globe** About 1 hour 1 min	go 55.2 mi total 66.6 mi
6.	Take the **AZ-177** exit	go 0.2 mi total 66.8 mi
7.	Turn left onto **AZ-177 N/Ray Rd** Continue to follow Ray Rd About 2 mins	go 0.2 mi total 67.0 mi
8.	Continue onto **N Magma Ave** About 1 min	go 0.3 mi total 67.4 mi

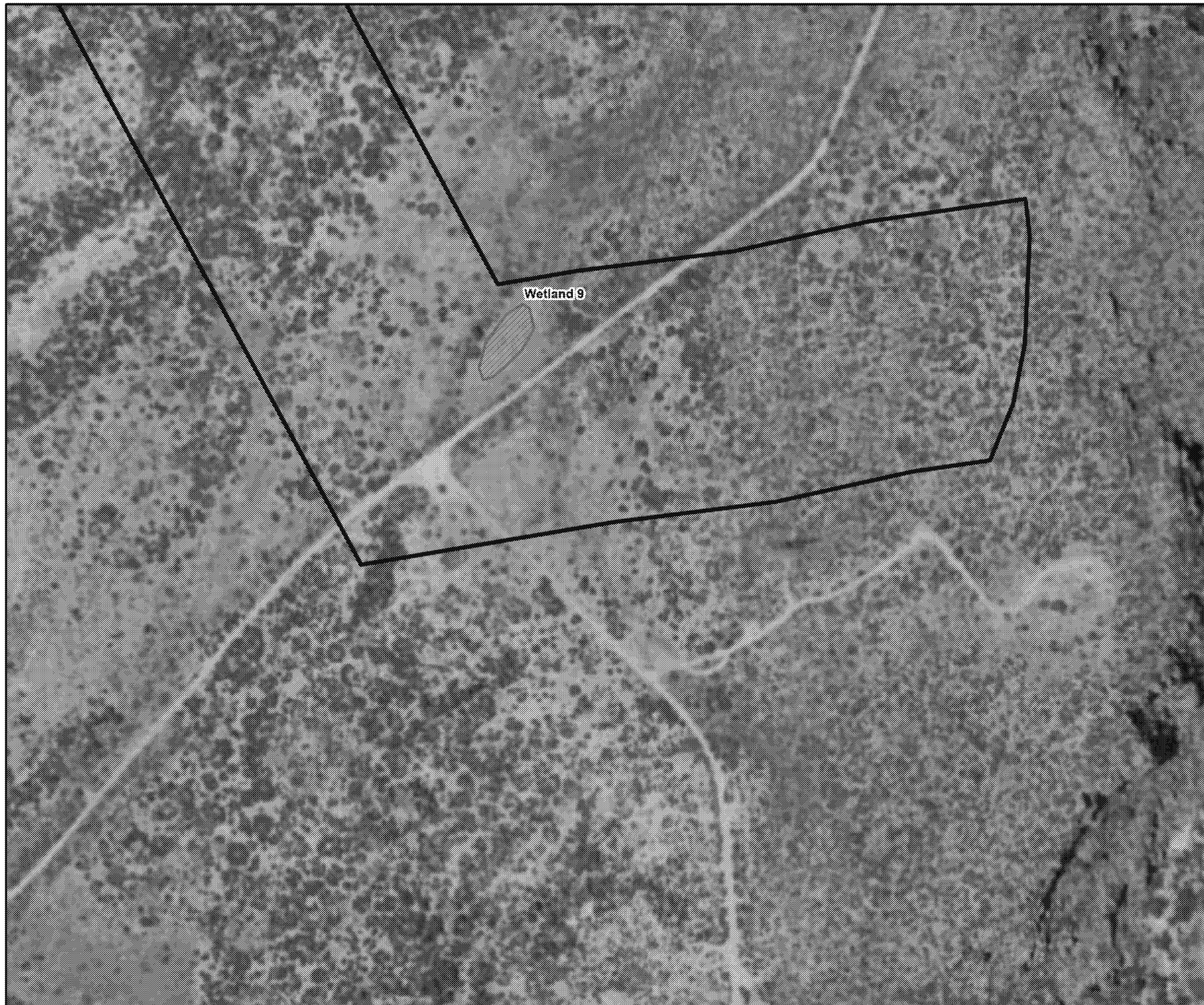
N Magma Ave

These directions are for planning purposes only. You may find that construction projects, traffic, weather, or other events may cause conditions to differ from the map results, and you should plan your route accordingly. You must obey all signs or notices regarding your route.

Map data ©2011 Google

Directions weren't right? Please find your route on maps.google.com and click "Report a problem" at the bottom left.

ATTACHMENT C
CWA Section 404 Jurisdictional Determination Map



APPROVED JURISDICTIONAL DETERMINATION
U.S. Army Corps of Engineers, Los Angeles District
Application No. SPL - _____ - _____ - _____

Boundary of area surveyed for jurisdictional waters of the United States
Ordinary High Water Mark
Waters of the United States
Wetland Boundary (If legend is blank no wetlands occur in survey area)

200' Scale 2019 Date of Photograph
_____ Site Visit by Corps (Y/N) Date: _____
_____ Date Delineation issued by Corps
_____ Corps Project Manager
Sheet _____ of _____

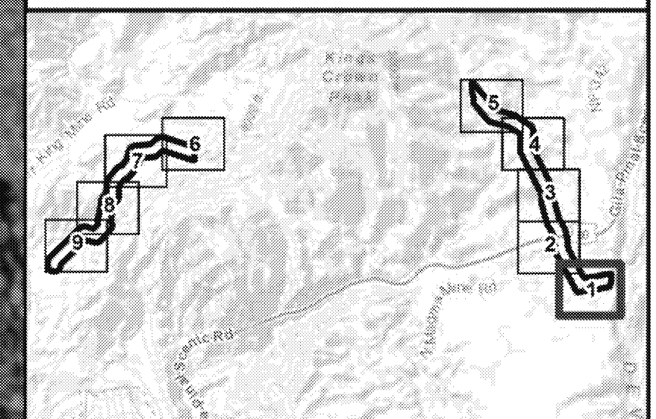


Image Sources: ArcGIS Online World Topo Map and 2019 USDA NAIP Orthophoto

Legend

Analysis Area
Previously Reviewed Wetland Feature, Corps File No. SPL-2013-00050-MWL

N
0 100 200 Feet
0 50 100 Meters

WestLand Resources

RESOLUTION COPPER
Approved Jurisdictional Determination
Corps File No. SPL-XXXX-XXXXX-XXX

Figure 5
Sheet 1 of 9

APPROVED JURISDICTIONAL DETERMINATION
U.S. Army Corps of Engineers, Los Angeles District
Application No. SPL - _____ - _____ - _____

Boundary of area surveyed for jurisdictional waters of the United States
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Sheet _____ of _____

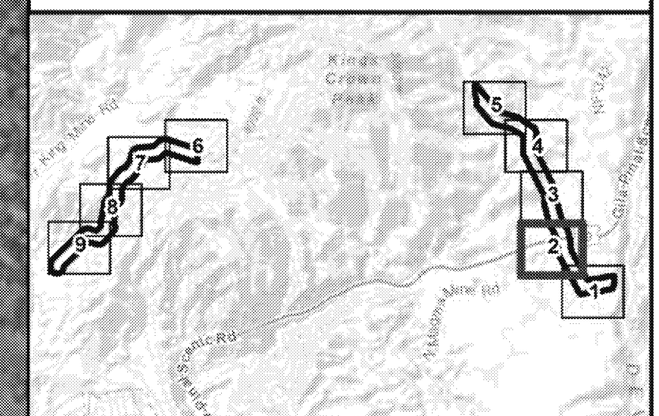


Image Sources: ArcGIS Online World Topo Map and 2019 USDA NAIP Orthophoto

Legend

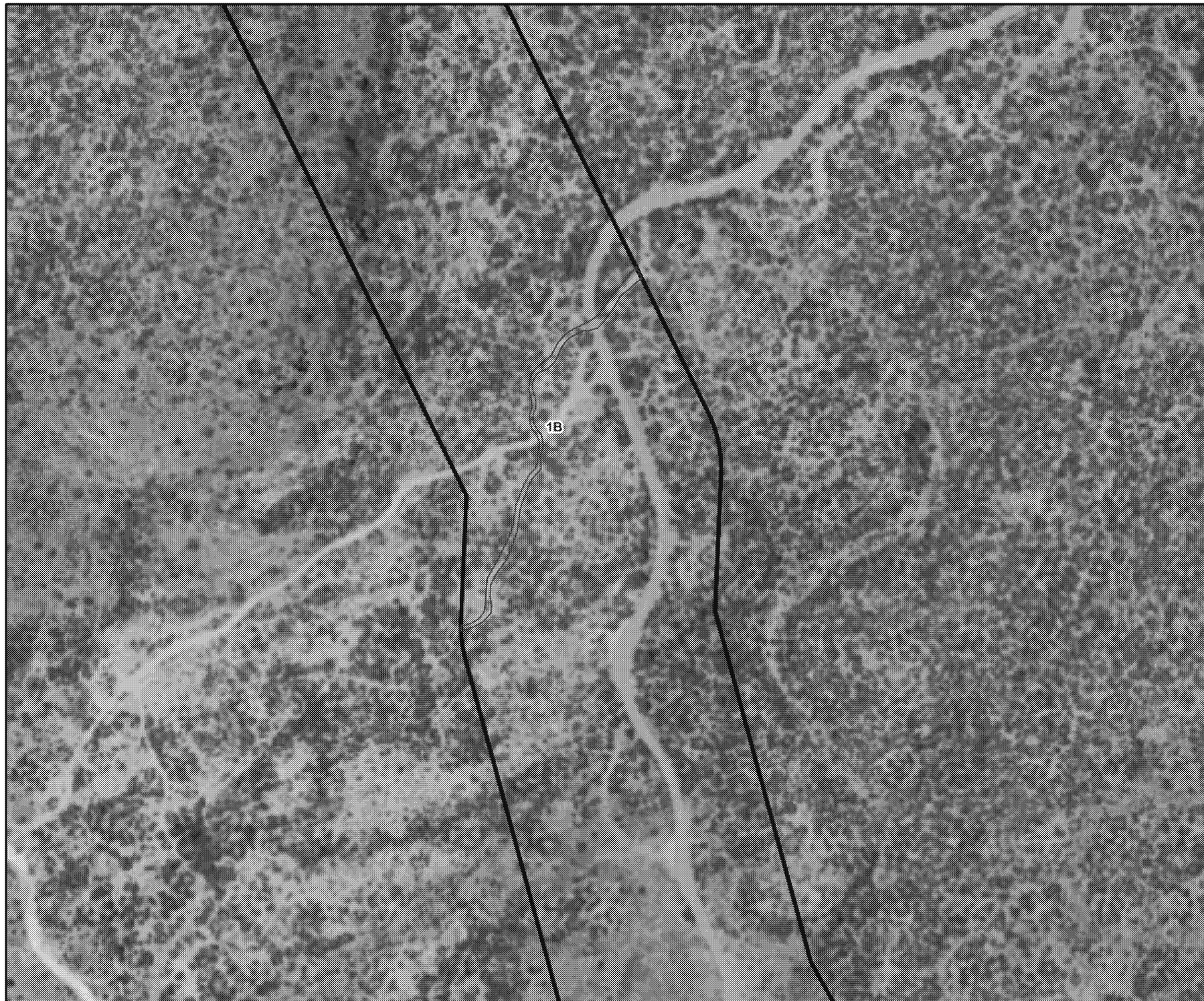
Analysis Area
Previously Reviewed Feature, Corps File No. SPL-2013-00050-MWL

N
0 100 200 Feet
0 50 100 Meters

WestLand Resources

RESOLUTION COPPER
Approved Jurisdictional Determination
Corps File No. SPL-XXXX-XXXXX-XXX

Figure 5
Sheet 2 of 9



APPROVED JURISDICTIONAL DETERMINATION
U.S. Army Corps of Engineers, Los Angeles District
Application No. SPL - _____ - _____ - _____

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_____ Date Delineation issued by Corps
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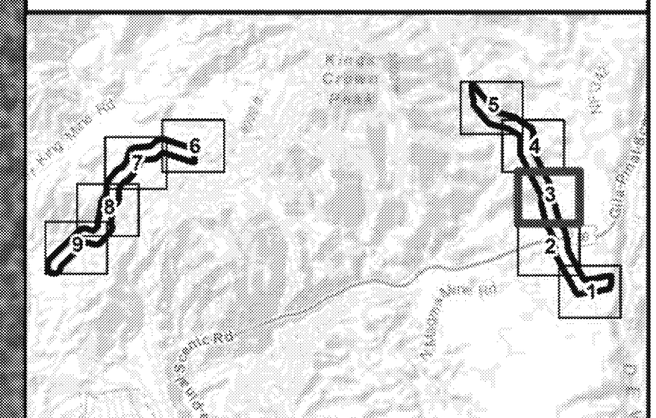


Image Sources: ArcGIS Online World Topo Map and 2019 USDA NAIP Orthophoto

Legend

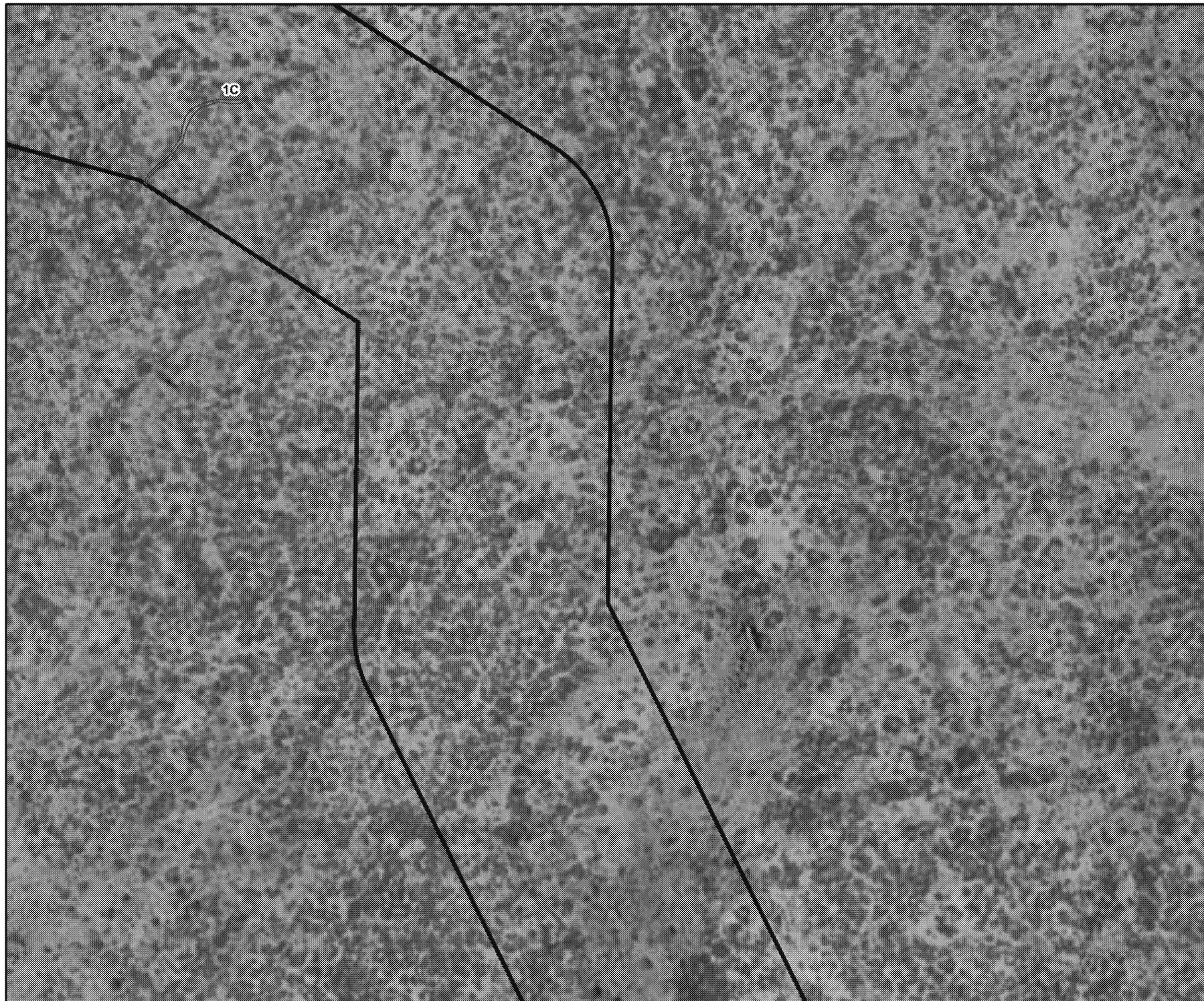
Analysis Area
Ordinary High Water Mark

N
0 100 200 Feet
0 50 100 Meters

WestLand Resources

RESOLUTION COPPER
Approved Jurisdictional Determination
Corps File No. SPL-XXXX-XXXXX-XXX

Figure 5
Sheet 3 of 9



APPROVED JURISDICTIONAL DETERMINATION
U.S. Army Corps of Engineers, Los Angeles District
Application No. SPL - _____ - _____ - _____

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Ordinary High Water Mark
Waters of the United States
Wetland Boundary (If legend is blank no wetlands occur in survey area)

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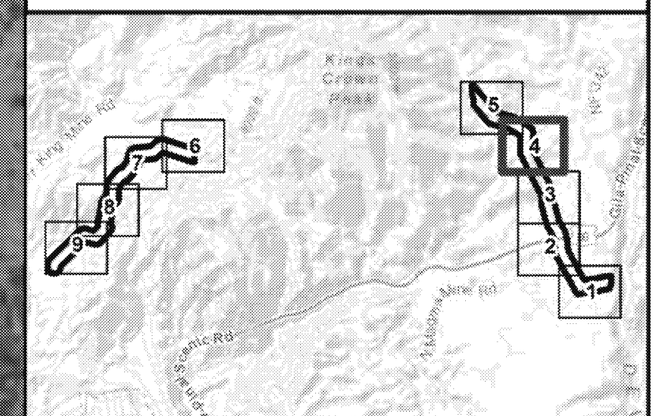


Image Sources: ArcGIS Online World Topo Map and 2019 USDA NAIP Orthophoto

Legend

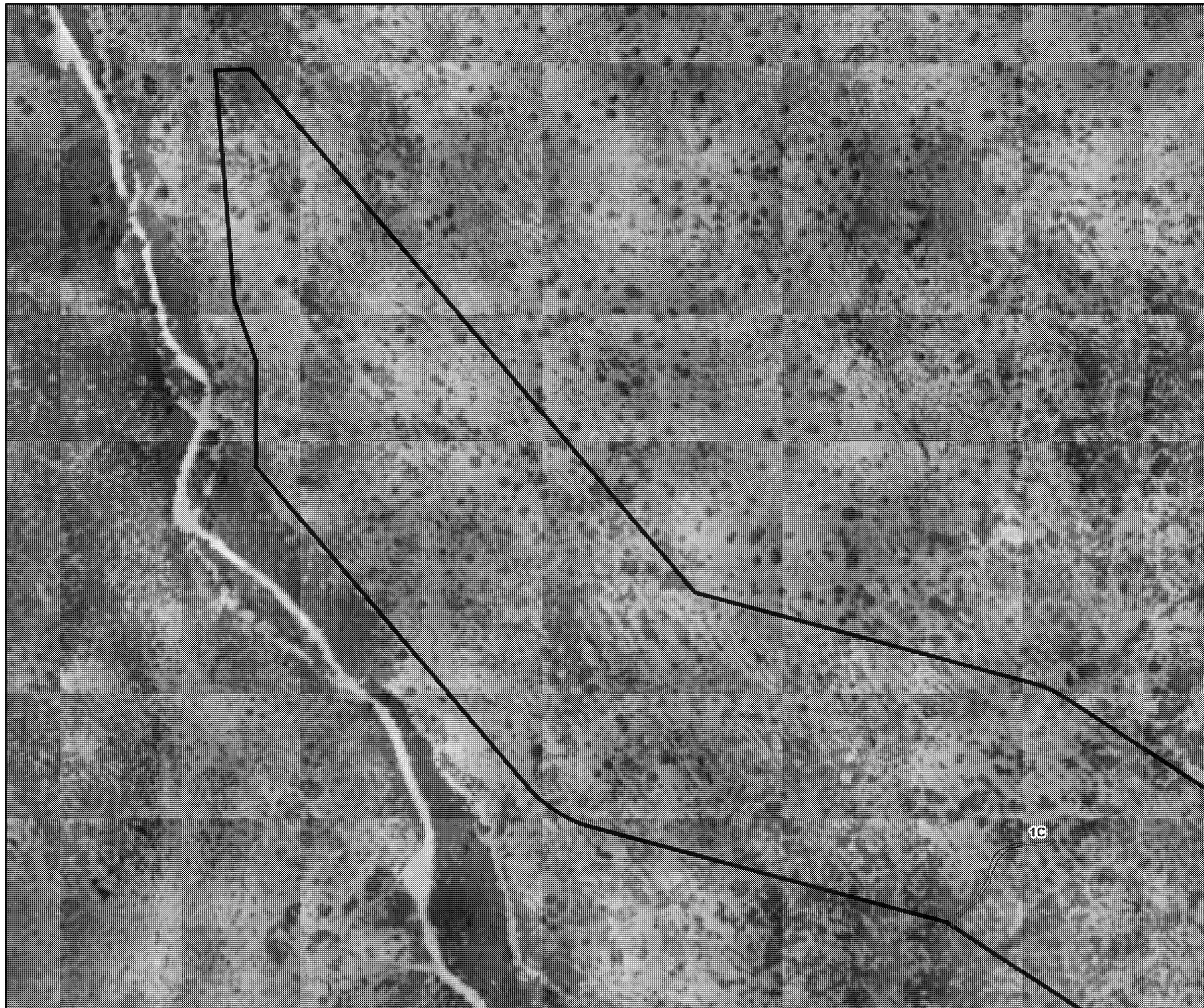
Analysis Area
Ordinary High Water Mark

N
0 100 200 Feet
0 50 100 Meters

WestLand Resources

RESOLUTION COPPER
Approved Jurisdictional Determination
Corps File No. SPL-XXXX-XXXXX-XXX

Figure 5
Sheet 4 of 9



APPROVED JURISDICTIONAL DETERMINATION
U.S. Army Corps of Engineers, Los Angeles District
Application No. SPL - _____ - _____ - _____

Boundary of area surveyed for jurisdictional waters of the United States
Ordinary High Water Mark
Waters of the United States
Wetland Boundary (If legend is blank no wetlands occur in survey area)

200' Scale 2019 Date of Photograph
_____ Site Visit by Corps (Y/N) Date: _____
_____ Date Delineation issued by Corps
_____ Corps Project Manager
Sheet _____ of _____

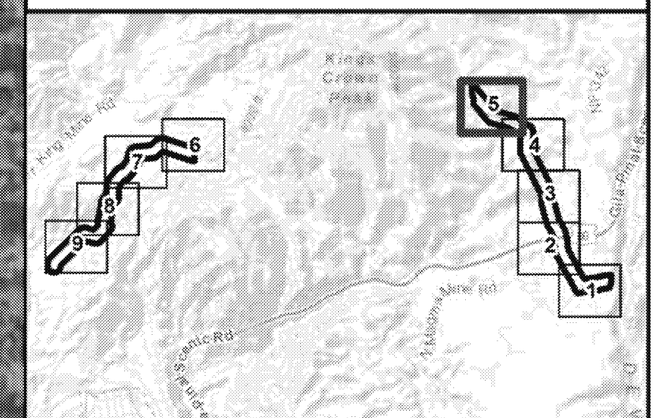


Image Sources: ArcGIS Online World Topo Map and 2019 USDA NAIP Orthophoto

Legend

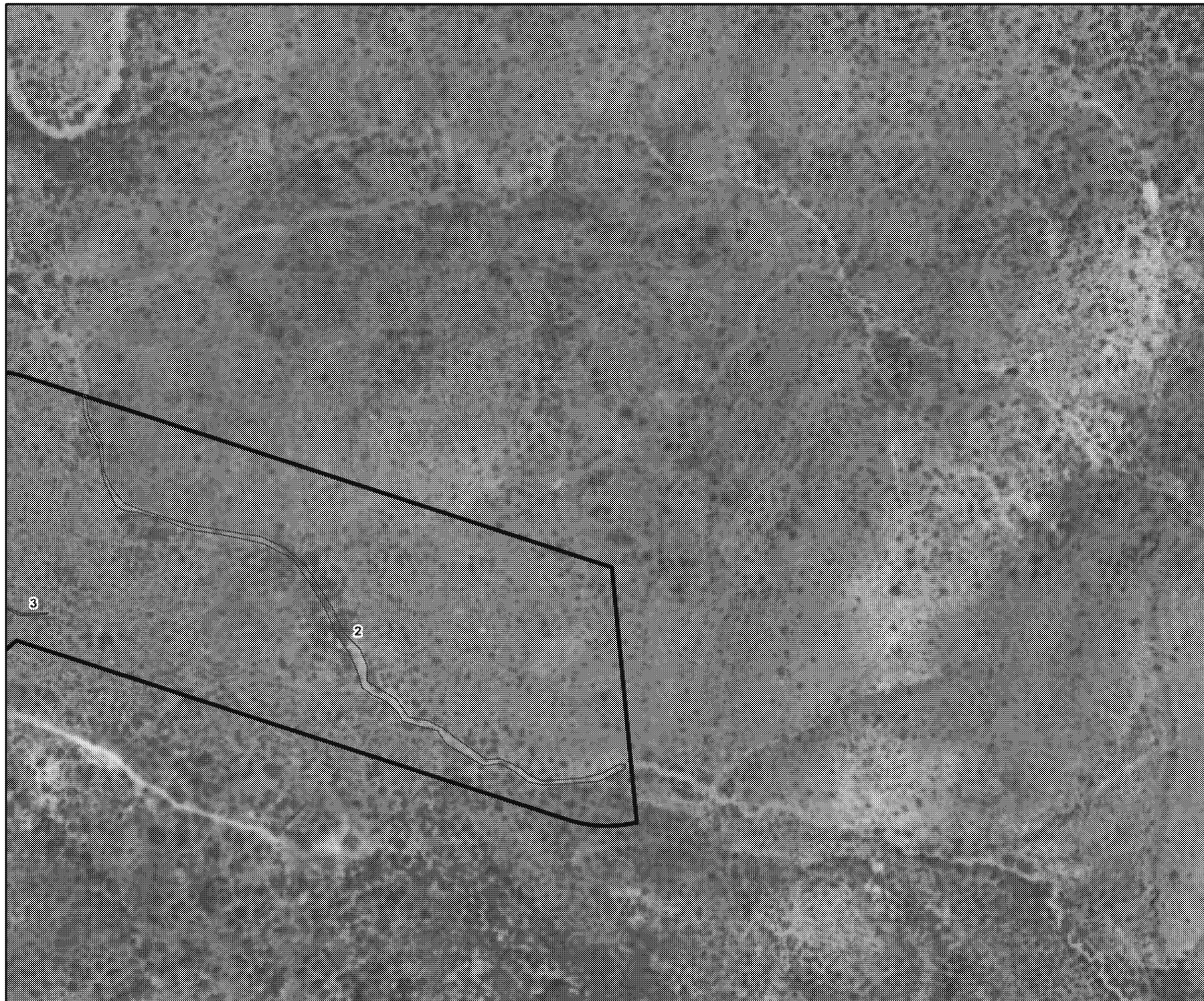
Analysis Area
Ordinary High Water Mark

N
0 100 200 Feet
0 50 100 Meters

WestLand Resources

RESOLUTION COPPER
Approved Jurisdictional Determination
Corps File No. SPL-XXXX-XXXXX-XXX

Figure 5
Sheet 5 of 9



APPROVED JURISDICTIONAL DETERMINATION
U.S. Army Corps of Engineers, Los Angeles District
Application No. SPL - _____ - _____ - _____

Boundary of area surveyed for jurisdictional waters of the United States
Ordinary High Water Mark
Waters of the United States
Wetland Boundary (If legend is blank no wetlands occur in survey area)

200' Scale 2019 Date of Photograph
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_____ Corps Project Manager
Sheet _____ of _____

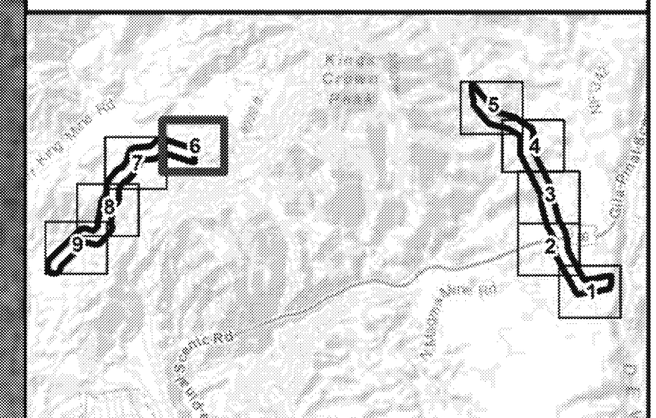


Image Sources: ArcGIS Online World Topo Map and 2019 USDA NAIP Orthophoto

Legend

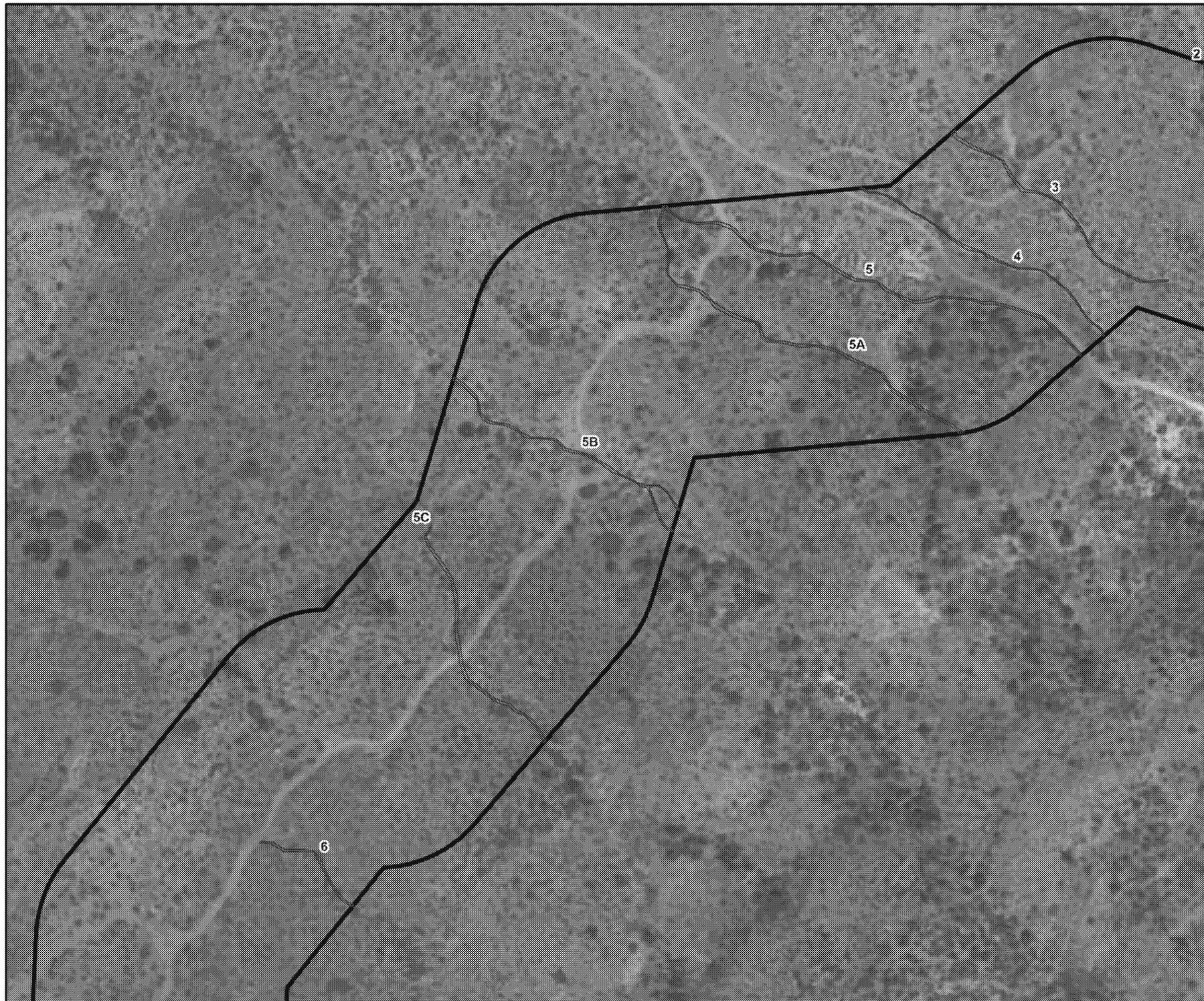
Analysis Area
Ordinary High Water Mark

N
0 100 200 Feet
0 50 100 Meters

WestLand Resources

RESOLUTION COPPER
Approved Jurisdictional Determination
Corps File No. SPL-XXXX-XXXXX-XXX

Figure 5
Sheet 6 of 9



APPROVED JURISDICTIONAL DETERMINATION
U.S. Army Corps of Engineers, Los Angeles District
Application No. SPL - _____ - _____ - _____

Boundary of area surveyed for jurisdictional waters of the United States
Ordinary High Water Mark
Waters of the United States
Wetland Boundary (If legend is blank no wetlands occur in survey area)

200' Scale 2019 Date of Photograph
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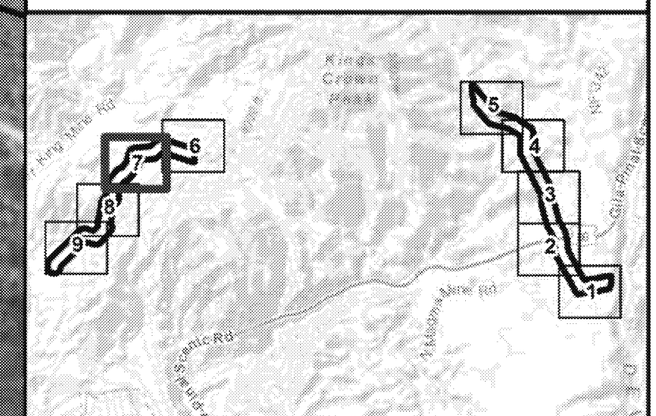


Image Sources: ArcGIS Online World Topo Map and 2019 USDA NAIP Orthophoto

Legend

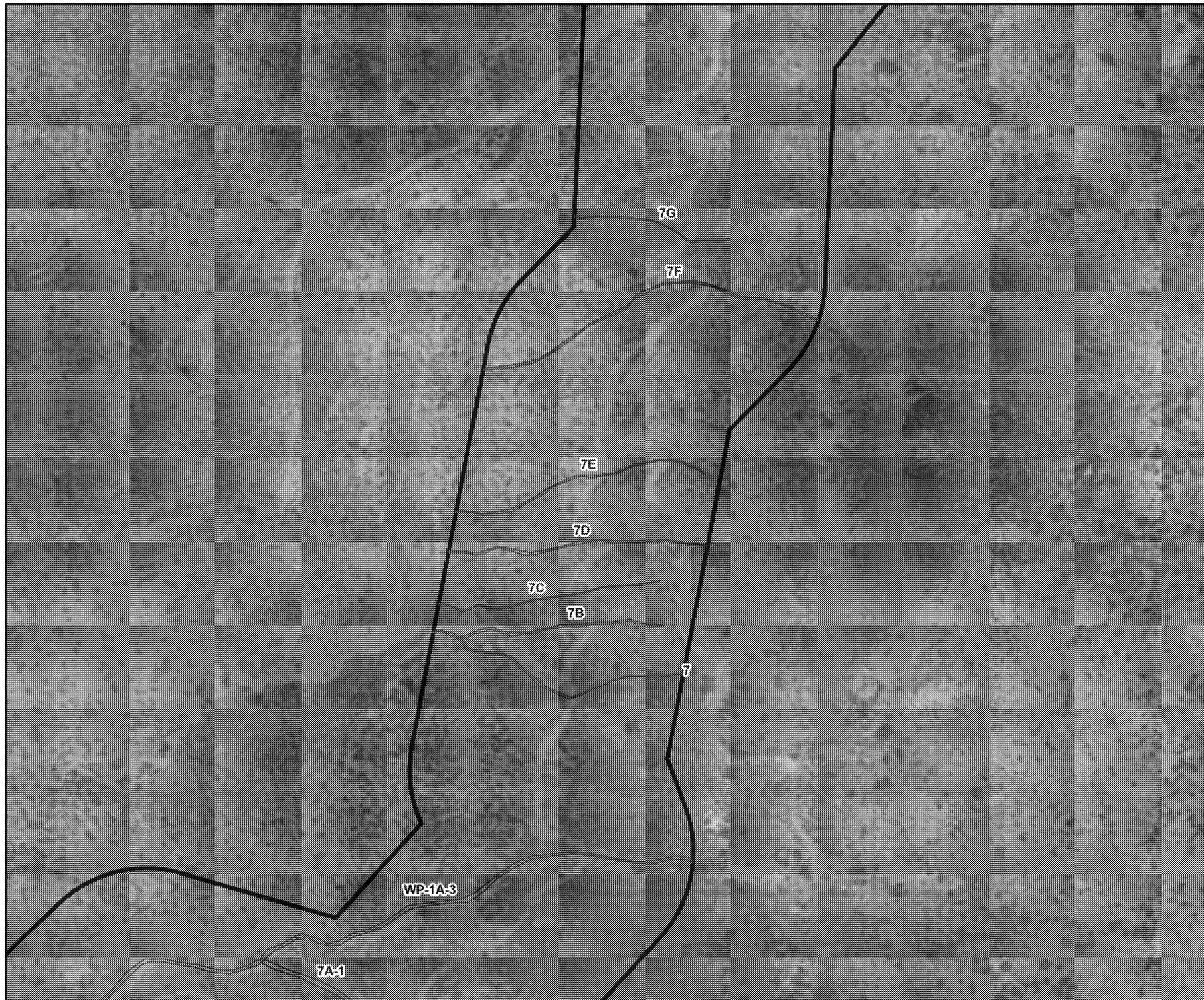
Analysis Area
Ordinary High Water Mark

N
0 100 200 Feet
0 50 100 Meters

WestLand Resources

RESOLUTION COPPER
Approved Jurisdictional Determination
Corps File No. SPL-XXXX-XXXXX-XXX

Figure 5
Sheet 7 of 9



APPROVED JURISDICTIONAL DETERMINATION
U.S. Army Corps of Engineers, Los Angeles District
Application No. SPL - _____ - _____ - _____

Boundary of area surveyed for jurisdictional waters of the United States
Ordinary High Water Mark
Waters of the United States
Wetland Boundary (If legend is blank no wetlands occur in survey area)

200' Scale 2019 Date of Photograph
_____ Site Visit by Corps (Y/N) Date: _____
_____ Date Delineation issued by Corps
_____ Corps Project Manager
Sheet _____ of _____

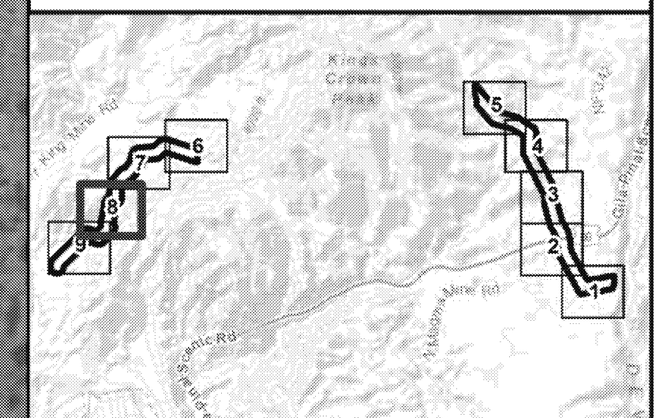


Image Sources: ArcGIS Online World Topo Map and 2019 USDA NAIP Orthophoto

Legend

Analysis Area
Ordinary High Water Mark

N
0 100 200 Feet
0 50 100 Meters

WestLand Resources

RESOLUTION COPPER
Approved Jurisdictional Determination
Corps File No. SPL-XXXX-XXXXX-XXX

Figure 5
Sheet 8 of 9

APPROVED JURISDICTIONAL DETERMINATION
U.S. Army Corps of Engineers, Los Angeles District
Application No. SPL - _____ - _____ - _____

Boundary of area surveyed for jurisdictional waters of the United States
Ordinary High Water Mark
Waters of the United States
Wetland Boundary (If legend is blank no wetlands occur in survey area)

200' Scale 2019 Date of Photograph
_____ Site Visit by Corps (Y/N) Date: _____
_____ Date Delineation issued by Corps
_____ Corps Project Manager
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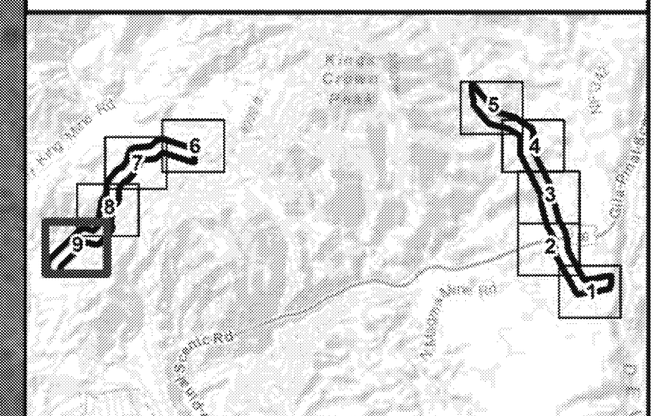

Image Sources: ArcGIS Online World Topo Map and 2019 USDA NAIP Orthophoto

Legend

Analysis Area
Ordinary High Water Mark
Previously Reviewed Feature, Corps File No. SPL-2013-00050-MWL

N
0 100 200 Feet
0 50 100 Meters

WestLand Resources

RESOLUTION COPPER
Approved Jurisdictional Determination
Corps File No. SPL-XXXX-XXXXX-XXX

Figure 5
Sheet 9 of 9

ATTACHMENT D
CWA Section 404 Jurisdictional Determination Forms

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

Feature ID: 1B

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

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): May 15, 2020

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

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 1B

State: AZ County/Parish/borough: Pinal County City: Superior

Center coordinates of site: Lat. 33.30979°N Long. -111.039659°W

Name of nearest waterbody: Queen Creek

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

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

- [x] Check if map/diagram of review are and/or potential jurisdictional areas is/are available upon request
- [ ] Check if other sites (e.g, offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form.

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

- [x] Office (Desk) Determination. Date: 05/2020
- [ ] Field Determination. Date(s):

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

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

- [ ] Waters subject to the ebb and flow of the tide.
- [ ] Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. CWA SECTION 404 DETERMINATION OF JURISDICTION

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

1. Waters of the U.S.

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

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

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

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

Wetlands Acres: _____

c. Limits (boundaries) of Jurisdiction based on:

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

- [x] Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

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

Feature ID:
1B

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

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

1. **TNW**
   Identify TNW: ☐ Vegetation

   Summarize rationale supporting determination:

2. **Wetland adjacent to TNW**

   Summarize rationale supporting conclusion that wetland is "adjacent"

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

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

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

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

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

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

   (i) General Area Conditions:

Watershed Size (sq mi):	49650
Drainage Area (sq mi):	
Average Annual Rainfall (in):	18
Average Annual Snowfall (in):	1.4

   (ii) Physical Characteristics:

   (a) Relationship with TNW

   ☐ Tributary flows directly to TNW
   ☑ Tributary flows through 5 tributaries before entering TNW

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

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

Feature ID:
1B

Project waters are 30 (or more) river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are 30 (or more) aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW Generally to Queen Creek to East Maricopa Floodway to the Gila River

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft): 10.97
Average Depth (ft): 1
Average Side Slopes: 2:1

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: None present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 2%

(c) Flow:

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

Surface Flow is: 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:

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

3. Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW. Explain findings of presence or absence of signifcant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

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

1. TNWs and Adjacent Wetlands. Check all that apply and provide size estimates in review area:

☐ TNWs Linear Feet: Width (ft): TNW Acres

☐ Wetlands adjacent to TNWs: Acres:

2. RPWs that flow directly or indirectly into TNWs

☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and Rationale indicating that tributary is perennial:

☐ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally:

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

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs that flow directly or indirectly into TNWs.

☐ Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

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

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

☐ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.

☐ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting and RPW:

☐ Wetlands directly abutting an RPW where tributaries typically flow "Seasonally". Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2 above. Provide rationale indicating that wetland is directly abutting and RPW

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

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

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

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

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

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

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

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

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

Supporting rationale:
Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters: Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction.

Explain finding of no Significant Nexus: The characteristics of the surface water features within the current Analysis Area and the flowpath to the TNW eliminate the potential for a more than insubstantial hydrologic connection to exist between the Analysis Area and the downgradient TNW. The surface water features within the current Analysis Area do not either contribute or filter pollutants, or contribute sediments at an amount or frequency that would affect the chemical or physical integrity of the downstream TNW. They do not provide significant habitat or life cycle support functions for any species population found within the TNW, do not affect the aquatic habitat of or the amount of nutrient transport to the TNW reach of the Gila River, and do not have a more than insubstantial effect on the biological integrity of this TNW. As such, there is no significant nexus between the surface water features within the current Analysis Area and the downgradient TNW and, as such, these features are not a jurisdictional Waters.

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

- ☐ Non wetland-Waters (i.e., rivers, streams): linear feet : width (ft):
- ☐ Other Non-wetland Waters MBR acres:
- ☐ Wetlands MBR acres:

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

- ☑ Non-wetland waters 880.48 linear feet (ft), 10.97 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:
  Superior 7.5-Minute Quadrangle

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

Feature ID:
1B

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): 2019 USDA NAIP Orthophoto
- ☐ Other Photographs (Name and Date):
- ☐ Previous Determinations File No. 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 Corps of Engineers

Feature ID: 1C

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

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): May 15, 2020

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

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 1C

State: AZ County/Parish/borough: Pinal County City: Superior

Center coordinates of site: Lat. 33.30979°N Long. -111.039659°W

Name of nearest waterbody: Queen Creek

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

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

- [x] Check if map/diagram of review are and/or potential jurisdictional areas is/are available upon request
- [ ] Check if other sites (e.g, offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form.

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

- [x] Office (Desk) Determination. Date: 05/2020
- [ ] Field Determination. Date(s):

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

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

- [ ] Waters subject to the ebb and flow of the tide.
- [ ] Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. CWA SECTION 404 DETERMINATION OF JURISDICTION

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

1. Waters of the U.S.

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

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

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

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

Wetlands Acres: _____

c. Limits (boundaries) of Jurisdiction based on:

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

- [x] Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

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

Feature ID:
1C

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

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

1. **TNW**
   Identify TNW: ☐ Vegetation

   Summarize rationale supporting determination:

2. **Wetland adjacent to TNW**

   Summarize rationale supporting conclusion that wetland is "adjacent"

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

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

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

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

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

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

   (i) General Area Conditions:

Watershed Size (sq mi):	49650
Drainage Area (sq mi):	
Average Annual Rainfall (in):	18
Average Annual Snowfall (in):	1.4

   (ii) Physical Characteristics:

   (a) Relationship with TNW

   ☐ Tributary flows directly to TNW
   ☑ Tributary flows through 5 tributaries before entering TNW

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

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U.S. Army Corps of Engineers

Feature ID:
1C

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

Identify flow route to TNW Generally to Queen Creek to East Maricopa Floodway to the Gila River

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft): 6.68
Average Depth (ft): 1
Average Side Slopes: 2:1

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: None present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 2%

(c) Flow:

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

Surface Flow is: 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:

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

3. Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW. Explain findings of presence or absence of signifcant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

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

1. TNWs and Adjacent Wetlands. Check all that apply and provide size estimates in review area:

☐ TNWs Linear Feet: Width (ft): TNW Acres

☐ Wetlands adjacent to TNWs: Acres:

2. RPWs that flow directly or indirectly into TNWs

☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and Rationale indicating that tributary is perennial:

☐ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally:

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

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs that flow directly or indirectly into TNWs.

☐ Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

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

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

☐ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.

☐ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting and RPW:

☐ Wetlands directly abutting an RPW where tributaries typically flow "Seasonally". Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2 above. Provide rationale indicating that wetland is directly abutting and RPW

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

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

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

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

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

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

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

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

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

Supporting rationale:
Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters: Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction.

Explain finding of no Significant Nexus: The characteristics of the surface water features within the current Analysis Area and the flowpath to the TNW eliminate the potential for a more than insubstantial hydrologic connection to exist between the Analysis Area and the downgradient TNW. The surface water features within the current Analysis Area do not either contribute or filter pollutants, or contribute sediments at an amount or frequency that would affect the chemical or physical integrity of the downstream TNW. They do not provide significant habitat or life cycle support functions for any species population found within the TNW, do not affect the aquatic habitat of or the amount of nutrient transport to the TNW reach of the Gila River, and do not have a more than insubstantial effect on the biological integrity of this TNW. As such, there is no significant nexus between the surface water features within the current Analysis Area and the downgradient TNW and, as such, these features are not a jurisdictional Waters.

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

- ☐ Non wetland-Waters (i.e., rivers, streams): linear feet : width (ft):
- ☐ Other Non-wetland Waters MBR acres:
- ☐ Wetlands MBR acres:

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

- ☑ Non-wetland waters 297.05 linear feet (ft), 6.68 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:
  Superior 7.5-Minute Quadrangle

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Feature ID:
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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): 2019 USDA NAIP Orthophoto
- ☐ Other Photographs (Name and Date):
- ☐ Previous Determinations File No. 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 Corps of Engineers

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): May 15, 2020

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: Superior

Center coordinates of site: Lat. 33.30979°N Long. -111.039659°W

Name of nearest waterbody: Queen Creek

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

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

- [x] Check if map/diagram of review are and/or potential jurisdictional areas is/are available upon request
- [ ] Check if other sites (e.g, offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form.

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

- [x] Office (Desk) Determination. Date: 05/2020
- [ ] Field Determination. Date(s):

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

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

- [ ] Waters subject to the ebb and flow of the tide.
- [ ] Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. CWA SECTION 404 DETERMINATION OF JURISDICTION

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

1. Waters of the U.S.

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

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

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

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

Wetlands Acres: _____

c. Limits (boundaries) of Jurisdiction based on:

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

- [x] Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

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

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):	
Average Annual Rainfall (in):	18
Average Annual Snowfall (in):	1.4

   (ii) Physical Characteristics:

   (a) Relationship with TNW

   ☐ Tributary flows directly to TNW
   ☑ Tributary flows through 5 tributaries before entering TNW

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

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U.S. Army Corps of Engineers

Feature ID: 2

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

Identify flow route to TNW Generally to Queen Creek to East Maricopa Floodway to the Gila River

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft): 11.59
Average Depth (ft): 1
Average Side Slopes: 2:1

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: None present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 2%

(c) Flow:

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

Surface Flow is: 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:

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

3. Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW. Explain findings of presence or absence of signifcant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

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

1. TNWs and Adjacent Wetlands. Check all that apply and provide size estimates in review area:

☐ TNWs Linear Feet: Width (ft): TNW Acres

☐ Wetlands adjacent to TNWs: Acres:

2. RPWs that flow directly or indirectly into TNWs

☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and Rationale indicating that tributary is perennial:

☐ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally:

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

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs that flow directly or indirectly into TNWs.

☐ Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

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

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

☐ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.

☐ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting and RPW:

☐ Wetlands directly abutting an RPW where tributaries typically flow "Seasonally". Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2 above. Provide rationale indicating that wetland is directly abutting and RPW

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

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

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

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

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

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

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

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

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

Supporting rationale:
Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters: Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction.

Explain finding of no Significant Nexus: The characteristics of the surface water features within the current Analysis Area and the flowpath to the TNW eliminate the potential for a more than insubstantial hydrologic connection to exist between the Analysis Area and the downgradient TNW. The surface water features within the current Analysis Area do not either contribute or filter pollutants, or contribute sediments at an amount or frequency that would affect the chemical or physical integrity of the downstream TNW. They do not provide significant habitat or life cycle support functions for any species population found within the TNW, do not affect the aquatic habitat of or the amount of nutrient transport to the TNW reach of the Gila River, and do not have a more than insubstantial effect on the biological integrity of this TNW. As such, there is no significant nexus between the surface water features within the current Analysis Area and the downgradient TNW and, as such, these features are not a jurisdictional Waters.

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

- ☐ Non wetland-Waters (i.e., rivers, streams): linear feet : width (ft):
- ☐ Other Non-wetland Waters MBR acres:
- ☐ Wetlands MBR acres:

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

- ☑ Non-wetland waters 1476.15 linear feet (ft), 11.59 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:
  Superior 7.5-Minute Quadrangle

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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): 2019 USDA NAIP Orthophoto
- ☐ Other Photographs (Name and Date):
- ☐ Previous Determinations File No. 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 Corps of Engineers

Feature ID:
3 (Conley Spring Wash)

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

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): May 15, 2020

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

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 3 (Conley Spring Wash)

State: AZ County/Parish/borough: Pinal County City: Superior

Center coordinates of site: Lat. 33.30979°N Long. -111.039659°W

Name of nearest waterbody: Queen Creek

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

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

- [x] Check if map/diagram of review are and/or potential jurisdictional areas is/are available upon request
- [ ] Check if other sites (e.g, offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form.

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

- [x] Office (Desk) Determination. Date: 05/2020
- [ ] Field Determination. Date(s):

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

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

- [ ] Waters subject to the ebb and flow of the tide.
- [ ] Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. CWA SECTION 404 DETERMINATION OF JURISDICTION

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

1. Waters of the U.S.

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

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

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

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

Wetlands Acres: _____

c. Limits (boundaries) of Jurisdiction based on:

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

- [x] Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be 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):	
Average Annual Rainfall (in):	18
Average Annual Snowfall (in):	1.4

   (ii) Physical Characteristics:

   (a) Relationship with TNW

   ☐ Tributary flows directly to TNW
   ☑ Tributary flows through 5 tributaries before entering TNW

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

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U.S. Army Corps of Engineers

Feature ID:
3 (Conley Spring Wash)

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

Identify flow route to TNW Generally to Queen Creek to East Maricopa Floodway to the Gila River

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft): 4.02
Average Depth (ft): 1
Average Side Slopes: 2:1

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: None present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 2%

(c) Flow:

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

Surface Flow is: 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:

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

3. Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW. Explain findings of presence or absence of signifcant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

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

1. TNWs and Adjacent Wetlands. Check all that apply and provide size estimates in review area:

☐ TNWs Linear Feet: Width (ft): TNW Acres

☐ Wetlands adjacent to TNWs: Acres:

2. RPWs that flow directly or indirectly into TNWs

☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and Rationale indicating that tributary is perennial:

☐ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally:

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

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs that flow directly or indirectly into TNWs.

☐ Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

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

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

☐ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.

☐ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting and RPW:

☐ Wetlands directly abutting an RPW where tributaries typically flow "Seasonally". Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2 above. Provide rationale indicating that wetland is directly abutting and RPW

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

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

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

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

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

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

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

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

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

Supporting rationale:
Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters: Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction.

Explain finding of no Significant Nexus: The characteristics of the surface water features within the current Analysis Area and the flowpath to the TNW eliminate the potential for a more than insubstantial hydrologic connection to exist between the Analysis Area and the downgradient TNW. The surface water features within the current Analysis Area do not either contribute or filter pollutants, or contribute sediments at an amount or frequency that would affect the chemical or physical integrity of the downstream TNW. They do not provide significant habitat or life cycle support functions for any species population found within the TNW, do not affect the aquatic habitat of or the amount of nutrient transport to the TNW reach of the Gila River, and do not have a more than insubstantial effect on the biological integrity of this TNW. As such, there is no significant nexus between the surface water features within the current Analysis Area and the downgradient TNW and, as such, these features are not a jurisdictional Waters.

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

- ☐ Non wetland-Waters (i.e., rivers, streams): linear feet : width (ft):
- ☐ Other Non-wetland Waters MBR acres:
- ☐ Wetlands MBR acres:

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

- ☑ Non-wetland waters 556.05 linear feet (ft), 4.02 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:
  Superior 7.5-Minute Quadrangle

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Feature ID:
3 (Conley Spring Wash)

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): 2019 USDA NAIP Orthophoto
- ☐ Other Photographs (Name and Date):
- ☐ Previous Determinations File No. 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 Corps of Engineers

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): May 15, 2020

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: Superior

Center coordinates of site: Lat. 33.30979°N Long. -111.039659°W

Name of nearest waterbody: Queen Creek

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

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

- [x] Check if map/diagram of review are and/or potential jurisdictional areas is/are available upon request
- [ ] Check if other sites (e.g, offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form.

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

- [x] Office (Desk) Determination. Date: 05/2020
- [ ] Field Determination. Date(s):

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

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

- [ ] Waters subject to the ebb and flow of the tide.
- [ ] Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. CWA SECTION 404 DETERMINATION OF JURISDICTION

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

1. Waters of the U.S.

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

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

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

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

Wetlands Acres: _____

c. Limits (boundaries) of Jurisdiction based on:

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

- [x] Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

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

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):	
Average Annual Rainfall (in):	18
Average Annual Snowfall (in):	1.4

   (ii) Physical Characteristics:

   (a) Relationship with TNW

   ☐ Tributary flows directly to TNW
   ☑ Tributary flows through 5 tributaries before entering TNW

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

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

Identify flow route to TNW Generally to Queen Creek to East Maricopa Floodway to the Gila River

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft): 2.92
Average Depth (ft): 1
Average Side Slopes: 2:1

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: None present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 2%

(c) Flow:

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

Surface Flow is: 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:

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

3. Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW. Explain findings of presence or absence of signifcant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

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

1. TNWs and Adjacent Wetlands. Check all that apply and provide size estimates in review area:

☐ TNWs Linear Feet: Width (ft): TNW Acres

☐ Wetlands adjacent to TNWs: Acres:

2. RPWs that flow directly or indirectly into TNWs

☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and Rationale indicating that tributary is perennial:

☐ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally:

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

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs that flow directly or indirectly into TNWs.

☐ Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

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

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

☐ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.

☐ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting and RPW:

☐ Wetlands directly abutting an RPW where tributaries typically flow "Seasonally". Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2 above. Provide rationale indicating that wetland is directly abutting and RPW

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

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

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

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

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

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

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

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

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

Supporting rationale:
Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters: Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction.

Explain finding of no Significant Nexus: The characteristics of the surface water features within the current Analysis Area and the flowpath to the TNW eliminate the potential for a more than insubstantial hydrologic connection to exist between the Analysis Area and the downgradient TNW. The surface water features within the current Analysis Area do not either contribute or filter pollutants, or contribute sediments at an amount or frequency that would affect the chemical or physical integrity of the downstream TNW. They do not provide significant habitat or life cycle support functions for any species population found within the TNW, do not affect the aquatic habitat of or the amount of nutrient transport to the TNW reach of the Gila River, and do not have a more than insubstantial effect on the biological integrity of this TNW. As such, there is no significant nexus between the surface water features within the current Analysis Area and the downgradient TNW and, as such, these features are not a jurisdictional Waters.

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

- ☐ Non wetland-Waters (i.e., rivers, streams): linear feet : width (ft):
- ☐ Other Non-wetland Waters MBR acres:
- ☐ Wetlands MBR acres:

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

- ☑ Non-wetland waters 583.15 linear feet (ft), 2.92 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:
  Superior 7.5-Minute Quadrangle

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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): 2019 USDA NAIP Orthophoto
- ☐ Other Photographs (Name and Date):
- ☐ Previous Determinations File No. 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 Corps of Engineers

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): May 15, 2020

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: Superior

Center coordinates of site: Lat. 33.30979°N Long. -111.039659°W

Name of nearest waterbody: Queen Creek

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

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

- [x] Check if map/diagram of review are and/or potential jurisdictional areas is/are available upon request
- [ ] Check if other sites (e.g, offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form.

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

- [x] Office (Desk) Determination. Date: 05/2020
- [ ] Field Determination. Date(s):

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

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

- [ ] Waters subject to the ebb and flow of the tide.
- [ ] Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. CWA SECTION 404 DETERMINATION OF JURISDICTION

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

1. Waters of the U.S.

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

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

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

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

Wetlands Acres: _____

c. Limits (boundaries) of Jurisdiction based on:

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

- [x] Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be 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):	
Average Annual Rainfall (in):	18
Average Annual Snowfall (in):	1.4

   (ii) Physical Characteristics:

   (a) Relationship with TNW

   ☐ Tributary flows directly to TNW
   ☑ Tributary flows through 5 tributaries before entering TNW

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

Feature ID: 5

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

Identify flow route to TNW Generally to Queen Creek to East Maricopa Floodway to the Gila River

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft): 4.27
Average Depth (ft): 1
Average Side Slopes: 2:1

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: None present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 2%

(c) Flow:

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

Surface Flow is: 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:

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

3. Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW. Explain findings of presence or absence of signifcant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

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

1. TNWs and Adjacent Wetlands. Check all that apply and provide size estimates in review area:

☐ TNWs Linear Feet: Width (ft): TNW Acres

☐ Wetlands adjacent to TNWs: Acres:

2. RPWs that flow directly or indirectly into TNWs

☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and Rationale indicating that tributary is perennial:

☐ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally:

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

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs that flow directly or indirectly into TNWs.

☐ Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

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

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

☐ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.

☐ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting and RPW:

☐ Wetlands directly abutting an RPW where tributaries typically flow "Seasonally". Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2 above. Provide rationale indicating that wetland is directly abutting and RPW

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

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

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

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

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

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

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

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

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

Supporting rationale:
Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters: Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction.

Explain finding of no Significant Nexus: The characteristics of the surface water features within the current Analysis Area and the flowpath to the TNW eliminate the potential for a more than insubstantial hydrologic connection to exist between the Analysis Area and the downgradient TNW. The surface water features within the current Analysis Area do not either contribute or filter pollutants, or contribute sediments at an amount or frequency that would affect the chemical or physical integrity of the downstream TNW. They do not provide significant habitat or life cycle support functions for any species population found within the TNW, do not affect the aquatic habitat of or the amount of nutrient transport to the TNW reach of the Gila River, and do not have a more than insubstantial effect on the biological integrity of this TNW. As such, there is no significant nexus between the surface water features within the current Analysis Area and the downgradient TNW and, as such, these features are not a jurisdictional Waters.

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

- ☐ Non wetland-Waters (i.e., rivers, streams): linear feet : width (ft):
- ☐ Other Non-wetland Waters MBR acres:
- ☐ Wetlands MBR acres:

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

- ☑ Non-wetland waters 923.17 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:
  Superior 7.5-Minute Quadrangle

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U.S. Army Corps of Engineers

Feature ID:
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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): 2019 USDA NAIP Orthophoto
- ☐ Other Photographs (Name and Date):
- ☐ Previous Determinations File No. 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: 5A

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

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): May 15, 2020

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

C. PROJECT LOCATION AND BACKGROUND INFORMATION: **Drainage Feature** 5A

State: AZ County/Parish/borough: Pinal County City: Superior

Center coordinates of site: Lat. 33.30979°N Long. -111.039659°W

Name of nearest waterbody: Queen Creek

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

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

- [x] Check if map/diagram of review are and/or potential jurisdictional areas is/are available upon request
- [ ] Check if other sites (e.g, offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form.

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

- [x] Office (Desk) Determination. Date: 05/2020
- [ ] Field Determination. Date(s):

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

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

- [ ] Waters subject to the ebb and flow of the tide.
- [ ] Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. CWA SECTION 404 DETERMINATION OF JURISDICTION

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

1. Waters of the U.S.

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

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

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

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

Wetlands Acres: _____

c. Limits (boundaries) of Jurisdiction based on:

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

- [x] Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be 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):	
Average Annual Rainfall (in):	18
Average Annual Snowfall (in):	1.4

   (ii) Physical Characteristics:

   (a) Relationship with TNW

   ☐ Tributary flows directly to TNW
   ☑ Tributary flows through 5 tributaries before entering TNW

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

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Feature ID:
5A

Project waters are 30 (or more) river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are 30 (or more) aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW Generally to Queen Creek to East Maricopa Floodway to the Gila River

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft): 4.41
Average Depth (ft): 1
Average Side Slopes: 2:1

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: None present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 2%

(c) Flow:

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

Surface Flow is: 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:

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

3. Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW. Explain findings of presence or absence of signifcant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

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

1. TNWs and Adjacent Wetlands. Check all that apply and provide size estimates in review area:

☐ TNWs Linear Feet: Width (ft): TNW Acres

☐ Wetlands adjacent to TNWs: Acres:

2. RPWs that flow directly or indirectly into TNWs

☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and Rationale indicating that tributary is perennial:

☐ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally:

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

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs that flow directly or indirectly into TNWs.

☐ Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

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

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

☐ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.

☐ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting and RPW:

☐ Wetlands directly abutting an RPW where tributaries typically flow "Seasonally". Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2 above. Provide rationale indicating that wetland is directly abutting and RPW

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

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

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

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

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

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

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

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

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

Supporting rationale:
Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters: Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction.

Explain finding of no Significant Nexus: The characteristics of the surface water features within the current Analysis Area and the flowpath to the TNW eliminate the potential for a more than insubstantial hydrologic connection to exist between the Analysis Area and the downgradient TNW. The surface water features within the current Analysis Area do not either contribute or filter pollutants, or contribute sediments at an amount or frequency that would affect the chemical or physical integrity of the downstream TNW. They do not provide significant habitat or life cycle support functions for any species population found within the TNW, do not affect the aquatic habitat of or the amount of nutrient transport to the TNW reach of the Gila River, and do not have a more than insubstantial effect on the biological integrity of this TNW. As such, there is no significant nexus between the surface water features within the current Analysis Area and the downgradient TNW and, as such, these features are not a jurisdictional Waters.

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

- ☐ Non wetland-Waters (i.e., rivers, streams): linear feet : width (ft):
- ☐ Other Non-wetland Waters MBR acres:
- ☐ Wetlands MBR acres:

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

- ☑ Non-wetland waters 833.72 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:
  Superior 7.5-Minute Quadrangle

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

Feature ID:
5A

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): 2019 USDA NAIP Orthophoto
- ☐ Other Photographs (Name and Date):
- ☐ Previous Determinations File No. 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 Corps of Engineers

Feature ID: 5B

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

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): May 15, 2020

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

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 5B

State: AZ County/Parish/borough: Pinal County City: Superior

Center coordinates of site: Lat. 33.30979°N Long. -111.039659°W

Name of nearest waterbody: Queen Creek

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

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

- [x] Check if map/diagram of review are and/or potential jurisdictional areas is/are available upon request
- [ ] Check if other sites (e.g, offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form.

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

- [x] Office (Desk) Determination. Date: 05/2020
- [ ] Field Determination. Date(s):

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

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

- [ ] Waters subject to the ebb and flow of the tide.
- [ ] Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. CWA SECTION 404 DETERMINATION OF JURISDICTION

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

1. Waters of the U.S.

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

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

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

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

Wetlands Acres: _____

c. Limits (boundaries) of Jurisdiction based on:

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

- [x] Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be 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):	
Average Annual Rainfall (in):	18
Average Annual Snowfall (in):	1.4

   (ii) Physical Characteristics:

   (a) Relationship with TNW

   ☐ Tributary flows directly to TNW
   ☑ Tributary flows through 5 tributaries before entering TNW

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

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

Identify flow route to TNW Generally to Queen Creek to East Maricopa Floodway to the Gila River

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft): 3.70
Average Depth (ft): 1
Average Side Slopes: 2:1

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: None present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 2%

(c) Flow:

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

Surface Flow is: 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:

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

3. Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW. Explain findings of presence or absence of signifcant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

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

1. TNWs and Adjacent Wetlands. Check all that apply and provide size estimates in review area:

☐ TNWs Linear Feet: Width (ft): TNW Acres

☐ Wetlands adjacent to TNWs: Acres:

2. RPWs that flow directly or indirectly into TNWs

☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and Rationale indicating that tributary is perennial:

☐ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally:

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

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs that flow directly or indirectly into TNWs.

☐ Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

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

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

☐ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.

☐ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting and RPW:

☐ Wetlands directly abutting an RPW where tributaries typically flow "Seasonally". Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2 above. Provide rationale indicating that wetland is directly abutting and RPW

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

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

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

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

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

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

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

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

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

Supporting rationale:
Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters: Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction.

Explain finding of no Significant Nexus: The characteristics of the surface water features within the current Analysis Area and the flowpath to the TNW eliminate the potential for a more than insubstantial hydrologic connection to exist between the Analysis Area and the downgradient TNW. The surface water features within the current Analysis Area do not either contribute or filter pollutants, or contribute sediments at an amount or frequency that would affect the chemical or physical integrity of the downstream TNW. They do not provide significant habitat or life cycle support functions for any species population found within the TNW, do not affect the aquatic habitat of or the amount of nutrient transport to the TNW reach of the Gila River, and do not have a more than insubstantial effect on the biological integrity of this TNW. As such, there is no significant nexus between the surface water features within the current Analysis Area and the downgradient TNW and, as such, these features are not a jurisdictional Waters.

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

- ☐ Non wetland-Waters (i.e., rivers, streams): linear feet : width (ft):
- ☐ Other Non-wetland Waters MBR acres:
- ☐ Wetlands MBR acres:

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

- ☑ Non-wetland waters 654.77 linear feet (ft), 3.70 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:
  Superior 7.5-Minute Quadrangle

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

Feature ID:
5B

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): 2019 USDA NAIP Orthophoto
- ☐ Other Photographs (Name and Date):
- ☐ Previous Determinations File No. 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 Corps of Engineers

Feature ID: 5C

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

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): May 15, 2020

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

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 5C

State: AZ County/Parish/borough: Pinal County City: Superior

Center coordinates of site: Lat. 33.30979°N Long. -111.039659°W

Name of nearest waterbody: Queen Creek

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

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

- [x] Check if map/diagram of review are and/or potential jurisdictional areas is/are available upon request
- [ ] Check if other sites (e.g, offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form.

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

- [x] Office (Desk) Determination. Date: 05/2020
- [ ] Field Determination. Date(s):

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

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

- [ ] Waters subject to the ebb and flow of the tide.
- [ ] Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. CWA SECTION 404 DETERMINATION OF JURISDICTION

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

1. Waters of the U.S.

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

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

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

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

Wetlands Acres: _____

c. Limits (boundaries) of Jurisdiction based on:

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

- [x] Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

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

Feature ID:
5C

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

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

1. **TNW**
   Identify TNW: ☐ Vegetation

   Summarize rationale supporting determination:

2. **Wetland adjacent to TNW**

   Summarize rationale supporting conclusion that wetland is "adjacent"

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

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

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

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

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

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

   (i) General Area Conditions:

Watershed Size (sq mi):	49650
Drainage Area (sq mi):	
Average Annual Rainfall (in):	18
Average Annual Snowfall (in):	1.4

   (ii) Physical Characteristics:

   (a) Relationship with TNW

   ☐ Tributary flows directly to TNW
   ☑ Tributary flows through 5 tributaries before entering TNW

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

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Feature ID:
5C

Project waters are 30 (or more) river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are 30 (or more) aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW Generally to Queen Creek to East Maricopa Floodway to the Gila River

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft): 4.86
Average Depth (ft): 1
Average Side Slopes: 2:1

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: None present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 2%

(c) Flow:

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

Surface Flow is: 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:

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

3. Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW. Explain findings of presence or absence of signifcant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

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

1. TNWs and Adjacent Wetlands. Check all that apply and provide size estimates in review area:

☐ TNWs Linear Feet: Width (ft): TNW Acres

☐ Wetlands adjacent to TNWs: Acres:

2. RPWs that flow directly or indirectly into TNWs

☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and Rationale indicating that tributary is perennial:

☐ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally:

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

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs that flow directly or indirectly into TNWs.

☐ Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

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

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

☐ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.

☐ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting and RPW:

☐ Wetlands directly abutting an RPW where tributaries typically flow "Seasonally". Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2 above. Provide rationale indicating that wetland is directly abutting and RPW

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

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

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

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

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

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

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

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

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

Supporting rationale:
Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters: Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction.

Explain finding of no Significant Nexus: The characteristics of the surface water features within the current Analysis Area and the flowpath to the TNW eliminate the potential for a more than insubstantial hydrologic connection to exist between the Analysis Area and the downgradient TNW. The surface water features within the current Analysis Area do not either contribute or filter pollutants, or contribute sediments at an amount or frequency that would affect the chemical or physical integrity of the downstream TNW. They do not provide significant habitat or life cycle support functions for any species population found within the TNW, do not affect the aquatic habitat of or the amount of nutrient transport to the TNW reach of the Gila River, and do not have a more than insubstantial effect on the biological integrity of this TNW. As such, there is no significant nexus between the surface water features within the current Analysis Area and the downgradient TNW and, as such, these features are not a jurisdictional Waters.

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

- ☐ Non wetland-Waters (i.e., rivers, streams): linear feet : width (ft):
- ☐ Other Non-wetland Waters MBR acres:
- ☐ Wetlands MBR acres:

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

- ☑ Non-wetland waters 531.82 linear feet (ft), 4.86 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:
  Superior 7.5-Minute Quadrangle

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Feature ID:
5C

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): 2019 USDA NAIP Orthophoto
- ☐ Other Photographs (Name and Date):
- ☐ Previous Determinations File No. 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 Corps of Engineers

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): May 15, 2020

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: Superior

Center coordinates of site: Lat. 33.30979°N Long. -111.039659°W

Name of nearest waterbody: Queen Creek

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

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

- [x] Check if map/diagram of review are and/or potential jurisdictional areas is/are available upon request
- [ ] Check if other sites (e.g, offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form.

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

- [x] Office (Desk) Determination. Date: 05/2020
- [ ] Field Determination. Date(s):

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

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

- [ ] Waters subject to the ebb and flow of the tide.
- [ ] Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. CWA SECTION 404 DETERMINATION OF JURISDICTION

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

1. Waters of the U.S.

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

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

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

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

Wetlands Acres: _____

c. Limits (boundaries) of Jurisdiction based on:

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

- [x] Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be 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):	
Average Annual Rainfall (in):	18
Average Annual Snowfall (in):	1.4

   (ii) Physical Characteristics:

   (a) Relationship with TNW

   ☐ Tributary flows directly to TNW
   ☑ Tributary flows through 5 tributaries before entering TNW

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

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U.S. Army Corps of Engineers

Feature ID: 6

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

Identify flow route to TNW Generally to Queen Creek to East Maricopa Floodway to the Gila River

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft): 3.87
Average Depth (ft): 1
Average Side Slopes: 2:1

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: None present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 2%

(c) Flow:

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

Surface Flow is: 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:

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

3. Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW. Explain findings of presence or absence of signifcant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

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

1. TNWs and Adjacent Wetlands. Check all that apply and provide size estimates in review area:

☐ TNWs Linear Feet: Width (ft): TNW Acres

☐ Wetlands adjacent to TNWs: Acres:

2. RPWs that flow directly or indirectly into TNWs

☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and Rationale indicating that tributary is perennial:

☐ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally:

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

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs that flow directly or indirectly into TNWs.

☐ Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

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

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

☐ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.

☐ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting and RPW:

☐ Wetlands directly abutting an RPW where tributaries typically flow "Seasonally". Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2 above. Provide rationale indicating that wetland is directly abutting and RPW

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

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

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

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

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

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

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

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

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

Supporting rationale:
Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters: Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction.

Explain finding of no Significant Nexus: The characteristics of the surface water features within the current Analysis Area and the flowpath to the TNW eliminate the potential for a more than insubstantial hydrologic connection to exist between the Analysis Area and the downgradient TNW. The surface water features within the current Analysis Area do not either contribute or filter pollutants, or contribute sediments at an amount or frequency that would affect the chemical or physical integrity of the downstream TNW. They do not provide significant habitat or life cycle support functions for any species population found within the TNW, do not affect the aquatic habitat of or the amount of nutrient transport to the TNW reach of the Gila River, and do not have a more than insubstantial effect on the biological integrity of this TNW. As such, there is no significant nexus between the surface water features within the current Analysis Area and the downgradient TNW and, as such, these features are not a jurisdictional Waters.

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

- ☐ Non wetland-Waters (i.e., rivers, streams): linear feet : width (ft):
- ☐ Other Non-wetland Waters MBR acres:
- ☐ Wetlands MBR acres:

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

- ☑ Non-wetland waters 248.91 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:
  Superior 7.5-Minute Quadrangle

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U.S. Army Corps of Engineers

Feature ID: 6

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): 2019 USDA NAIP Orthophoto
- ☐ Other Photographs (Name and Date):
- ☐ Previous Determinations File No. 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 Corps of Engineers

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): May 15, 2020

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: Superior

Center coordinates of site: Lat. 33.30979°N Long. -111.039659°W

Name of nearest waterbody: Queen Creek

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

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

- [x] Check if map/diagram of review are and/or potential jurisdictional areas is/are available upon request
- [ ] Check if other sites (e.g, offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form.

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

- [x] Office (Desk) Determination. Date: 05/2020
- [ ] Field Determination. Date(s):

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

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

- [ ] Waters subject to the ebb and flow of the tide.
- [ ] Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. CWA SECTION 404 DETERMINATION OF JURISDICTION

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

1. Waters of the U.S.

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

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

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

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

Wetlands Acres: _____

c. Limits (boundaries) of Jurisdiction based on:

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

- [x] Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be 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):	
Average Annual Rainfall (in):	18
Average Annual Snowfall (in):	1.4

   (ii) Physical Characteristics:

   (a) Relationship with TNW

   ☐ Tributary flows directly to TNW
   ☑ Tributary flows through 5 tributaries before entering TNW

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

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

Identify flow route to TNW Generally to Queen Creek to East Maricopa Floodway to the Gila River

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft): 3.07
Average Depth (ft): 1
Average Side Slopes: 2:1

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: None present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 2%

(c) Flow:

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

Surface Flow is: 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:

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

3. Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW. Explain findings of presence or absence of signifcant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

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

1. TNWs and Adjacent Wetlands. Check all that apply and provide size estimates in review area:

☐ TNWs Linear Feet: Width (ft): TNW Acres

☐ Wetlands adjacent to TNWs: Acres:

2. RPWs that flow directly or indirectly into TNWs

☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and Rationale indicating that tributary is perennial:

☐ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally:

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

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs that flow directly or indirectly into TNWs.

☐ Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

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

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

☐ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.

☐ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting and RPW:

☐ Wetlands directly abutting an RPW where tributaries typically flow "Seasonally". Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2 above. Provide rationale indicating that wetland is directly abutting and RPW

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

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

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

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

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

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

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

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

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

Supporting rationale:
Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters: Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction.

Explain finding of no Significant Nexus: The characteristics of the surface water features within the current Analysis Area and the flowpath to the TNW eliminate the potential for a more than insubstantial hydrologic connection to exist between the Analysis Area and the downgradient TNW. The surface water features within the current Analysis Area do not either contribute or filter pollutants, or contribute sediments at an amount or frequency that would affect the chemical or physical integrity of the downstream TNW. They do not provide significant habitat or life cycle support functions for any species population found within the TNW, do not affect the aquatic habitat of or the amount of nutrient transport to the TNW reach of the Gila River, and do not have a more than insubstantial effect on the biological integrity of this TNW. As such, there is no significant nexus between the surface water features within the current Analysis Area and the downgradient TNW and, as such, these features are not a jurisdictional Waters.

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

- ☐ Non wetland-Waters (i.e., rivers, streams): linear feet : width (ft):
- ☐ Other Non-wetland Waters MBR acres:
- ☐ Wetlands MBR acres:

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

- ☑ Non-wetland waters 550.19 linear feet (ft), 3.07 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:
  Superior 7.5-Minute Quadrangle

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

Feature ID:
7

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): 2019 USDA NAIP Orthophoto
- ☐ Other Photographs (Name and Date):
- ☐ Previous Determinations File No. 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 Corps of Engineers

Feature ID: 7B

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

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): May 15, 2020

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

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 7B

State: AZ County/Parish/borough: Pinal County City: Superior

Center coordinates of site: Lat. 33.30979°N Long. -111.039659°W

Name of nearest waterbody: Queen Creek

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

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

- [x] Check if map/diagram of review are and/or potential jurisdictional areas is/are available upon request
- [ ] Check if other sites (e.g, offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form.

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

- [x] Office (Desk) Determination. Date: 05/2020
- [ ] Field Determination. Date(s):

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

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

- [ ] Waters subject to the ebb and flow of the tide.
- [ ] Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. CWA SECTION 404 DETERMINATION OF JURISDICTION

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

1. Waters of the U.S.

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

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

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

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

Wetlands Acres: _____

c. Limits (boundaries) of Jurisdiction based on:

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

- [x] Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be 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):	
Average Annual Rainfall (in):	18
Average Annual Snowfall (in):	1.4

   (ii) Physical Characteristics:

   (a) Relationship with TNW

   ☐ Tributary flows directly to TNW
   ☑ Tributary flows through 5 tributaries before entering TNW

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

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

Identify flow route to TNW Generally to Queen Creek to East Maricopa Floodway to the Gila River

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft): 3.92
Average Depth (ft): 1
Average Side Slopes: 2:1

Primary tributary substrate composition (check all that apply):

- [ ] Silts
- [x] 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: None present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 2%

(c) Flow:

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

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

- [ ] Dye (or other) test performed:

Tributary Has (Check all that apply):

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

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

3. Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW. Explain findings of presence or absence of signifcant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

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

1. TNWs and Adjacent Wetlands. Check all that apply and provide size estimates in review area:

☐ TNWs Linear Feet: Width (ft): TNW Acres

☐ Wetlands adjacent to TNWs: Acres:

2. RPWs that flow directly or indirectly into TNWs

☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and Rationale indicating that tributary is perennial:

☐ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally:

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

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs that flow directly or indirectly into TNWs.

☐ Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

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

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

☐ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.

☐ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting and RPW:

☐ Wetlands directly abutting an RPW where tributaries typically flow "Seasonally". Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2 above. Provide rationale indicating that wetland is directly abutting and RPW

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

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

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

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

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

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

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

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

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

Supporting rationale:
Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters: Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction.

Explain finding of no Significant Nexus: The characteristics of the surface water features within the current Analysis Area and the flowpath to the TNW eliminate the potential for a more than insubstantial hydrologic connection to exist between the Analysis Area and the downgradient TNW. The surface water features within the current Analysis Area do not either contribute or filter pollutants, or contribute sediments at an amount or frequency that would affect the chemical or physical integrity of the downstream TNW. They do not provide significant habitat or life cycle support functions for any species population found within the TNW, do not affect the aquatic habitat of or the amount of nutrient transport to the TNW reach of the Gila River, and do not have a more than insubstantial effect on the biological integrity of this TNW. As such, there is no significant nexus between the surface water features within the current Analysis Area and the downgradient TNW and, as such, these features are not a jurisdictional Waters.

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

- ☐ Non wetland-Waters (i.e., rivers, streams): linear feet : width (ft):
- ☐ Other Non-wetland Waters MBR acres:
- ☐ Wetlands MBR acres:

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

- ☑ Non-wetland waters 414.55 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:
  Superior 7.5-Minute Quadrangle

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

Feature ID:
7B

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): 2019 USDA NAIP Orthophoto
- ☐ Other Photographs (Name and Date):
- ☐ Previous Determinations File No. 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 Corps of Engineers

Feature ID: 7C

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

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): May 15, 2020

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

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 7C

State: AZ County/Parish/borough: Pinal County City: Superior

Center coordinates of site: Lat. 33.30979°N Long. -111.039659°W

Name of nearest waterbody: Queen Creek

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

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

- [x] Check if map/diagram of review are and/or potential jurisdictional areas is/are available upon request
- [ ] Check if other sites (e.g, offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form.

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

- [x] Office (Desk) Determination. Date: 05/2020
- [ ] Field Determination. Date(s):

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

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

- [ ] Waters subject to the ebb and flow of the tide.
- [ ] Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. CWA SECTION 404 DETERMINATION OF JURISDICTION

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

1. Waters of the U.S.

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

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

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

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

Wetlands Acres: _____

c. Limits (boundaries) of Jurisdiction based on:

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

- [x] Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be 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):	
Average Annual Rainfall (in):	18
Average Annual Snowfall (in):	1.4

   (ii) Physical Characteristics:

   (a) Relationship with TNW

   ☐ Tributary flows directly to TNW
   ☑ Tributary flows through 5 tributaries before entering TNW

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

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

Identify flow route to TNW Generally to Queen Creek to East Maricopa Floodway to the Gila River

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft): 2.20
Average Depth (ft): 1
Average Side Slopes: 2:1

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: None present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 2%

(c) Flow:

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

Surface Flow is: 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:

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

3. Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW. Explain findings of presence or absence of signifcant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

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

1. TNWs and Adjacent Wetlands. Check all that apply and provide size estimates in review area:

☐ TNWs Linear Feet: Width (ft): TNW Acres

☐ Wetlands adjacent to TNWs: Acres:

2. RPWs that flow directly or indirectly into TNWs

☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and Rationale indicating that tributary is perennial:

☐ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally:

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

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs that flow directly or indirectly into TNWs.

☐ Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

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

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

☐ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.

☐ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting and RPW:

☐ Wetlands directly abutting an RPW where tributaries typically flow "Seasonally". Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2 above. Provide rationale indicating that wetland is directly abutting and RPW

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

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

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

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

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

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

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

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

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

Supporting rationale:
Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters: Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction.

Explain finding of no Significant Nexus: The characteristics of the surface water features within the current Analysis Area and the flowpath to the TNW eliminate the potential for a more than insubstantial hydrologic connection to exist between the Analysis Area and the downgradient TNW. The surface water features within the current Analysis Area do not either contribute or filter pollutants, or contribute sediments at an amount or frequency that would affect the chemical or physical integrity of the downstream TNW. They do not provide significant habitat or life cycle support functions for any species population found within the TNW, do not affect the aquatic habitat of or the amount of nutrient transport to the TNW reach of the Gila River, and do not have a more than insubstantial effect on the biological integrity of this TNW. As such, there is no significant nexus between the surface water features within the current Analysis Area and the downgradient TNW and, as such, these features are not a jurisdictional Waters.

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

- ☐ Non wetland-Waters (i.e., rivers, streams): linear feet : width (ft):
- ☐ Other Non-wetland Waters MBR acres:
- ☐ Wetlands MBR acres:

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

- ☑ Non-wetland waters 449.71 linear feet (ft), 2.20 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:
  Superior 7.5-Minute Quadrangle

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Feature ID:
7C

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): 2019 USDA NAIP Orthophoto
- ☐ Other Photographs (Name and Date):
- ☐ Previous Determinations File No. 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 Corps of Engineers

Feature ID:
7D

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

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): May 15, 2020

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

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 7D

State: AZ County/Parish/borough: Pinal County City: Superior

Center coordinates of site: Lat. 33.30979°N Long. -111.039659°W

Name of nearest waterbody: Queen Creek

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

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

- [x] Check if map/diagram of review are and/or potential jurisdictional areas is/are available upon request
- [ ] Check if other sites (e.g, offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form.

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

- [x] Office (Desk) Determination. Date: 05/2020
- [ ] Field Determination. Date(s):

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

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

- [ ] Waters subject to the ebb and flow of the tide.
- [ ] Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. CWA SECTION 404 DETERMINATION OF JURISDICTION

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

1. Waters of the U.S.

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

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

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

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

Wetlands Acres: _____

c. Limits (boundaries) of Jurisdiction based on:

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

- [x] Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

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

Feature ID:
7D

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

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

1. **TNW**
   Identify TNW: ☐ Vegetation

   Summarize rationale supporting determination:

2. **Wetland adjacent to TNW**

   Summarize rationale supporting conclusion that wetland is "adjacent"

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

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

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

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

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

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

   (i) General Area Conditions:

Watershed Size (sq mi):	49650
Drainage Area (sq mi):	
Average Annual Rainfall (in):	18
Average Annual Snowfall (in):	1.4

   (ii) Physical Characteristics:

   (a) Relationship with TNW

   ☐ Tributary flows directly to TNW
   ☑ Tributary flows through 5 tributaries before entering TNW

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

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

Identify flow route to TNW Generally to Queen Creek to East Maricopa Floodway to the Gila River

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft): 3.50
Average Depth (ft): 1
Average Side Slopes: 2:1

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: None present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 2%

(c) Flow:

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

Surface Flow is: 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:

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

3. Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW. Explain findings of presence or absence of signifcant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

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

1. TNWs and Adjacent Wetlands. Check all that apply and provide size estimates in review area:

☐ TNWs Linear Feet: Width (ft): TNW Acres

☐ Wetlands adjacent to TNWs: Acres:

2. RPWs that flow directly or indirectly into TNWs

☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and Rationale indicating that tributary is perennial:

☐ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally:

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

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs that flow directly or indirectly into TNWs.

☐ Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

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

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

☐ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.

☐ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting and RPW:

☐ Wetlands directly abutting an RPW where tributaries typically flow "Seasonally". Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2 above. Provide rationale indicating that wetland is directly abutting and RPW

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

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

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

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

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

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

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

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

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

Supporting rationale:
Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters: Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction.

Explain finding of no Significant Nexus: The characteristics of the surface water features within the current Analysis Area and the flowpath to the TNW eliminate the potential for a more than insubstantial hydrologic connection to exist between the Analysis Area and the downgradient TNW. The surface water features within the current Analysis Area do not either contribute or filter pollutants, or contribute sediments at an amount or frequency that would affect the chemical or physical integrity of the downstream TNW. They do not provide significant habitat or life cycle support functions for any species population found within the TNW, do not affect the aquatic habitat of or the amount of nutrient transport to the TNW reach of the Gila River, and do not have a more than insubstantial effect on the biological integrity of this TNW. As such, there is no significant nexus between the surface water features within the current Analysis Area and the downgradient TNW and, as such, these features are not a jurisdictional Waters.

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

- ☐ Non wetland-Waters (i.e., rivers, streams): linear feet : width (ft):
- ☐ Other Non-wetland Waters MBR acres:
- ☐ Wetlands MBR acres:

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

- ☑ Non-wetland waters 522.75 linear feet (ft), 3.50 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:
  Superior 7.5-Minute Quadrangle

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Feature ID:
7D

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): 2019 USDA NAIP Orthophoto
- ☐ Other Photographs (Name and Date):
- ☐ Previous Determinations File No. 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 Corps of Engineers

Feature ID: 7E

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

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): May 15, 2020

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

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 7E

State: AZ County/Parish/borough: Pinal County City: Superior

Center coordinates of site: Lat. 33.30979°N Long. -111.039659°W

Name of nearest waterbody: Queen Creek

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

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

- [x] Check if map/diagram of review are and/or potential jurisdictional areas is/are available upon request
- [ ] Check if other sites (e.g, offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form.

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

- [x] Office (Desk) Determination. Date: 05/2020
- [ ] Field Determination. Date(s):

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

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

- [ ] Waters subject to the ebb and flow of the tide.
- [ ] Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. CWA SECTION 404 DETERMINATION OF JURISDICTION

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

1. Waters of the U.S.

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

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

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

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

Wetlands Acres: _____

c. Limits (boundaries) of Jurisdiction based on:

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

- [x] Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be 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):	
Average Annual Rainfall (in):	18
Average Annual Snowfall (in):	1.4

   (ii) Physical Characteristics:

   (a) Relationship with TNW

   ☐ Tributary flows directly to TNW
   ☑ Tributary flows through 5 tributaries before entering TNW

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

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U.S. Army Corps of Engineers

Feature ID:
7E

Project waters are 30 (or more) river Miles from tributary to RPW:
Project waters are 30 (or more) aerial (straight) miles from tributary to TNW:
Project waters are 30 (or more) aerial (straight) miles from tributary to RPW:
Project waters cross or serve as state boundaries. Explain:
Identify flow route to TNW Generally to Queen Creek to East Maricopa Floodway to the Gila River

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft): 3.11
Average Depth (ft): 1
Average Side Slopes: 2:1

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: None present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 2%

(c) Flow:

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

Surface Flow is: 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:

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

3. Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW. Explain findings of presence or absence of signifcant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

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

1. TNWs and Adjacent Wetlands. Check all that apply and provide size estimates in review area:

☐ TNWs Linear Feet: Width (ft): TNW Acres

☐ Wetlands adjacent to TNWs: Acres:

2. RPWs that flow directly or indirectly into TNWs

☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and Rationale indicating that tributary is perennial:

☐ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally:

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

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs that flow directly or indirectly into TNWs.

☐ Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

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

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

☐ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.

☐ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting and RPW:

☐ Wetlands directly abutting an RPW where tributaries typically flow "Seasonally". Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2 above. Provide rationale indicating that wetland is directly abutting and RPW

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

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

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

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

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

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

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

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

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

Supporting rationale:
Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters: Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction.

Explain finding of no Significant Nexus: The characteristics of the surface water features within the current Analysis Area and the flowpath to the TNW eliminate the potential for a more than insubstantial hydrologic connection to exist between the Analysis Area and the downgradient TNW. The surface water features within the current Analysis Area do not either contribute or filter pollutants, or contribute sediments at an amount or frequency that would affect the chemical or physical integrity of the downstream TNW. They do not provide significant habitat or life cycle support functions for any species population found within the TNW, do not affect the aquatic habitat of or the amount of nutrient transport to the TNW reach of the Gila River, and do not have a more than insubstantial effect on the biological integrity of this TNW. As such, there is no significant nexus between the surface water features within the current Analysis Area and the downgradient TNW and, as such, these features are not a jurisdictional Waters.

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

- ☐ Non wetland-Waters (i.e., rivers, streams): linear feet : width (ft):
- ☐ Other Non-wetland Waters MBR acres:
- ☐ Wetlands MBR acres:

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

- ☑ Non-wetland waters 521.26 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:
  Superior 7.5-Minute Quadrangle

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U.S. Army Corps of Engineers

Feature ID:
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- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): 2019 USDA NAIP Orthophoto
- ☐ Other Photographs (Name and Date):
- ☐ Previous Determinations File No. 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 Corps of Engineers

Feature ID: 7F

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

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): May 15, 2020

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

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 7F

State: AZ County/Parish/borough: Pinal County City: Superior

Center coordinates of site: Lat. 33.30979°N Long. -111.039659°W

Name of nearest waterbody: Queen Creek

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

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

- [x] Check if map/diagram of review are and/or potential jurisdictional areas is/are available upon request
- [ ] Check if other sites (e.g, offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form.

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

- [x] Office (Desk) Determination. Date: 05/2020
- [ ] Field Determination. Date(s):

SECTION II: SUMMARY OF FINDINGS

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- [ ] Waters subject to the ebb and flow of the tide.
- [ ] Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. CWA SECTION 404 DETERMINATION OF JURISDICTION

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

1. Waters of the U.S.

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

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

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

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

Wetlands Acres: _____

c. Limits (boundaries) of Jurisdiction based on:

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

- [x] Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be 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):	
Average Annual Rainfall (in):	18
Average Annual Snowfall (in):	1.4

   (ii) Physical Characteristics:

   (a) Relationship with TNW

   ☐ Tributary flows directly to TNW
   ☑ Tributary flows through 5 tributaries before entering TNW

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

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U.S. Army Corps of Engineers

Feature ID:
7F

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

Identify flow route to TNW Generally to Queen Creek to East Maricopa Floodway to the Gila River

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft): 3.84
Average Depth (ft): 1
Average Side Slopes: 2:1

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: None present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 2%

(c) Flow:

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

Surface Flow is: 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:

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

3. Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW. Explain findings of presence or absence of signifcant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

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

1. TNWs and Adjacent Wetlands. Check all that apply and provide size estimates in review area:

☐ TNWs Linear Feet: Width (ft): TNW Acres

☐ Wetlands adjacent to TNWs: Acres:

2. RPWs that flow directly or indirectly into TNWs

☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and Rationale indicating that tributary is perennial:

☐ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally:

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

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs that flow directly or indirectly into TNWs.

☐ Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

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

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

☐ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.

☐ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting and RPW:

☐ Wetlands directly abutting an RPW where tributaries typically flow "Seasonally". Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2 above. Provide rationale indicating that wetland is directly abutting and RPW

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

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

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

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

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

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

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

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

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

Supporting rationale:
Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters: Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction.

Explain finding of no Significant Nexus: The characteristics of the surface water features within the current Analysis Area and the flowpath to the TNW eliminate the potential for a more than insubstantial hydrologic connection to exist between the Analysis Area and the downgradient TNW. The surface water features within the current Analysis Area do not either contribute or filter pollutants, or contribute sediments at an amount or frequency that would affect the chemical or physical integrity of the downstream TNW. They do not provide significant habitat or life cycle support functions for any species population found within the TNW, do not affect the aquatic habitat of or the amount of nutrient transport to the TNW reach of the Gila River, and do not have a more than insubstantial effect on the biological integrity of this TNW. As such, there is no significant nexus between the surface water features within the current Analysis Area and the downgradient TNW and, as such, these features are not a jurisdictional Waters.

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

- ☐ Non wetland-Waters (i.e., rivers, streams): linear feet : width (ft):
- ☐ Other Non-wetland Waters MBR acres:
- ☐ Wetlands MBR acres:

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

- ☑ Non-wetland waters 726.50 linear feet (ft), 3.84 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:
  Superior 7.5-Minute Quadrangle

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

Feature ID:
7F

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): 2019 USDA NAIP Orthophoto
- ☐ Other Photographs (Name and Date):
- ☐ Previous Determinations File No. 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 Corps of Engineers

Feature ID:
7G

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

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): May 15, 2020

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

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature 7G

State: AZ County/Parish/borough: Pinal County City: Superior

Center coordinates of site: Lat. 33.30979°N Long. -111.039659°W

Name of nearest waterbody: Queen Creek

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

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

- [x] Check if map/diagram of review are and/or potential jurisdictional areas is/are available upon request
- [ ] Check if other sites (e.g, offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form.

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

- [x] Office (Desk) Determination. Date: 05/2020
- [ ] Field Determination. Date(s):

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

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

- [ ] Waters subject to the ebb and flow of the tide.
- [ ] Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. CWA SECTION 404 DETERMINATION OF JURISDICTION

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

1. Waters of the U.S.

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

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

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

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

Wetlands Acres: _____

c. Limits (boundaries) of Jurisdiction based on:

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

- [x] Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be 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):	
Average Annual Rainfall (in):	18
Average Annual Snowfall (in):	1.4

   (ii) Physical Characteristics:

   (a) Relationship with TNW

   ☐ Tributary flows directly to TNW
   ☑ Tributary flows through 5 tributaries before entering TNW

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

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

Identify flow route to TNW Generally to Queen Creek to East Maricopa Floodway to the Gila River

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft): 2.50
Average Depth (ft): 1
Average Side Slopes: 2:1

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: None present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 2%

(c) Flow:

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

Surface Flow is: 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:

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

3. Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW. Explain findings of presence or absence of signifcant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

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

1. TNWs and Adjacent Wetlands. Check all that apply and provide size estimates in review area:

☐ TNWs Linear Feet: Width (ft): TNW Acres

☐ Wetlands adjacent to TNWs: Acres:

2. RPWs that flow directly or indirectly into TNWs

☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and Rationale indicating that tributary is perennial:

☐ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally:

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

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs that flow directly or indirectly into TNWs.

☐ Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

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

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

☐ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.

☐ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting and RPW:

☐ Wetlands directly abutting an RPW where tributaries typically flow "Seasonally". Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2 above. Provide rationale indicating that wetland is directly abutting and RPW

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

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

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

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

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

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

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

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

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

Supporting rationale:
Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters: Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction.

Explain finding of no Significant Nexus: The characteristics of the surface water features within the current Analysis Area and the flowpath to the TNW eliminate the potential for a more than insubstantial hydrologic connection to exist between the Analysis Area and the downgradient TNW. The surface water features within the current Analysis Area do not either contribute or filter pollutants, or contribute sediments at an amount or frequency that would affect the chemical or physical integrity of the downstream TNW. They do not provide significant habitat or life cycle support functions for any species population found within the TNW, do not affect the aquatic habitat of or the amount of nutrient transport to the TNW reach of the Gila River, and do not have a more than insubstantial effect on the biological integrity of this TNW. As such, there is no significant nexus between the surface water features within the current Analysis Area and the downgradient TNW and, as such, these features are not a jurisdictional Waters.

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

- ☐ Non wetland-Waters (i.e., rivers, streams): linear feet : width (ft):
- ☐ Other Non-wetland Waters MBR acres:
- ☐ Wetlands MBR acres:

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

- ☑ Non-wetland waters 324.50 linear feet (ft), 2.50 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:
  Superior 7.5-Minute Quadrangle

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

Feature ID:
7G

- ☐ USDA Nat'l Res Conservation Service Soil Survey Citation:
- ☐ National Wetlands Inventory Maps Cite Map Name:
- ☐ State/Local Wetland Inventory Maps
- ☐ FEMA/FIRM Maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☑ Aerial Photographs (Name and Date): 2019 USDA NAIP Orthophoto
- ☐ Other Photographs (Name and Date):
- ☐ Previous Determinations File No. 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 Corps of Engineers

Feature ID:
WP-1A-3

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

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): May 15, 2020

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

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage Feature WP-1A-3

State: AZ County/Parish/borough: Pinal County City: Superior

Center coordinates of site: Lat. 33.30979°N Long. -111.039659°W

Name of nearest waterbody: Queen Creek

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

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

- [x] Check if map/diagram of review are and/or potential jurisdictional areas is/are available upon request
- [ ] Check if other sites (e.g, offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form.

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

- [x] Office (Desk) Determination. Date: 05/2020
- [ ] Field Determination. Date(s):

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

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

- [ ] Waters subject to the ebb and flow of the tide.
- [ ] Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. CWA SECTION 404 DETERMINATION OF JURISDICTION

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

1. Waters of the U.S.

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

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

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

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

Wetlands Acres: _____

c. Limits (boundaries) of Jurisdiction based on:

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

- [x] Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional:

Explain: Drainage is ephemeral and does not qualify as a TNW or RPW. Therefore, this drainage could only be 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):	
Average Annual Rainfall (in):	18
Average Annual Snowfall (in):	1.4

   (ii) Physical Characteristics:

   (a) Relationship with TNW

   ☐ Tributary flows directly to TNW
   ☑ Tributary flows through 5 tributaries before entering TNW

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

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

Identify flow route to TNW Generally to Queen Creek to East Maricopa Floodway to the Gila River

(b) General Tributary Characteristics

Tributary is: Natural Explain:

Tributary properties with respect to top of bank (estimate):
Average Width (ft): 6.13
Average Depth (ft): 1
Average Side Slopes: 2:1

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: None present.
Tributary Geometry: Relatively Straight
Tributary Gradient (approximate average slope): 2%

(c) Flow:

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

Surface Flow is: 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:

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

3. Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW. Explain findings of presence or absence of signifcant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

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

1. TNWs and Adjacent Wetlands. Check all that apply and provide size estimates in review area:

☐ TNWs Linear Feet: Width (ft): TNW Acres

☐ Wetlands adjacent to TNWs: Acres:

2. RPWs that flow directly or indirectly into TNWs

☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and Rationale indicating that tributary is perennial:

☐ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally:

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

☐ Tributary waters Linear Feet: Width (Ft).

☐ Other non-wetland waters: Acres:

3. Non-RPWs that flow directly or indirectly into TNWs.

☐ Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has significant nexus with a TNW is jurisdictional. Data supporting this conclusion provided at section III.c.

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

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

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

☐ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.

☐ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting and RPW:

☐ Wetlands directly abutting an RPW where tributaries typically flow "Seasonally". Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2 above. Provide rationale indicating that wetland is directly abutting and RPW

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

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

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

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

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

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

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

7. Impoundments of jurisdictional waters.

Demonstration of Jurisdiction:

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

Supporting rationale:
Length (linear feet): Acres:

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

Non-Jurisdictional Waters: Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction.

Explain finding of no Significant Nexus: The characteristics of the surface water features within the current Analysis Area and the flowpath to the TNW eliminate the potential for a more than insubstantial hydrologic connection to exist between the Analysis Area and the downgradient TNW. The surface water features within the current Analysis Area do not either contribute or filter pollutants, or contribute sediments at an amount or frequency that would affect the chemical or physical integrity of the downstream TNW. They do not provide significant habitat or life cycle support functions for any species population found within the TNW, do not affect the aquatic habitat of or the amount of nutrient transport to the TNW reach of the Gila River, and do not have a more than insubstantial effect on the biological integrity of this TNW. As such, there is no significant nexus between the surface water features within the current Analysis Area and the downgradient TNW and, as such, these features are not a jurisdictional Waters.

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

- ☐ Non wetland-Waters (i.e., rivers, streams): linear feet : width (ft):
- ☐ Other Non-wetland Waters MBR acres:
- ☐ Wetlands MBR acres:

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

- ☑ Non-wetland waters 2210.34 linear feet (ft), 6.13 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:
  Superior 7.5-Minute Quadrangle

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U.S. Army Corps of Engineers

Feature ID:
WP-1A-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): 2019 USDA NAIP Orthophoto
- ☐ Other Photographs (Name and Date):
- ☐ Previous Determinations File No. and Date of Response Letter:
- ☐ Applicable/Supporting Case Law Citation:
- ☐ Applicable/Supporting Scientific Literature Citation:

Other Information, Please Specify:

Additional Comments to Support JD:

ATTACHMENT E
Selected Jurisdictional Determination Forms from Corps File No. SPL-2013-00050-MWL

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

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

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 07/28/2011

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Los Angeles District, File No. SPL-2009-00315-MB

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage WP1A3
State:AZ County/parish/borough: Pinal City: Superior
Center coordinates of site (lat/long in degree decimal format): Lat. 33.302994° N, Long. -111.10701° W.
Universal Transverse Mercator:
Name of nearest waterbody: Queen Creek
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Gila River from Powers Butte to Gillespie Dam
Name of watershed or Hydrologic Unit Code (HUC): 15050100
☒ Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.
☐ Check if other sites (e.g., offsite mitigation sites, disposal sites, etc…) are associated with this action and are recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):
☒ Office (Desk) Determination. Date: 07/28/2011
☒ Field Determination. Date(s): 06/27 through 07/01/2011, 07/07 ,07/08, 07/19 and 07/20/2011

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There **Are no** "*navigable waters of the U.S.*" within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [*Required*]
☐ Waters subject to the ebb and flow of the tide.
☐ Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
Explain: .

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

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

1. **Waters of the U.S.**
   a. **Indicate presence of waters of U.S. in review area (check all that apply):** [1]
   ☐ TNWs, including territorial seas
   ☐ Wetlands adjacent to TNWs
   ☐ Relatively permanent waters[2] (RPWs) that flow directly or indirectly into TNWs
   ☐ Non-RPWs that flow directly or indirectly into TNWs
   ☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
   ☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
   ☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
   ☐ Impoundments of jurisdictional waters
   ☐ Isolated (interstate or intrastate) waters, including isolated wetlands

   b. **Identify (estimate) size of waters of the U.S. in the review area:**
   Non-wetland waters: linear feet: width (ft) and/or acres.
   Wetlands: acres.

   c. **Limits (boundaries) of jurisdiction** based on: **Pick List**
   Elevation of established OHWM (if known): .

2. **Non-regulated waters/wetlands (check if applicable):**[3]
   ☒ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: **Drainages within the review area are ephemeral, and do not qualify as TNW's or RPW's. Therefore, these drainages would only be considered jurisdictional if they possessed a significant nexus with a TNW. None of the drainages in the review area possess a significant nexus with a TNW..**

---

[1] Boxes checked below shall be supported by completing the appropriate sections in Section III below.
[2] For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).
[3] Supporting documentation is presented in Section III.F.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

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

1. **TNW**
   Identify TNW: .

   Summarize rationale supporting determination: .

2. **Wetland adjacent to TNW**
   Summarize rationale supporting conclusion that wetland is "adjacent": .

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

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

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

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

If the waterbody[4] is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

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

   (i) **General Area Conditions:**
   Watershed size: 49,650 **square miles**
   Drainage area: 0.064 **square miles**
   Average annual rainfall: 18 inches
   Average annual snowfall: 1.4 inches

   (ii) **Physical Characteristics:**
   (a) Relationship with TNW:
   ☐ Tributary flows directly into TNW.
   ☒ Tributary flows through **5** tributaries before entering TNW.

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

   Identify flow route to TNW[5]: Drainage WP1A3 discharges through non-channelized flow to Drainage WP1A. Drainage WP1A discharges to Drainage WP1 which then discharges to Silver King Wash and thence to Queen Creek. The

[4] Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.
[5] Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

remainder of the flow route to the TNW is Queen Creek to the East Maricopa Floodway to the Gila River, and approximately 74 river miles along the Gila to the TNW at Powers Butte..
Tributary stream order, if known: .

(b) General Tributary Characteristics (check all that apply):
Tributary is: ☒ Natural
☐ Artificial (man-made). Explain: .
☐ Manipulated (man-altered). Explain: .

Tributary properties with respect to top of bank (estimate):
Average width: 2 feet
Average depth: Less than 0.5 feet
Average side slopes: **Vertical (1:1 or less).**

Primary tributary substrate composition (check all that apply):
☐ Silts ☒ Sands ☐ Concrete
☐ Cobbles ☐ Gravel ☐ Muck
☒ Bedrock ☐ Vegetation. Type/% cover:
☐ Other. Explain: .

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: Stable.
Presence of run/riffle/pool complexes. Explain: Not present.
Tributary geometry: **Meandering**
Tributary gradient (approximate average slope): 2 %

(c) Flow:
Tributary provides for: **Ephemeral flow**
Estimate average number of flow events in review area/year: **2-5**
Describe flow regime: Ephemeral.
Other information on duration and volume: .

Surface flow is: **Confined**. Characteristics: .

Subsurface flow: **No**. Explain findings: .
☐ Dye (or other) test performed: .

Tributary has (check all that apply):
☐ Bed and banks
☒ OHWM[6] (check all indicators that apply):
☐ clear, natural line impressed on the bank
☐ changes in the character of soil
☐ shelving
☐ vegetation matted down, bent, or absent
☐ leaf litter disturbed or washed away
☒ sediment deposition
☒ water staining
☐ other (list):
☐ the presence of litter and debris
☒ destruction of terrestrial vegetation
☐ the presence of wrack line
☒ sediment sorting
☐ scour
☐ multiple observed or predicted flow events
☐ abrupt change in plant community
☐ Discontinuous OHWM.[7] Explain: .

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):
☐ High Tide Line indicated by:
☐ oil or scum line along shore objects
☐ fine shell or debris deposits (foreshore)
☐ physical markings/characteristics
☐ tidal gauges
☐ other (list):
☐ Mean High Water Mark indicated by:
☐ survey to available datum;
☐ physical markings;
☐ vegetation lines/changes in vegetation types.

(iii) Chemical Characteristics:
Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).
Explain: Unknown.
Identify specific pollutants, if known: None.

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

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

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

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

(i) Physical Characteristics:

(a) General Wetland Characteristics:

Properties:

Wetland size: acres

Wetland type. Explain: .

Wetland quality. Explain: .

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

(b) General Flow Relationship with Non-TNW:

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

Surface flow is: **Pick List**

Characteristics: .

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

- ☐ Dye (or other) test performed: .

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Directly abutting
- ☐ Not directly abutting
  - ☐ Discrete wetland hydrologic connection. Explain: .
  - ☐ Ecological connection. Explain: .
  - ☐ Separated by berm/barrier. Explain: .

(d) Proximity (Relationship) to TNW

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

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

Flow is from: **Pick List**.

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

(ii) Chemical Characteristics:

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

Identify specific pollutants, if known: .

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

- ☐ Riparian buffer. Characteristics (type, average width): .
- ☐ Vegetation type/percent cover. Explain: .
- ☐ Habitat for:
  - ☐ Federally Listed species. Explain findings: .
  - ☐ Fish/spawn areas. Explain findings: .
  - ☐ Other environmentally-sensitive species. Explain findings: .
  - ☐ Aquatic/wildlife diversity. Explain findings: .

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

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

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

For each wetland, specify the following:

Directly abuts? (Y/N)	Size (in acres)	Directly abuts? (Y/N)	Size (in acres)

Summarize overall biological, chemical and physical functions being performed: .

C. SIGNIFICANT NEXUS DETERMINATION

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

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

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

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

1. **Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D: .

2. **Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: Drainage WP1A3 is located approximately 125 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. Evaluation of potential stormwater discharges from the Analysis Area, the hydrological characteristics of the downstream flowpath, the presence of significant impoundments in this flowpath, and the distance to the TNW suggests that no hydrologic connection exists between these Analysis Area drainages and the TNW. Although historic mining activities in the Analysis Area may have contributed to the impairment of Queen Creek for copper, reclamation activities and stormwater controls have significantly reduced or eliminated the discharge of pollutants to downstream receiving waters from this area. However, the reach of the Gila River between the Salt River and Waterman Wash has been sampled for copper, and no exceedances of copper concentrations were identified as part of this sampling effort. As no sources of those pollutants causing the impairment of the downstream TNW reach of the Gila River (which are tied to agricultural runoff) have been identified in the Analysis Area, there does not appear to be a chemical nexus between these drainages and the TNW. Additionally, the Analysis Area drainages do not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. Drainange WP1A3 does not have a more than speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore the Analysis Area surface water features do not possess a significant nexus to the TNW reach of the Gila River between Powers Butte and Gillespie Dam, and are not jursidicational under Section 404 of the Clean Water Act.

3. **Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: .

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

1. **TNWs and Adjacent Wetlands.** Check all that apply and provide size estimates in review area:
   - ☐ TNWs: linear feet width (ft), Or, acres.
   - ☐ Wetlands adjacent to TNWs: acres.

2. **RPWs that flow directly or indirectly into TNWs.**
   - ☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial: .
   - ☐ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally: .

   Provide estimates for jurisdictional waters in the review area (check all that apply):
   - ☐ Tributary waters: linear feet width (ft).
   - ☐ Other non-wetland waters: acres.
     Identify type(s) of waters: .

3. **Non-RPWs[8] that flow directly or indirectly into TNWs.**
   - ☐ Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.

   Provide estimates for jurisdictional waters within the review area (check all that apply):
   - ☐ Tributary waters: linear feet width (ft).
   - ☐ Other non-wetland waters: acres.
     Identify type(s) of waters: .

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

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

5. **Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.**
   - ☐ Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisidictional. Data supporting this conclusion is provided at Section III.C.

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

6. **Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.**
   - ☐ Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

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

7. **Impoundments of jurisdictional waters.[9]**
   As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.
   - ☐ Demonstrate that impoundment was created from "waters of the U.S.," or
   - ☐ Demonstrate that water meets the criteria for one of the categories presented above (1-6), or
   - ☐ Demonstrate that water is isolated with a nexus to commerce (see E below).

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[8] See Footnote # 3.
[9] To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):[10]

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

Identify water body and summarize rationale supporting determination: .

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

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

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

- ☐ If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
- ☐ Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
  - ☐ Prior to the Jan 2001 Supreme Court decision in "*SWANCC*," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).
- ☒ Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain: **As described in Section III C 1 above, an evaluation of the surface water features within the review area found that they do not possess a significant nexus with the TNW.**
- ☐ Other: (explain, if not covered above): .

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

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

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

- ☒ Non-wetland waters (i.e., rivers, streams): **1,661** linear feet, **2'** width (ft).
- ☐ Lakes/ponds: acres.
- ☐ Other non-wetland waters: acres. List type of aquatic resource: .
- ☐ Wetlands: acres.

SECTION IV: DATA SOURCES.

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

- ☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant:WestLand Resources, Inc..
- ☒ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
  - ☐ Office concurs with data sheets/delineation report.
  - ☐ Office does not concur with data sheets/delineation report.
- ☐ Data sheets prepared by the Corps: .
- ☐ Corps navigable waters' study: .
- ☐ U.S. Geological Survey Hydrologic Atlas: .
  - ☐ USGS NHD data.
  - ☐ USGS 8 and 12 digit HUC maps.
- ☒ U.S. Geological Survey map(s). Cite scale & quad name:Superior 7.5 Quad.
- ☐ USDA Natural Resources Conservation Service Soil Survey. Citation: .

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

- ☐ National wetlands inventory map(s). Cite name: .
- ☐ State/Local wetland inventory map(s): .
- ☐ FEMA/FIRM maps: .
- ☐ 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date):Cooper Aerial Imagery; 2010.
  or ☒ Other (Name & Date):Ground Photos; June 27 through July 20, 2011.
- ☐ Previous determination(s). File no. and date of response letter: .
- ☐ Applicable/supporting case law: .
- ☐ Applicable/supporting scientific literature: .
- ☐ Other information (please specify): .

B. ADDITIONAL COMMENTS TO SUPPORT JD: .

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

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

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 07/28/2011

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Los Angeles District, File No. SPL-2009-00315-MB

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Drainage EP2
State:AZ County/parish/borough: Pinal City: Superior
Center coordinates of site (lat/long in degree decimal format): Lat. 33.299165° N, Long. - 111.057152° W.
Universal Transverse Mercator:
Name of nearest waterbody: Queen Creek
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Gila River from Powers Butte to Gillespie Dam
Name of watershed or Hydrologic Unit Code (HUC): 15050100
☒ Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.
☐ Check if other sites (e.g., offsite mitigation sites, disposal sites, etc…) are associated with this action and are recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):
☒ Office (Desk) Determination. Date: 07/28/2011
☒ Field Determination. Date(s): 06/27 through 07/01/2011, 07/07 ,07/08, 07/19 and 07/20/2011

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There Are no "*navigable waters of the U.S.*" within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [*Required*]
☐ Waters subject to the ebb and flow of the tide.
☐ Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. Explain: .

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

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

1. Waters of the U.S.
   a. Indicate presence of waters of U.S. in review area (check all that apply): [1]
      ☐ TNWs, including territorial seas
      ☐ Wetlands adjacent to TNWs
      ☐ Relatively permanent waters[2] (RPWs) that flow directly or indirectly into TNWs
      ☐ Non-RPWs that flow directly or indirectly into TNWs
      ☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
      ☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
      ☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
      ☐ Impoundments of jurisdictional waters
      ☐ Isolated (interstate or intrastate) waters, including isolated wetlands

   b. Identify (estimate) size of waters of the U.S. in the review area:
      Non-wetland waters: linear feet: width (ft) and/or acres.
      Wetlands: acres.

   c. Limits (boundaries) of jurisdiction based on: Pick List
      Elevation of established OHWM (if known): .

2. Non-regulated waters/wetlands (check if applicable):[3]
   ☒ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: Drainages within the review area are ephemeral, and do not qualify as TNW's or RPW's. Therefore, these drainages would only be considered jurisdictional if they possessed a significant nexus with a TNW. Adjacent wetlands would only be considered jurisdictional if they possessed a significant nexus with a TNW. None of the drainages in the

[1] Boxes checked below shall be supported by completing the appropriate sections in Section III below.
[2] For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).
[3] Supporting documentation is presented in Section III.F.

review area, nor their associated adjacent wetlands, possess a significant nexus with a TNW. Therefore, the drainages and their associated wetlands are not jurisdictional waters.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

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

1. TNW
   Identify TNW: .

   Summarize rationale supporting determination: .

2. Wetland adjacent to TNW
   Summarize rationale supporting conclusion that wetland is "adjacent": .

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

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

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

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

If the waterbody[4] is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

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

   (i) General Area Conditions:
   Watershed size: 49,650 square miles
   Drainage area: 0.46 square miles
   Average annual rainfall: 18 inches
   Average annual snowfall: 1.4 inches

   (ii) Physical Characteristics:
   (a) Relationship with TNW:
   ☐ Tributary flows directly into TNW.
   ☒ Tributary flows through 5 tributaries before entering TNW.

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

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

Identify flow route to TNW[5]: Drainage EP2 discharges directly to Queen Creek. The remainder of the flow route to the TNW is Queen Creek to the East Maricopa Floodway to the Gila River, and approximately 74 river miles along the Gila to the TNW at Powers Butte.
Tributary stream order, if known: .

(b) General Tributary Characteristics (check all that apply):
Tributary is: ☒ Natural
☐ Artificial (man-made). Explain: .
☐ Manipulated (man-altered). Explain: .

Tributary properties with respect to top of bank (estimate):
Average width: 3 feet
Average depth: Less than 0.5 feet
Average side slopes: Vertical (1:1 or less).

Primary tributary substrate composition (check all that apply):
☐ Silts ☒ Sands ☐ Concrete
☐ Cobbles ☐ Gravel ☐ Muck
☒ Bedrock ☐ Vegetation. Type/% cover:
☐ Other. Explain: .

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: Stable.
Presence of run/riffle/pool complexes. Explain: Not present.
Tributary geometry: Meandering
Tributary gradient (approximate average slope): 1 %

(c) Flow:
Tributary provides for: Ephemeral flow
Estimate average number of flow events in review area/year: 2-5
Describe flow regime: Ephemeral.
Other information on duration and volume: .

Surface flow is: Confined. Characteristics: .

Subsurface flow: No. Explain findings: .
☐ Dye (or other) test performed: .

Tributary has (check all that apply):
☐ Bed and banks
☒ OHWM[6] (check all indicators that apply):
☐ clear, natural line impressed on the bank
☐ changes in the character of soil
☐ shelving
☐ vegetation matted down, bent, or absent
☐ leaf litter disturbed or washed away
☒ sediment deposition
☒ water staining
☐ other (list):
☐ the presence of litter and debris
☒ destruction of terrestrial vegetation
☐ the presence of wrack line
☒ sediment sorting
☐ scour
☐ multiple observed or predicted flow events
☐ abrupt change in plant community
☐ Discontinuous OHWM.[7] Explain: .

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):
☒ High Tide Line indicated by:
☐ oil or scum line along shore objects
☐ fine shell or debris deposits (foreshore)
☐ physical markings/characteristics
☐ tidal gauges
☐ other (list):
☒ Mean High Water Mark indicated by:
☐ survey to available datum;
☐ physical markings;
☐ vegetation lines/changes in vegetation types.

(iii) Chemical Characteristics:

[5] Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.
[6] A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.
[7] Ibid.

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).
Explain: Unknown.
Identify specific pollutants, if known: None.

(iv) Biological Characteristics. Channel supports (check all that apply):
- ☐ Riparian corridor. Characteristics (type, average width): .
- ☐ Wetland fringe. Characteristics: .
- ☐ Habitat for:
  - ☐ Federally Listed species. Explain findings: .
  - ☐ Fish/spawn areas. Explain findings: .
  - ☐ Other environmentally-sensitive species. Explain findings: .
  - ☐ Aquatic/wildlife diversity. Explain findings: .

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

(i) Physical Characteristics:

(a) General Wetland Characteristics:

Properties:

Wetland size: 2.104 acres

Wetland type. Explain: Generally, wetlands were dominated by herbaceous vegetation with some woody species.

Wetland quality. Explain: Quality was generally poor due to heavy use by cattle (grazing and watering). Species diversity was low.

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

(b) General Flow Relationship with Non-TNW:

Flow is: No Flow. Explain: .

Surface flow is: Discrete and confined

Characteristics: .

Subsurface flow: Unknown. Explain findings: .

- ☐ Dye (or other) test performed: .

(c) Wetland Adjacency Determination with Non-TNW:

- ☒ Directly abutting
- ☐ Not directly abutting
  - ☐ Discrete wetland hydrologic connection. Explain: .
  - ☐ Ecological connection. Explain: .
  - ☐ Separated by berm/barrier. Explain: .

(d) Proximity (Relationship) to TNW

Project wetlands are 30 (or more) river miles from TNW.

Project waters are 30 (or more) aerial (straight) miles from TNW.

Flow is from: No Flow.

Estimate approximate location of wetland as within the 500-year or greater floodplain.

(ii) Chemical Characteristics:

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

Identify specific pollutants, if known: .

(iii) Biological Characteristics. Wetland supports (check all that apply):
- ☐ Riparian buffer. Characteristics (type, average width): .
- ☒ Vegetation type/percent cover. Explain: Herbaceous, some woody species. Percent cover varies.
- ☐ Habitat for:
  - ☐ Federally Listed species. Explain findings: .
  - ☐ Fish/spawn areas. Explain findings: .
  - ☐ Other environmentally-sensitive species. Explain findings: .
  - ☐ Aquatic/wildlife diversity. Explain findings: .

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

All wetland(s) being considered in the cumulative analysis: 3

Approximately (2.10) acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

Directly abuts? (Y/N)	Size (in acres)	Directly abuts? (Y/N)	Size (in acres)
Y	2.07		
Y	0.03		

Summarize overall biological, chemical and physical functions being performed: Unknown.

C. SIGNIFICANT NEXUS DETERMINATION

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

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

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

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

1. Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D: .

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: Drainage EP2 is located approximately 125 river miles from the nearest TNW, the Gila River between Powers Butte and Gillespie Dam. Evaluation of potential stormwater discharges from the Analysis Area, the hydrological characteristics of the downstream flowpath, the presence of significant impoundments in this flowpath, and the distance to the TNW suggests that no hydrologic connection exists between these Analysis Area drainages and the TNW. Although historic mining activities in the Analysis Area may have contributed to the impairment of Queen Creek for copper, reclamation activities and stormwater controls have significantly reduced or eliminated the discharge of pollutants to downstream receiving waters from this area. However, the reach of the Gila River between the Salt River and Waterman Wash has been sampled for copper, and no exceedances of copper concentrations were identified as part of this sampling effort. As no sources of those pollutants causing the impairment of the downstream TNW reach of the Gila River (which are tied to agricultural runoff) have been identified in the Analysis Area, there does not appear to be a chemical nexus between these drainages and the TNW. Additionally, the Analysis Area drainages do not provide lifecycle support functions, nutrients, or organic carbon to species within the TNW. Drainage EP2, in conjunction with its adjacent wetlands, Wetlands 6 and 7, does not have a more than speculative or insubstantial effect on the physical, chemical, and/or biological integrity of the TNW. Therefore the Analysis Area surface water features do not possess a significant nexus to the TNW reach of the Gila River between Powers Butte and Gillespie Dam, and are not jursidicational under Section 404 of the Clean Water Act.

3. Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: .

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

1. TNWs and Adjacent Wetlands. Check all that apply and provide size estimates in review area:
   - ☐ TNWs: linear feet width (ft), Or, acres.
   - ☐ Wetlands adjacent to TNWs: acres.

2. RPWs that flow directly or indirectly into TNWs.
   - ☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial: .
   - ☐ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally: .

   Provide estimates for jurisdictional waters in the review area (check all that apply):
   - ☐ Tributary waters: linear feet width (ft).
   - ☐ Other non-wetland waters: acres.
     Identify type(s) of waters: .

3. Non-RPWs[8] that flow directly or indirectly into TNWs.
   - ☐ Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.

   Provide estimates for jurisdictional waters within the review area (check all that apply):
   - ☐ Tributary waters: linear feet width (ft).
   - ☐ Other non-wetland waters: acres.
     Identify type(s) of waters: .

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

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

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

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

6. Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.
   - ☐ Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

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

7. Impoundments of jurisdictional waters.[9]
   As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.
   - ☐ Demonstrate that impoundment was created from "waters of the U.S.," or
   - ☐ Demonstrate that water meets the criteria for one of the categories presented above (1-6), or
   - ☐ Demonstrate that water is isolated with a nexus to commerce (see E below).

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[8] See Footnote # 3.
[9] To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):[10]

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

Identify water body and summarize rationale supporting determination: .

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

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

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

- ☐ If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
- ☐ Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
  - ☐ Prior to the Jan 2001 Supreme Court decision in "*SWANCC*," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).
- ☒ Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain: As described in Section III C 1 above, an evaluation of the surface water features within the review area found that they do not possess a significant nexus with the TNW.
- ☐ Other: (explain, if not covered above): .

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

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

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

- ☒ Non-wetland waters (i.e., rivers, streams): 8,351 linear feet, 3' width (ft).
- ☐ Lakes/ponds: acres.
- ☐ Other non-wetland waters: acres. List type of aquatic resource: .
- ☒ Wetlands: 2.104 acres.

SECTION IV: DATA SOURCES.

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

- ☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant:WestLand Resources, Inc..
- ☒ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
  - ☐ Office concurs with data sheets/delineation report.
  - ☐ Office does not concur with data sheets/delineation report.
- ☐ Data sheets prepared by the Corps: .
- ☐ Corps navigable waters' study: .
- ☐ U.S. Geological Survey Hydrologic Atlas: .
  - ☐ USGS NHD data.
  - ☐ USGS 8 and 12 digit HUC maps.
- ☒ U.S. Geological Survey map(s). Cite scale & quad name:Superior 7.5 Quad.

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

- ☐ USDA Natural Resources Conservation Service Soil Survey. Citation: .
- ☐ National wetlands inventory map(s). Cite name: .
- ☐ State/Local wetland inventory map(s): .
- ☐ FEMA/FIRM maps: .
- ☐ 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date):Cooper Aerial Imagery; 2010.
  or ☒ Other (Name & Date):Ground Photos; June 27 through July 20, 2011.
- ☐ Previous determination(s). File no. and date of response letter: .
- ☐ Applicable/supporting case law: .
- ☐ Applicable/supporting scientific literature: .
- ☐ Other information (please specify): .

B. ADDITIONAL COMMENTS TO SUPPORT JD: .

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

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

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 07/28/2011

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Los Angeles District, File No. SPL-2009-00315-MB

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Wetland 9
State:AZ County/parish/borough: Pinal City: Superior
Center coordinates of site (lat/long in degree decimal format): Lat. 33.299165° N, Long. -111.057152° W.
Universal Transverse Mercator:
Name of nearest waterbody: Queen Creek
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Gila River from Powers Butte to Gillespie Dam
Name of watershed or Hydrologic Unit Code (HUC): 15050100
☒ Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.
☐ Check if other sites (e.g., offsite mitigation sites, disposal sites, etc…) are associated with this action and are recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):
☒ Office (Desk) Determination. Date: 07/28/2011
☒ Field Determination. Date(s): 06/27 through 07/01/2011, 07/07 ,07/08, 07/19 and 07/20/2011

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There Are no "*navigable waters of the U.S.*" within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [*Required*]
☐ Waters subject to the ebb and flow of the tide.
☐ Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. Explain: .

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

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

1. Waters of the U.S.
   a. Indicate presence of waters of U.S. in review area (check all that apply): [1]
      ☐ TNWs, including territorial seas
      ☐ Wetlands adjacent to TNWs
      ☐ Relatively permanent waters[2] (RPWs) that flow directly or indirectly into TNWs
      ☐ Non-RPWs that flow directly or indirectly into TNWs
      ☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
      ☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
      ☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
      ☐ Impoundments of jurisdictional waters
      ☐ Isolated (interstate or intrastate) waters, including isolated wetlands

   b. Identify (estimate) size of waters of the U.S. in the review area:
      Non-wetland waters: linear feet: width (ft) and/or acres.
      Wetlands: acres.

   c. Limits (boundaries) of jurisdiction based on: Pick List
      Elevation of established OHWM (if known): .

2. Non-regulated waters/wetlands (check if applicable):[3]
   ☒ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: The wetland considered here is isolated with no nexus to interstate commerce, and are therfore non-jurisdictional.

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[1] Boxes checked below shall be supported by completing the appropriate sections in Section III below.
[2] For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).
[3] Supporting documentation is presented in Section III.F.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

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

1. TNW
   Identify TNW: .

   Summarize rationale supporting determination: .

2. Wetland adjacent to TNW
   Summarize rationale supporting conclusion that wetland is "adjacent": .

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

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

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

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

If the waterbody[4] is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

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

   (i) General Area Conditions:
   Watershed size: 49,650 square miles
   Drainage area: 0.194 acres
   Average annual rainfall: inches
   Average annual snowfall: inches

   (ii) Physical Characteristics:
   (a) Relationship with TNW:
   ☐ Tributary flows directly into TNW.
   ☐ Tributary flows through Pick List tributaries before entering TNW.

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

   Identify flow route to TNW[5]: .
   Tributary stream order, if known: .

[4] Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.
[5] Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

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

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

Tributary properties with respect to top of bank (estimate):
- Average width: feet
- Average depth: feet
- Average side slopes: Pick List.

Primary tributary substrate composition (check all that apply):
- ☐ Silts
- ☐ Sands
- ☐ Concrete
- ☐ Cobbles
- ☐ Gravel
- ☐ Muck
- ☐ Bedrock
- ☐ Vegetation. Type/% cover:
- ☐ Other. Explain: .

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: .
Presence of run/riffle/pool complexes. Explain: .
Tributary geometry: Pick List
Tributary gradient (approximate average slope): %

(c) Flow:

Tributary provides for: Pick List
Estimate average number of flow events in review area/year: Pick List
Describe flow regime: Ephemeral.
Other information on duration and volume: .

Surface flow is: Pick List. Characteristics: .

Subsurface flow: Pick List. Explain findings: .
- ☐ Dye (or other) test performed: .

Tributary has (check all that apply):
- ☐ Bed and banks
- ☐ OHWM[6] (check all indicators that apply):
  - ☐ clear, natural line impressed on the bank
  - ☐ changes in the character of soil
  - ☐ shelving
  - ☐ vegetation matted down, bent, or absent
  - ☐ leaf litter disturbed or washed away
  - ☐ sediment deposition
  - ☐ water staining
  - ☐ other (list):
  - ☐ the presence of litter and debris
  - ☐ destruction of terrestrial vegetation
  - ☐ the presence of wrack line
  - ☐ sediment sorting
  - ☐ scour
  - ☐ multiple observed or predicted flow events
  - ☐ abrupt change in plant community
- ☐ Discontinuous OHWM.[7] Explain: .

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):
- ☒ High Tide Line indicated by:
  - ☐ oil or scum line along shore objects
  - ☐ fine shell or debris deposits (foreshore)
  - ☐ physical markings/characteristics
  - ☐ tidal gauges
  - ☐ other (list):
- ☒ Mean High Water Mark indicated by:
  - ☐ survey to available datum;
  - ☐ physical markings;
  - ☐ vegetation lines/changes in vegetation types.

(iii) Chemical Characteristics:

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).
Explain: Unknown.
Identify specific pollutants, if known: None.

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

(iv) Biological Characteristics. Channel supports (check all that apply):
- ☐ Riparian corridor. Characteristics (type, average width): .
- ☐ Wetland fringe. Characteristics: .
- ☐ Habitat for:
  - ☐ Federally Listed species. Explain findings: .
  - ☐ Fish/spawn areas. Explain findings: .
  - ☐ Other environmentally-sensitive species. Explain findings: .
  - ☐ Aquatic/wildlife diversity. Explain findings: .

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

(i) Physical Characteristics:

(a) General Wetland Characteristics:

Properties:

Wetland size: acres

Wetland type. Explain: .

Wetland quality. Explain: .

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

(b) General Flow Relationship with Non-TNW:

Flow is: Pick List. Explain: .

Surface flow is: Pick List

Characteristics: .

Subsurface flow: Pick List. Explain findings: .

- ☐ Dye (or other) test performed: .

(c) Wetland Adjacency Determination with Non-TNW:
- ☐ Directly abutting
- ☐ Not directly abutting
  - ☐ Discrete wetland hydrologic connection. Explain: .
  - ☐ Ecological connection. Explain: .
  - ☐ Separated by berm/barrier. Explain: .

(d) Proximity (Relationship) to TNW

Project wetlands are Pick List river miles from TNW.

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

Flow is from: Pick List.

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

(ii) Chemical Characteristics:

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

Identify specific pollutants, if known: .

(iii) Biological Characteristics. Wetland supports (check all that apply):
- ☐ Riparian buffer. Characteristics (type, average width): .
- ☐ Vegetation type/percent cover. Explain: .
- ☐ Habitat for:
  - ☐ Federally Listed species. Explain findings: .
  - ☐ Fish/spawn areas. Explain findings: .
  - ☐ Other environmentally-sensitive species. Explain findings: .
  - ☐ Aquatic/wildlife diversity. Explain findings: .

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

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

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

For each wetland, specify the following:

Directly abuts? (Y/N)	Size (in acres)	Directly abuts? (Y/N)	Size (in acres)

Summarize overall biological, chemical and physical functions being performed: .

C. SIGNIFICANT NEXUS DETERMINATION

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

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

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

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

1. Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D: .

2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: .

3. Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: .

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

1. TNWs and Adjacent Wetlands. Check all that apply and provide size estimates in review area:
   ☐ TNWs: linear feet width (ft), Or, acres.
   ☐ Wetlands adjacent to TNWs: acres.

2. RPWs that flow directly or indirectly into TNWs.
   ☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial: .
   ☐ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally: .

Provide estimates for jurisdictional waters in the review area (check all that apply):
☐ Tributary waters: linear feet width (ft).
☐ Other non-wetland waters: acres.
Identify type(s) of waters: .

3. Non-RPWs[8] that flow directly or indirectly into TNWs.
☐ Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional waters within the review area (check all that apply):
☐ Tributary waters: linear feet width (ft).
☐ Other non-wetland waters: acres.
Identify type(s) of waters: .

4. Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.
☐ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.
☐ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: .

☐ Wetlands directly abutting an RPW where tributaries typically flow "seasonally." Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: .

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

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.
☐ Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisidictional. Data supporting this conclusion is provided at Section III.C.

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

6. Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.
☐ Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

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

7. Impoundments of jurisdictional waters.[9]
As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.
☐ Demonstrate that impoundment was created from "waters of the U.S.," or
☐ Demonstrate that water meets the criteria for one of the categories presented above (1-6), or
☐ Demonstrate that water is isolated with a nexus to commerce (see E below).

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):[10]
☐ which are or could be used by interstate or foreign travelers for recreational or other purposes.
☐ from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
☐ which are or could be used for industrial purposes by industries in interstate commerce.
☐ Interstate isolated waters. Explain: .
☐ Other factors. Explain: .

Identify water body and summarize rationale supporting determination: .

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[8] See Footnote # 3.
[9] To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.
[10] Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA *Memorandum Regarding CWA Act Jurisdiction Following Rapanos.*

Provide estimates for jurisdictional waters in the review area (check all that apply):
☐ Tributary waters: linear feet width (ft).
☐ Other non-wetland waters: acres.
Identify type(s) of waters: .
☐ Wetlands: acres.

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

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):
☐ Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
☐ Lakes/ponds: acres.
☐ Other non-wetland waters: acres. List type of aquatic resource: .
☒ Wetlands: 0.194 acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):
☐ Non-wetland waters (i.e., rivers, streams): linear feet, width (ft).
☐ Lakes/ponds: acres.
☐ Other non-wetland waters: acres. List type of aquatic resource: .
☐ Wetlands: acres.

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):
☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant:WestLand Resources, Inc..
☒ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
☐ Office concurs with data sheets/delineation report.
☐ Office does not concur with data sheets/delineation report.
☐ Data sheets prepared by the Corps: .
☐ Corps navigable waters' study: .
☐ U.S. Geological Survey Hydrologic Atlas: .
☐ USGS NHD data.
☐ USGS 8 and 12 digit HUC maps.
☒ U.S. Geological Survey map(s). Cite scale & quad name:Superior 7.5 Quad.
☐ USDA Natural Resources Conservation Service Soil Survey. Citation: .
☐ National wetlands inventory map(s). Cite name: .
☐ State/Local wetland inventory map(s): .
☐ FEMA/FIRM maps: .
☐ 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
☒ Photographs: ☒ Aerial (Name & Date):Cooper Aerial Imagery; 2010.
or ☒ Other (Name & Date):Ground Photos; June 27 through July 20, 2011.
☐ Previous determination(s). File no. and date of response letter: .
☐ Applicable/supporting case law: .
☐ Applicable/supporting scientific literature: .
☐ Other information (please specify): .

B. ADDITIONAL COMMENTS TO SUPPORT JD: .