



L O G A N S I M P S O N

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# CLEAN WATER ACT SECTION 404 TECHNICAL MEMORANDUM

**To:** Joe Charles, Arizona State Land Department  
Mark Edelman, Arizona State Land Department  
**From:** Angela Muszynski, Logan Simpson  
Wayne Colebank, Logan Simpson  
**Date:** September 14, 2020  
**Project Name:** ASLD Parcel 217-13-157  
**Subject:** Clean Water Act Section 404 Technical Memorandum

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## INTRODUCTION

The Arizona State Land Department (ASLD) is proposing to potentially develop Parcel 217-13-157 located south of Bell Road between 94<sup>th</sup> Street and 98<sup>th</sup> Street in the city of Scottsdale, Maricopa County, Arizona (Figures 1-3). As part of the project environmental clearance, the project area was investigated for potential Waters of the US (Waters) under Section 404 of the Clean Water Act. This technical memorandum provides the survey methods used to determine potential Waters in the project area, a summary of findings, and final recommendations.

## SURVEY METHODS

To assess whether potential Waters are present in the parcel, available historical and present-day aerial imagery, topographic maps, Federal Emergency Management Agency (FEMA) floodplain zones, and National Wetland Inventory maps were reviewed (Figures 3 and 4). In addition, a ground survey to identify Waters was conducted on March 25, 2020 by Dylan George-Sills, Wayne Colebank, and Angela Muszynski of Logan Simpson. Representative photographs were taken to capture the current condition of potential features within the parcel (see attached).

## RESULTS

There are no intermittent or perennial washes on the parcel, and special aquatic sites and broadleaf riparian vegetation are also absent. The parcel is located within the 100-year floodplain (FEMA FIRM Panels 04013C13401L, 04013C1320L) (Figure 4). During the March 2020 ground survey, two unnamed potential features were identified (Figure 5, attached photographs). These features are ephemeral and flow in a southerly direction into an earthen ditch which eventually outlets into a detention basin. Since the ground survey was conducted, the new definition of Waters became effective on June 22, 2020 (i.e., the Navigable Waters Protection Rule). Under the Navigable Waters Protection Rule, these potential features are not considered Waters because they are not a traditional navigable water (TNW), interstate water, or territorial sea; and they are not a tributary to, impoundment of, adjacent to, or located within 4,000 feet of a TNW, interstate water, or territorial sea. Although the identified features are located within

the 100-year floodplain, the floodplain is not part of a TNW, interstate water, or territorial sea. Therefore, no Waters are present on the parcel.

It is important to note that should there be an injunction or stay on the on the Navigable Waters Protection Rule, the definition of Waters subsequent to this new definition would apply (i.e., the 2008 Rapanos definition of Waters) and these two features would likely be considered jurisdictional.

## FINAL RECOMMENDATIONS

Based on the Navigable Waters Protection Rule, no Waters are present on the parcel. Should a stay or injunction of the Navigable Waters Protection Rule come into effect prior to the development of the parcel, a preliminary jurisdictional delineation would likely be required. A Section 404 Permit may also be required if impacts to Waters are anticipated.

The results of this evaluation have not been reviewed by the US Army Corps of Engineers (Corps). If review and acceptance from the Corps is desired, a preliminary or approved jurisdictional delineation request would need to be prepared and submitted to the Corps. If you have any questions, please call me at (480) 967-1343 or email me at [amuszynski@logansimpson.com](mailto:amuszynski@logansimpson.com).

Thank you.



Angela Muszynski  
Biologist/Permitting Specialist

Enclosures:     Figure 1. State Location Map  
                      Figure 2. Project Vicinity Map  
                      Figure 3. Topographic Map  
                      Figure 4. Floodplain Map  
                      Figure 5. Potential Waters  
                      Ground Photographs  
                      National Wetlands Inventory Map

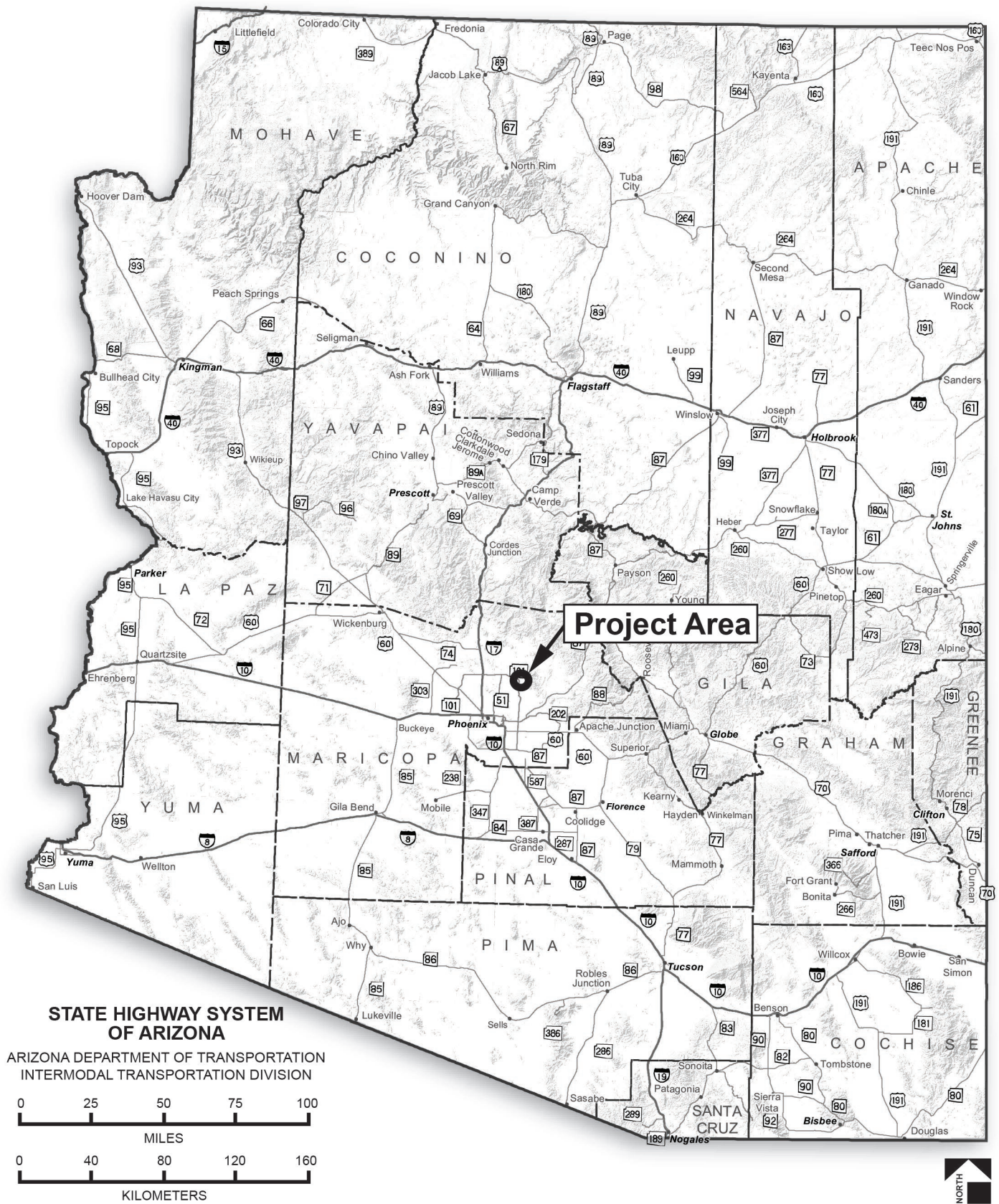
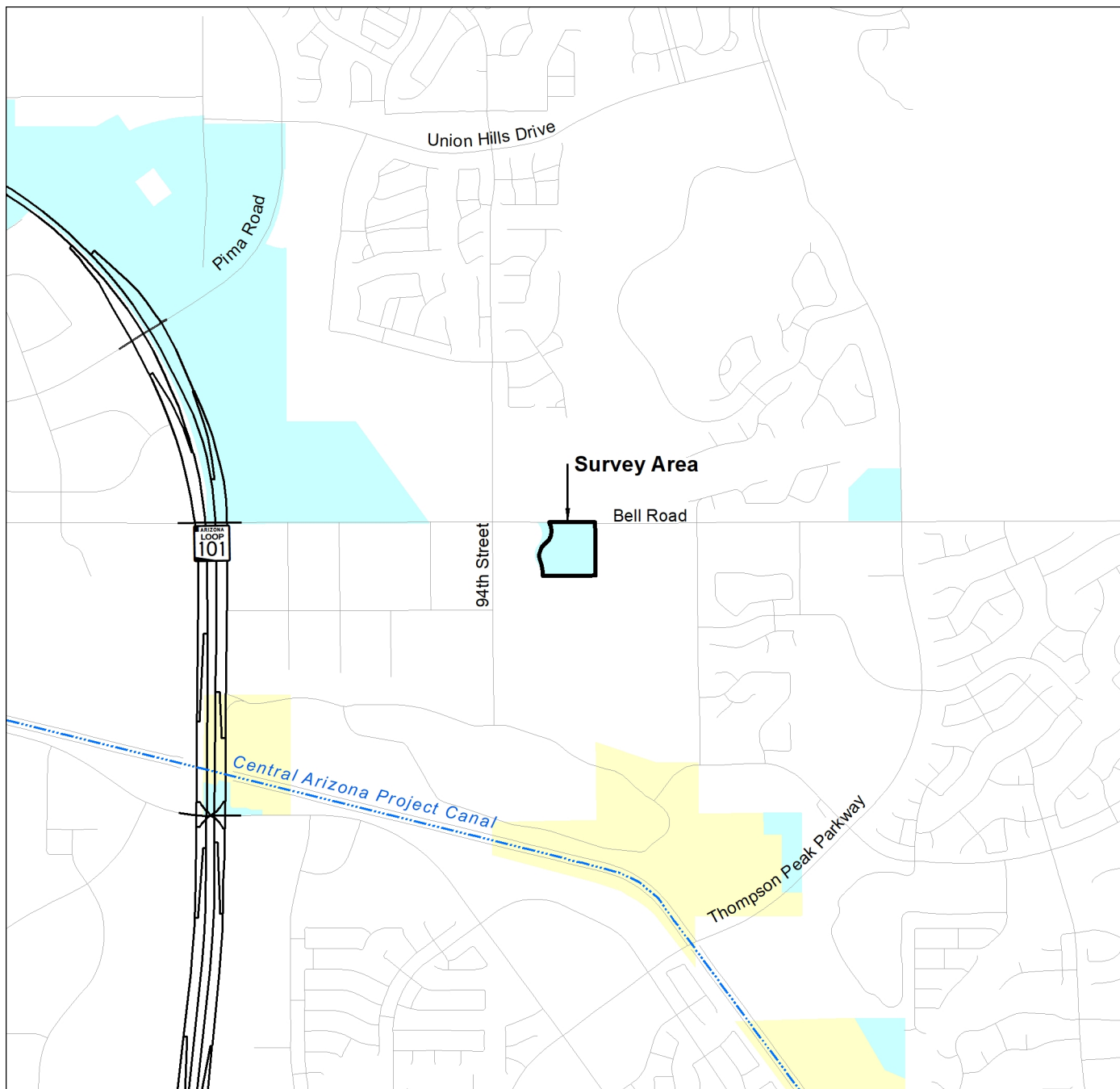






Figure 1. State Map





Source: Land ownership GIS coverage provided by Arizona State Land Department; Arizona Transportation Information System GIS Coverage (2007)

Key	Land Ownership
	Survey Area
	Bureau Of Reclamation
	Private Land
	State Trust Land

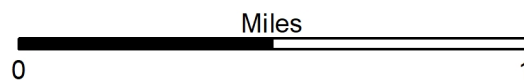
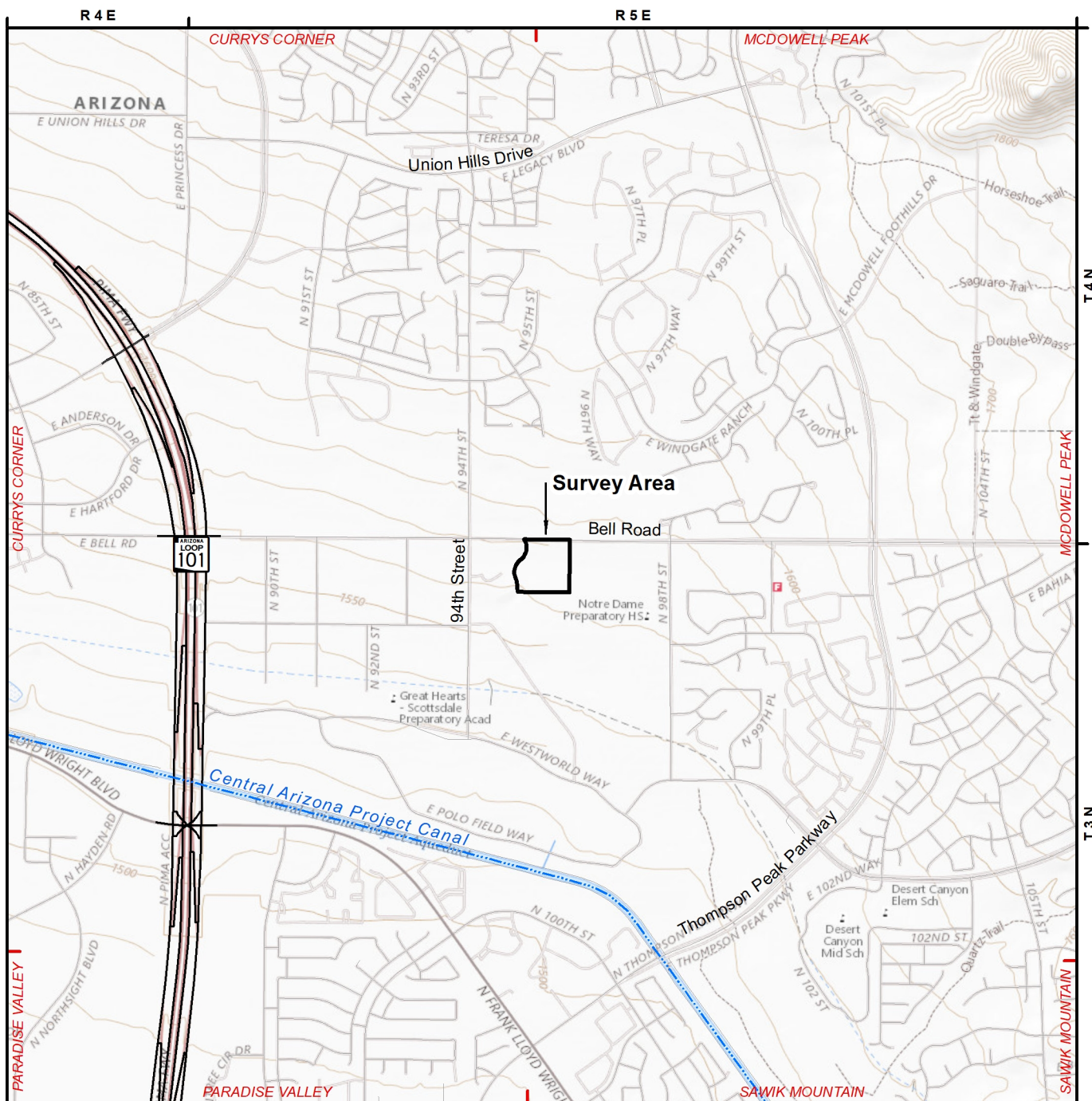


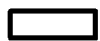
Figure 2. Vicinity Map





Source: USGS US 7.5' Topo maps:  
 Curry's Corner (2018);  
 McDowell Peak (2018);  
 Paradise Valley (2018);  
 Sawik Mountain (2018)

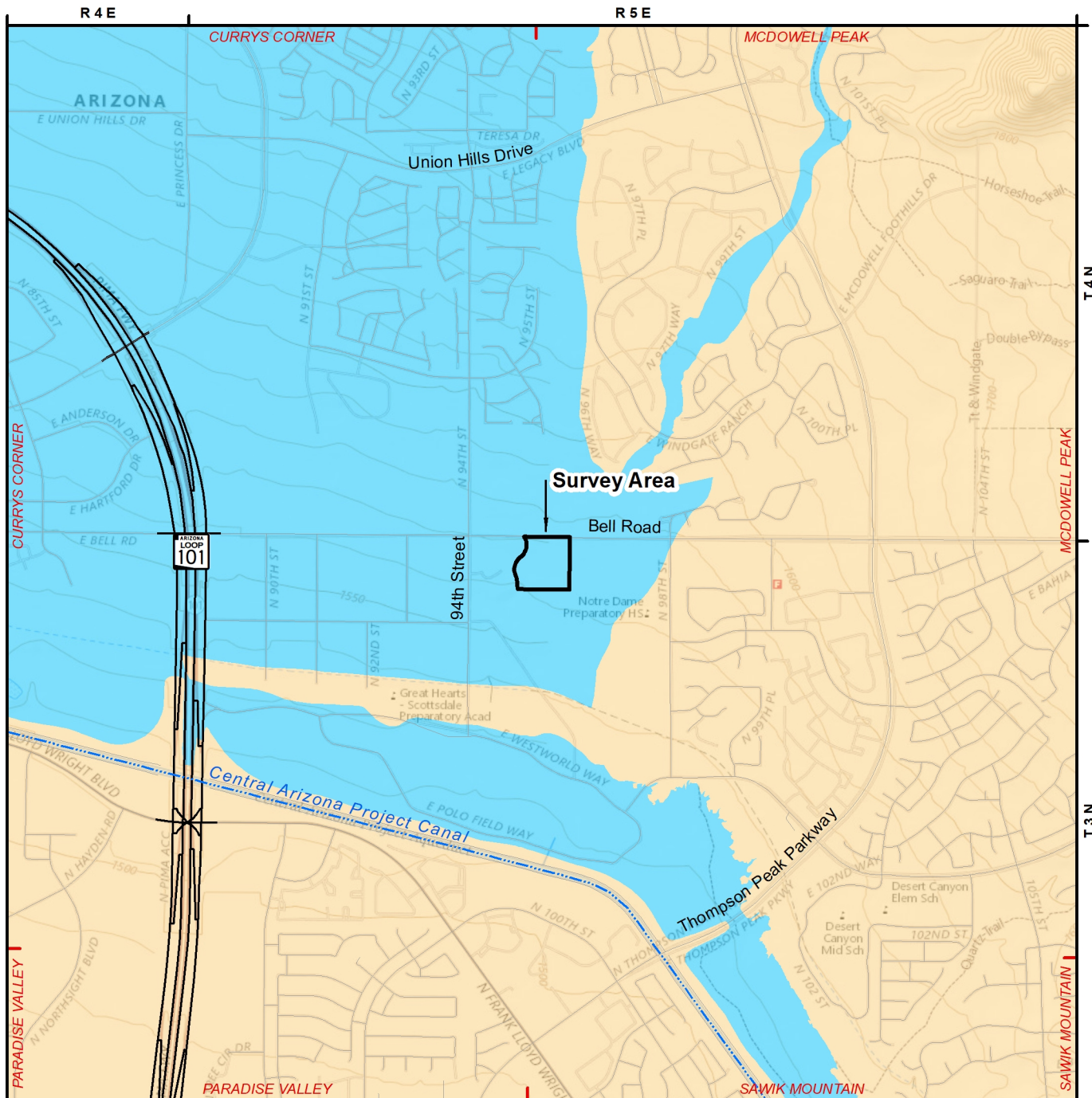
Key

 Survey Area

Mile  
 0 1



Figure 3. Topographic Map



Source: USGS US 7.5' Topo maps:  
 Curry's Corner (2018);  
 McDowell Peak (2018);  
 Paradise Valley (2018);  
 Sawik Mountain (2018)  
 Floodplain GIS Coverage provided by FEMA (2016)

#### Key

- Survey Area
- 100-year Floodplain
- 500-year Floodplain

Mile  
 0 1



Figure 4. Floodplain Map

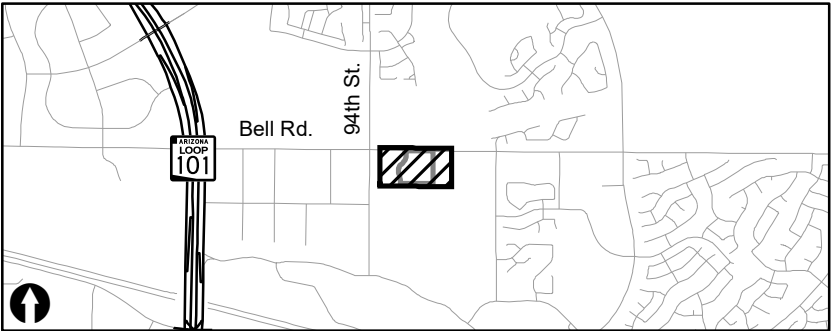




Aerial Date: November 16, 2018  
Source: Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community  
Prepared by: A. Muszynski of Logan Simpson September 2020

Key

#	Feature number	Project Area (10.30 acres)
#	Photo location	
~	Flow direction	



Section 404 Technical Memorandum ASLD Parcel 217-13-157		
Source: USGS 7.5' Quadrangles Currys Corner, Ariz. (2018); McDowell Peak, Ariz. (2018); T3N, R5E, Sec. 5,6; T4N, R5E, Sec. 31,32; UTM 1983 Zone 12N; 418839.925m E, 3722483.054m N	Feet 0 100 1" = 100'	September 2020
		Figure 5



# **Ground Photographs**

**March 25, 2020**

*Note : The dimensions of the brown clipboard in the photographs are approximately 20 inches wide and 12 inches tall.*





Photograph 1. Upstream view of unnamed wash #1, facing north.



Photograph 2. Downstream view of unnamed wash #1, facing south.

#### Ground Photographs

ASLD Parcel 217-13-157

September 2020





Photograph 3. Upstream view of unnamed wash #2, facing north.



Photograph 4. Downstream view of unnamed wash #2, facing south.

#### Ground Photographs

ASLD Parcel 217-13-157

September 2020

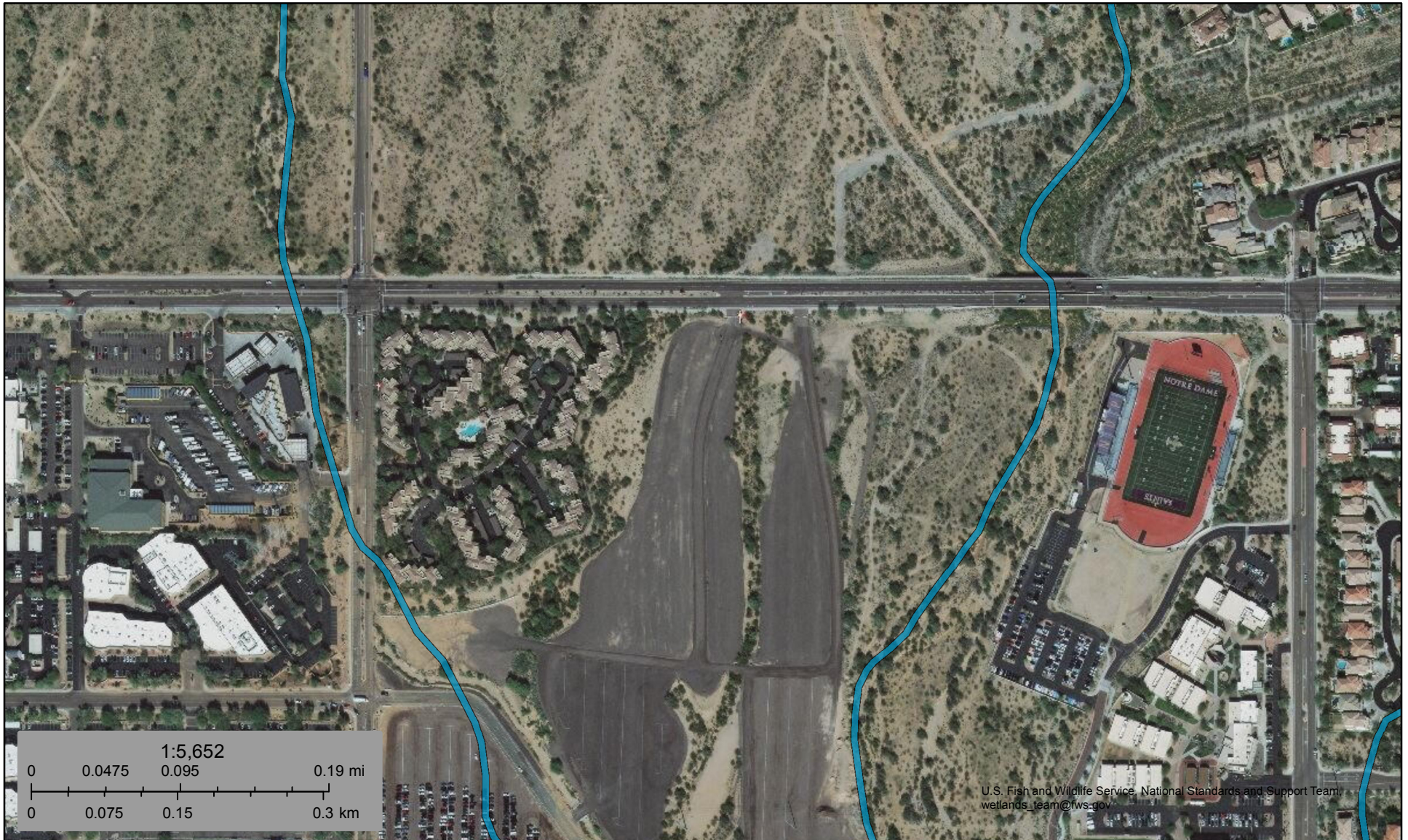




U.S. Fish and Wildlife Service

# National Wetlands Inventory

ASLD Parcel 217-13-157



U.S. Fish and Wildlife Service, National Standards and Support Team  
wetlands\_team@fws.gov

May 14, 2020

## Wetlands

	Estuarine and Marine Deepwater		Freshwater Emergent Wetland		Lake
	Estuarine and Marine Wetland		Freshwater Forested/Shrub Wetland		Other
			Freshwater Pond		Riverine

This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.