WATERS OF THE U.S. & DITCHES
“To be clear, under the rule a ditch may be a “water of the United States” only if it meets the definition of tributary and is not otherwise excluded under section (b) of the rule.”

“In concrete-lined channels, the concrete serves as the bed and banks and can have other ordinary high water mark indicators such as staining and debris deposits.”

“Ditches and canals, like other tributaries, export sediment, nutrients, and other materials downstream and are effective at transporting water and these materials, including nitrogen, downstream.”

“Fish and other aquatic organisms utilize canals and ditches to move to different habitats, sometimes over long distances.”
Groundwater Wells NPDES Permit

October 31, 1999 – individual permit issued to SRP authorizing the discharge of untreated groundwater to “Phoenix Area Canals”
Construction Stormwater General Permit
De Minimis General Permit
March 14, 2004 - AZPDES permit authorizing de minimis discharges to waters of the United States
Pesticide General Permit
October 31, 2011 – NPDES/AZPDES permits authorizing pesticide discharges to waters of the United States
CWA §404 Discharge of Dredge & Fill Material
Aug. 28, 2015 – Effective Date of CWR (Stayed Oct. 9, 2015)
CWA §404 Exemptions to Permitting

- USACE Regulatory Guidance Letter 07-02, Exemptions for Construction or Maintenance of Irrigation Ditches and Maintenance of Drainage Ditches under Section 404 of the Clean Water Act
  - “A ditch determined to be either an irrigation ditch or a drainage ditch would then need to be evaluated on a case-by-case basis to determine if the recapture provision of Section 404(f)(2) applies.”

- CWR Response to Comments Summary, Topic 6: Ditches
  - “The term “ditch” is not specifically defined in the rule.”
  - “The agencies will continue to rely their existing practice of addressing the regulatory status and requirements with respect to ditches on more case-specific basis.”
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