



EASTERN MUNICIPAL WATER DISTRICT

# **Clean Water Act Proposed Rule, Examples of Impacts to EMWD, ACWA and WESTCAS Members**

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# Overview



- ACWA's process and comment categories
- What does it mean to be jurisdictional?
- Examples of facilities that would become jurisdictional
- Suggested amendments to the rule

# Categories for Comment



Defined categories for comment and collecting examples:

- Recycled Water
- Tributary Definition
- Traditionally Navigable Waters
- Isolated Waters
- Groundwater/Subsurface Connection/Percolation
- Ditches
- Upland Swales
- Maintaining 2007 Guidance
- Flood Plain Risk and Uncertainty
- Economic Impact
- Process

# What Does it Mean to be Jurisdictional?



- Facilities are subjected to a multitude of regulatory requirements under the Clean Water Act
- Conduct use attainability study; evaluate recreation and habitat
- Triggers other federal laws such as National Environmental Policy Act, and the Endangered Species Act
  - Involve other studies and public comment periods
- Additional requirements means additional time and money
  - Increasing basic operations and maintenance costs
- Example: regular facility maintenance would require a 404 permit
  - EMWD alone >30 facilities, 1 to 2 times per year
  - Customers currently pay nearly \$6/month for regulatory compliance
  - Increase the cost of compliance without providing benefit to customers
  - EMWD's most recent 404 permit, 10+ year process



# Jeopardizes Recycled Water Projects



- Proposed rule exempts wastewater treatment systems “designed to meet the requirements of the Clean Water Act”
  - Water reuse facilities constructed for water supply or other purposes do not fall under this exemption
  - ~10 sites, 2 billion gallons of recycled water storage, covering over 500 acres



# Recycled Water Facilities, Cont.

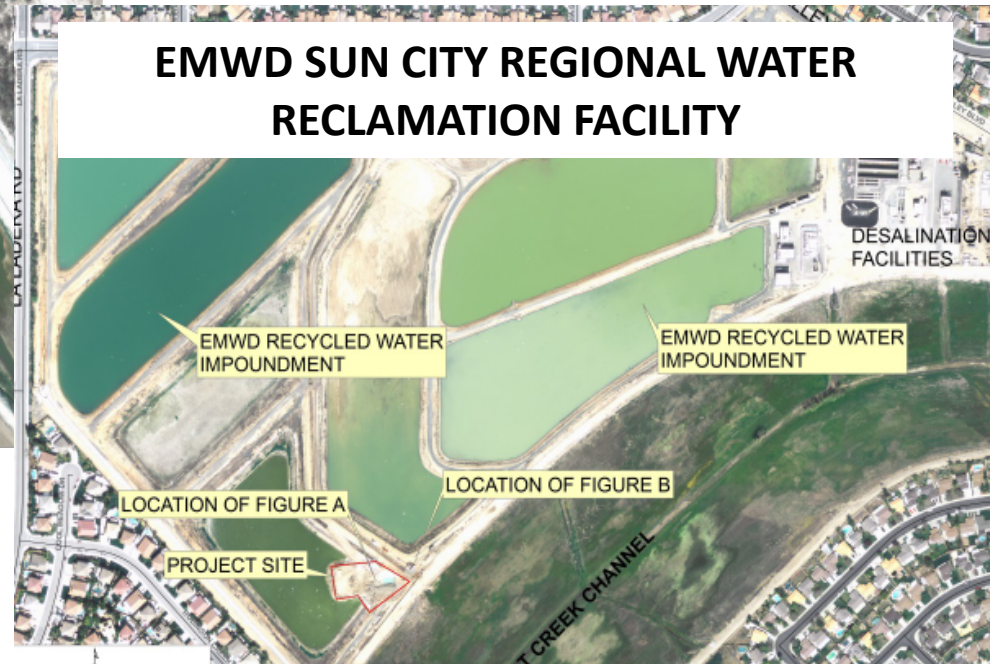
## EMWD ALESSANDRO PONDS



Potentially jurisdictional based on:

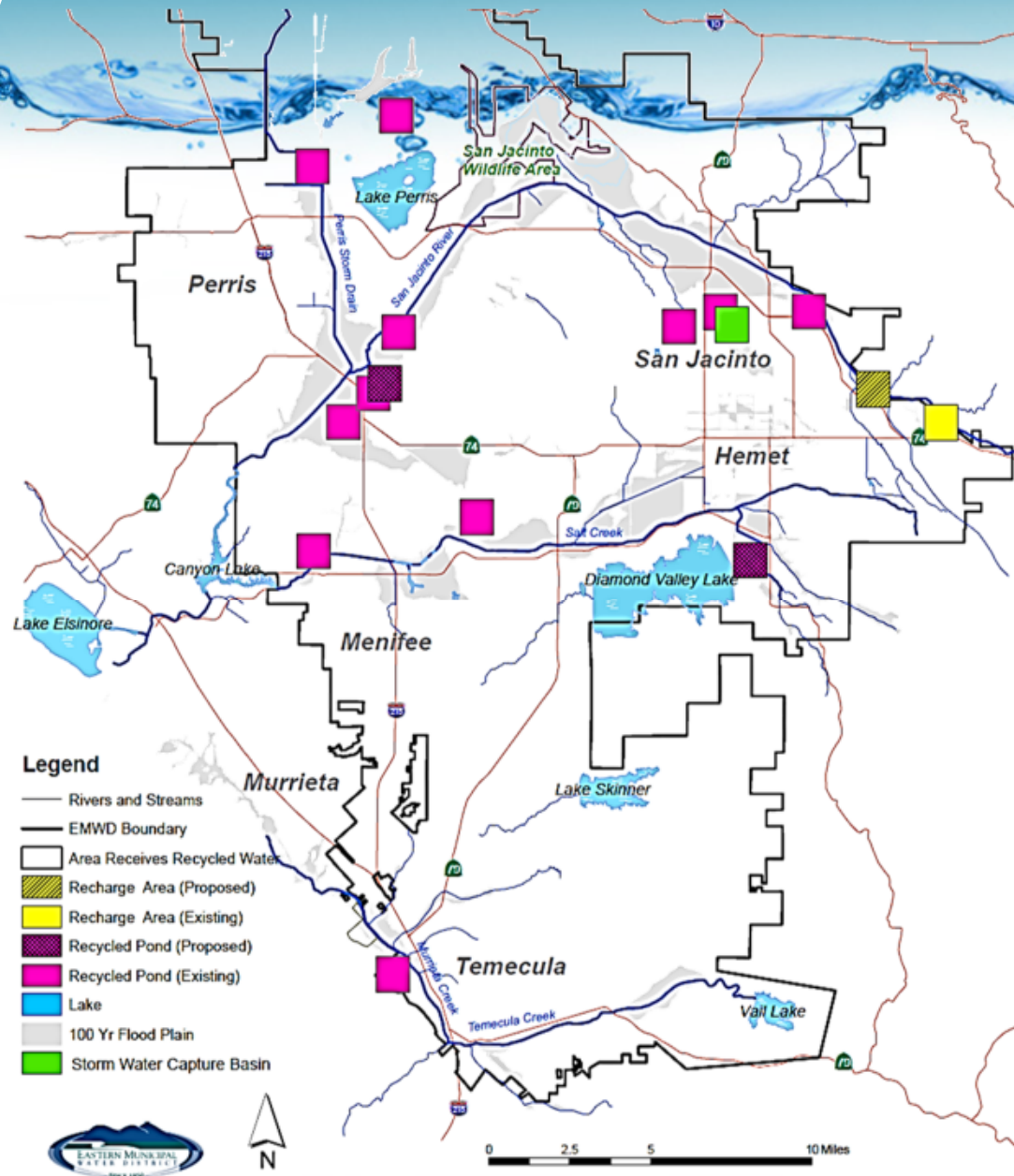
- Adjacency
- In floodplain
- Subsurface hydrologic connection

## EMWD SUN CITY REGIONAL WATER RECLAMATION FACILITY





# Overview



# Recycled Water Facilities, CVWD



- 130 acre of infiltration basins
- Wetlands vegetation
- Hydric soils
- Most are adjacent to jurisdictional waters



# Stormwater Retention Basins, Swales, Ditches



- CVWD maintains nine stormwater retention basins (~ 330 acres)
- 100 miles of swales and ditches designed to capture and convey stormwater.
- Facilities are located in the arid environment and can contain ephemeral waters, hydric soil and wetland vegetation adjacent to jurisdictional waters





# Well Blowoff Ponds, Potable Water

- ~ 20 well blowoff sites
- Adjacent to jurisdictional waters, and/or located in floodplain
- Contain/percolate groundwater





# Groundwater Recharge Basins, CVWD



- 1,000 acres of recharge basins
- Adjacent to jurisdictional waters, and/or located in flood plain,
- Convey/contain/percolate Colorado River water
- Recharge 250 TAF in some years, includes water banked for MWD





# Uniqueness of Arid States Overlooked



- Coachella Canal, 123 miles long
- Stormwater flows over 34 siphons
- Siphons take the canal below ground surface, providing an above ground pass for water to flow past the canal dike, down gradient to jurisdictional waters.



# Pipeline Projects Complicated

- Intermittent and ephemeral streams become jurisdictional
- Increases permitting complexity and difficulty for pipeline projects

*Feature not clearly excluded by the proposed rule  
Unnamed small ephemeral drainage, Homeland, CA*





# Potential Suggested Amendments



- Exclude from the definition of “waters of the U.S.”:
  - Water conveyance facilities (aqueducts, canals, ditches, etc);
  - Water supply storage facilities;
  - Aquifer storage and recover facilities;
  - Stormwater management and capture facilities; and
  - Recycled water storage and conveyance facilities.
- Exclude erosional features from the definition of tributary
  - Where water flows temporarily in direct response to a rain event
- Avoid using “floodplain” or “riparian area” to define adjacency

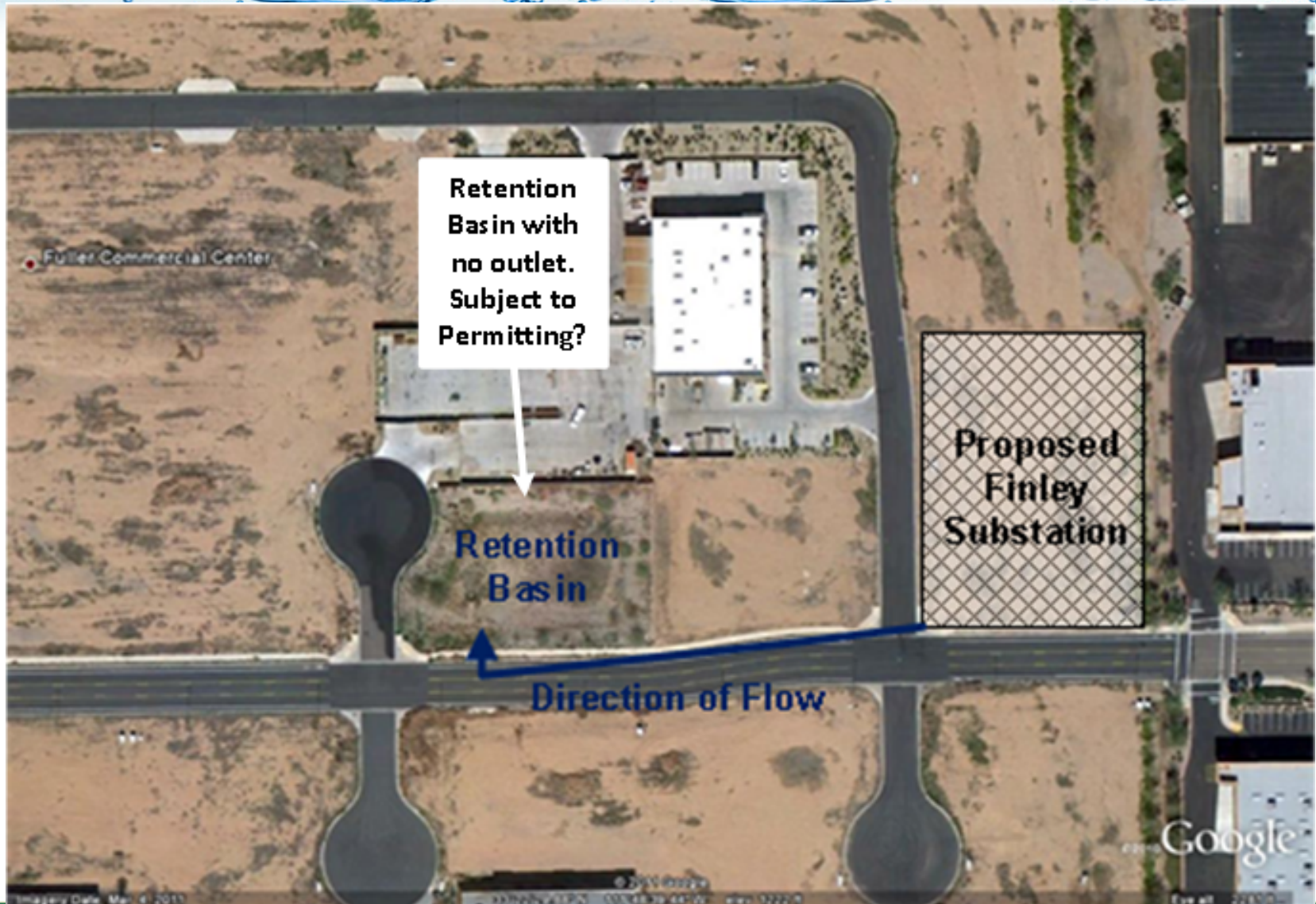


# §311SPCC Example, Salt River Project, AZ





# \$402 CGP Example, SRP

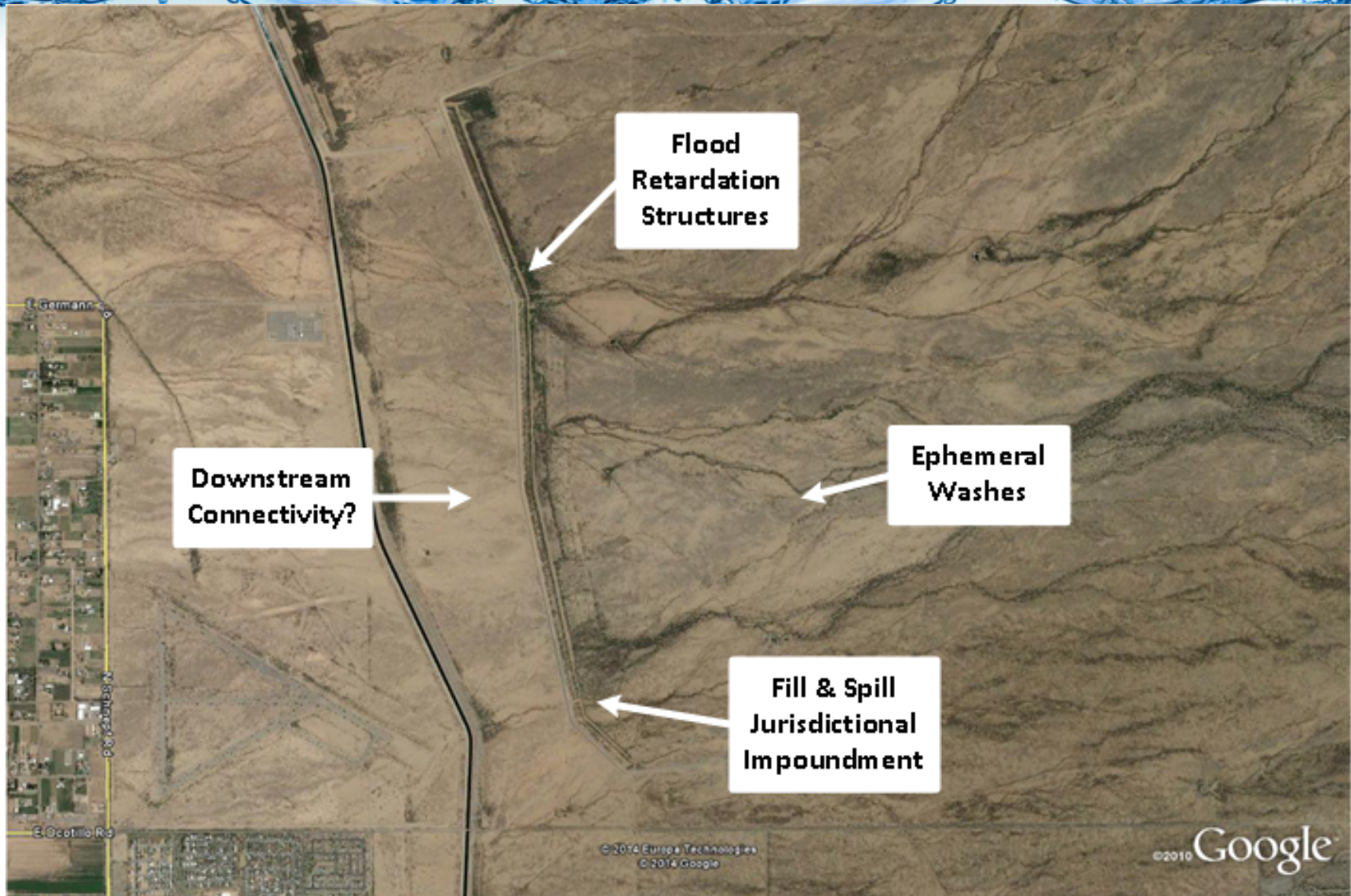


# §402 PGP Example, SRP



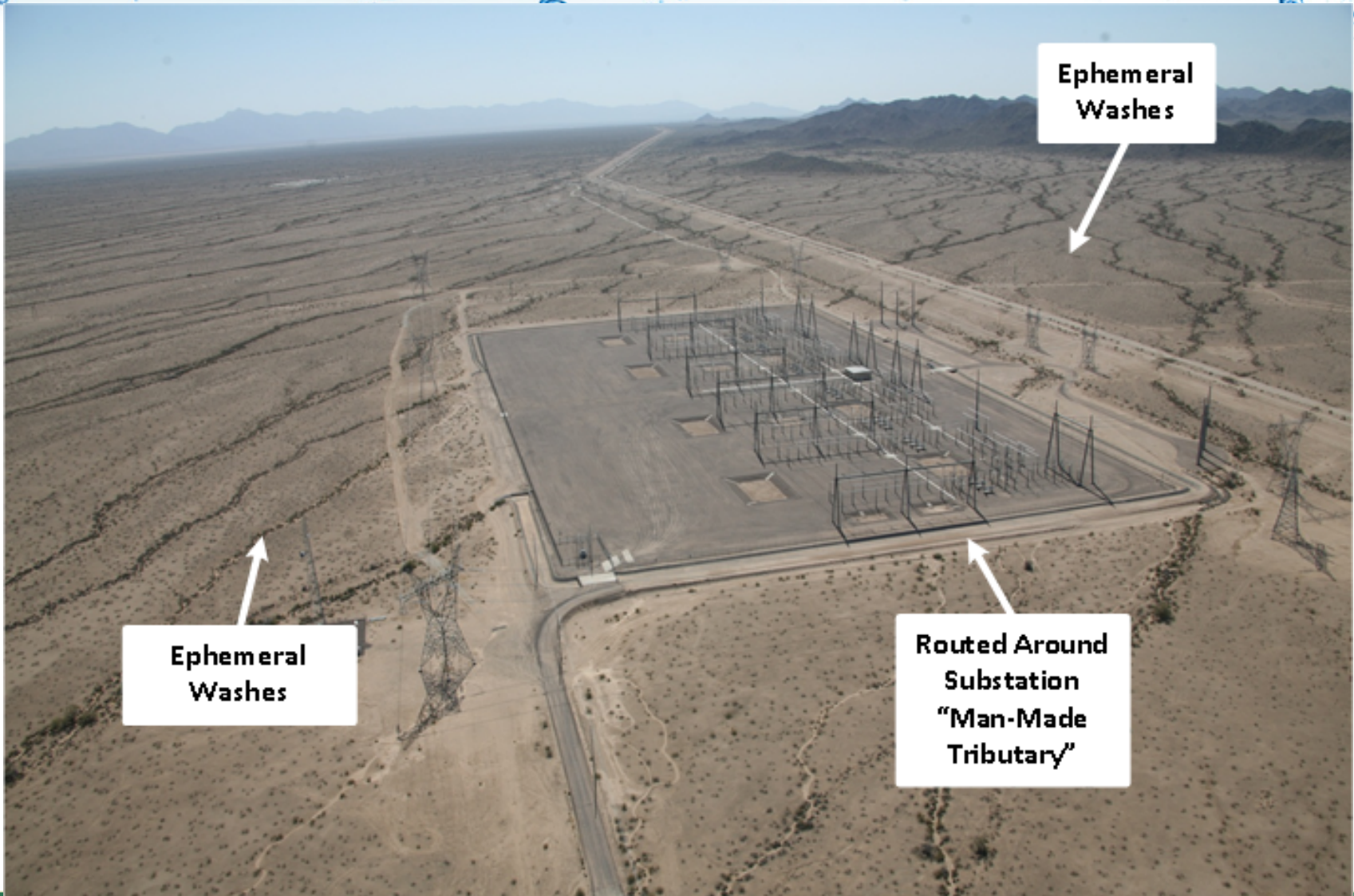


# \$404 Permit Example, SRP



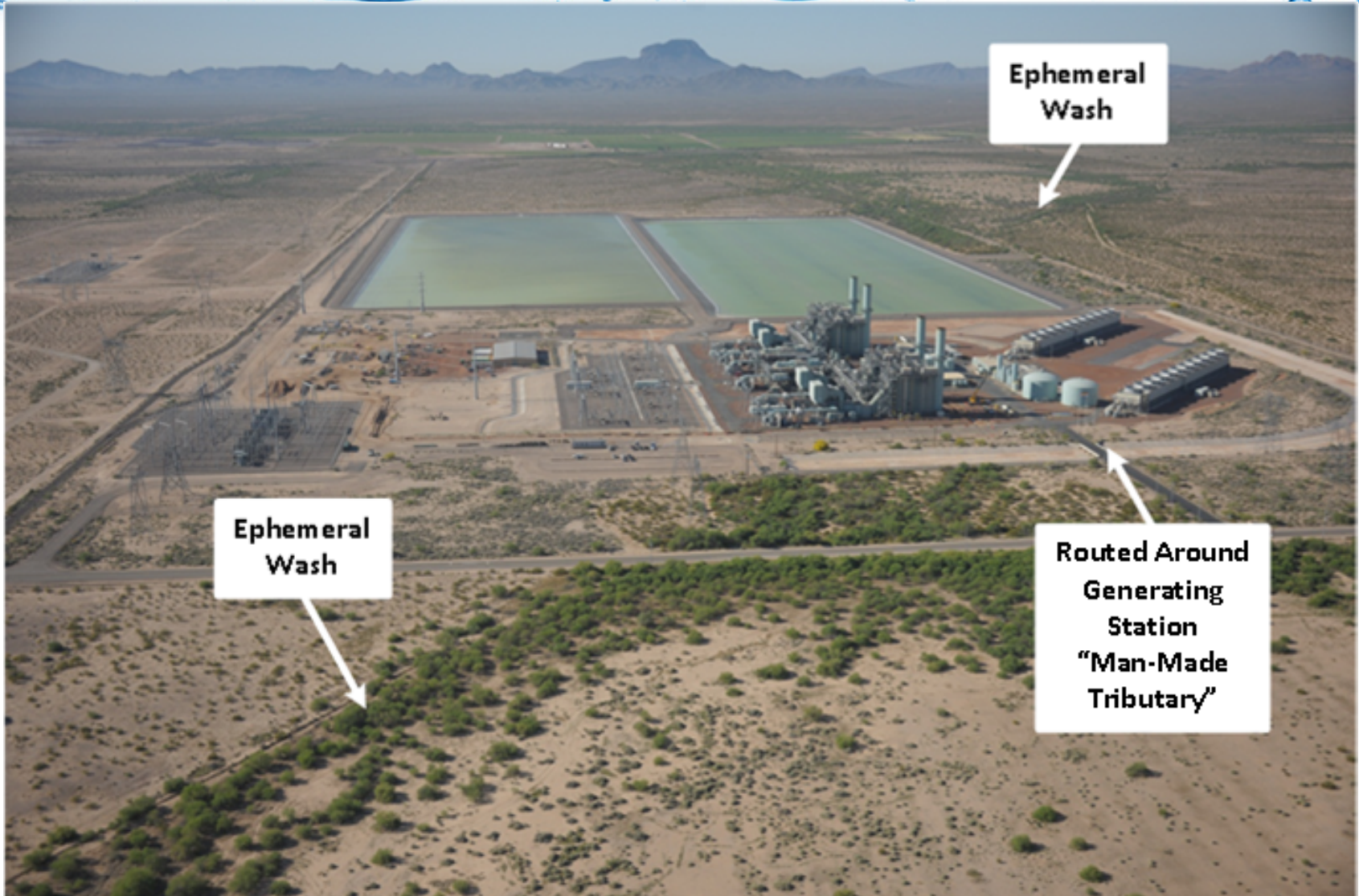


# Man-made Tributary Example, SRP



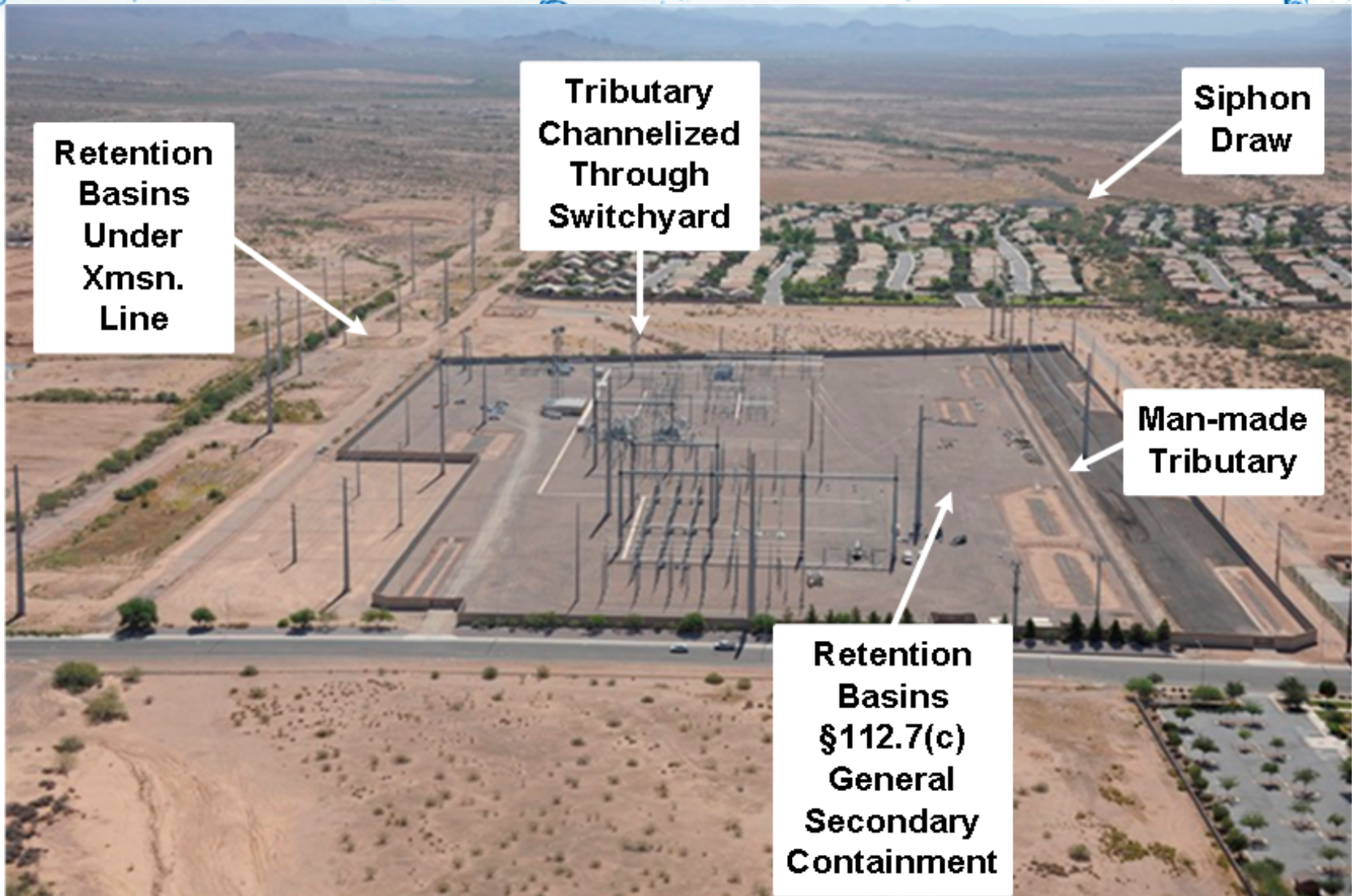


# Man-made Tributary Example #2, SRP





# A Little Of Everything, SRP



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# Contact Information

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- June 11, 2014 – Hearing in House T& I Committee
- June 17, 2014 – USEPA call on WOTUS for local governments
- House FY 15 Energy and Water Appropriations bill contains a provision that prohibits funding to the USACE for implementing WOTUS rule
- Sen. John Hoeven (R-ND) will be offering an amendment to the FY15 Senate E&W appropriations bill in full committee on Thursday to block the Obama administration from finalizing its WOTUS rule.