



DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, CORPS OF ENGINEERS
TUCSON RESIDENT OFFICE
5205 EAST COMANCHE STREET
TUCSON, ARIZONA 85707

REPLY TO
ATTENTION OF

July 11, 2012

Office of the Chief
Regulatory Division

Mr. Brian S. Lindenlaub
Principal, WestLand Resources, Inc.
4001 E. Paradise Falls Drive
Tucson, Arizona 85712

SUBJECT: Approved Jurisdictional Determination regarding absence of geographic jurisdiction

Dear Mr. Lindenlaub:

Reference is made to your request (File No. SPL-2009-00315-MB) for an approved Department of the Army jurisdictional determination (JD) for Resolution Copper Mining, LLC for the West and East Plant Analysis Areas. The West Plant Analysis Area is located immediately north of and adjacent to the town of Superior (Sections 25-27 and 34-36, T1S, R12E and Sections 3 and 4, T2S, R12E) Pinal County, Arizona. The East Plant Analysis Area is located approximately one aerial mile east of Superior (Section 36, T1S, R12E, Sections 28, 29, and 31-33 T1S, R13E, Section 1, T2S, R12E, and Section 6, T2S, R13E) Pinal County, Arizona.

As you may know, the Corps' evaluation process for determining whether or not a Department of the Army permit is needed involves two tests. If both tests are met, then a permit is required. The first test determines whether or not the proposed project is located in a water of the United States (i.e., it is within the Corps' geographic jurisdiction). The second test determines whether or not the proposed project is a regulated activity under Section 404 of the Clean Water Act. As part of the evaluation process, pertaining to the first test only, we have made the jurisdictional determination below.

Based on available information, we have determined the ephemeral washes within the proposed the West and East Plant Analysis Areas do not have a significant nexus (SN) to the closest Traditionally Navigable Water (TNW), the Gila River between Powers Butte and Gillespie Dam. The basis for our determination can be found in the enclosed JD form(s) and I have enclosed aerial photographs indicating no waters of the U.S. with a SN to a TNW within the proposed expansion areas. The Corps has also determined that Isolated Wetlands 9-12 are not jurisdictional under Section 404 of the Clean Water Act and the approved JD forms for these Isolated Wetlands are also enclosed.

This letter contains an approved jurisdictional determination for the proposed Resolution Copper Mine West and East Plant Analysis Areas, near Superior, Pinal County, Arizona. If you object to this decision, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. Enclosed you will find a Notification of Appeal Process (NAP) fact sheet (Appendix A) and Request for Appeal (RFA) form. If you request to appeal this decision you must submit a completed RFA form to the Corps South Pacific Division Office at the following address:

Tom Cavanaugh
Administrative Appeal Review Officer,
U.S. Army Corps of Engineers
South Pacific Division, CESPDPDS-O, 2042B
1455 Market Street, San Francisco, California 94103-1399

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 C.F.R. Part 331.5, and that it has been received by the Division Office within 60 days of the date on the NAP. Should you decide to submit an RFA form, it must be received at the above address by September 9, 2012. It is not necessary to submit an RFA form to the Division office if you do not object to the decision in this letter.

This verification is valid for five years from the date of this letter, unless new information warrants revision of the determination before the expiration date. If you wish to submit new information regarding the approved jurisdictional determination for this site, please submit this information to me at the letterhead address by September 9, 2012. The Corps will consider any new information so submitted and respond within 60 days by either revising the prior determination, if appropriate, or reissuing the prior determination. A revised or reissued jurisdictional determination can be appealed as described above.

This determination has been conducted to identify the extent of the Corps' Clean Water Act jurisdiction on the particular proposed project site identified in your request. This determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985. If you or your tenant are USDA program participants, or anticipate participation in USDA programs, you should request a certified wetland determination from the local office of the Natural Resources Conservation Service, prior to starting work.

If you have any questions, please contact me at (520) 584-1684 or via e-mail at Marjorie.E.Blaine@usace.army.mil.

Please be advised that you can now comment on your experience with Regulatory Division by accessing the Corps web-based customer survey form at: <http://per2.nwp.usace.army.mil/survey.html>.

Sincerely,



Marjorie E. Blaine
Senior Project Manager
Arizona Branch, Regulatory Division

Enclosures
CD with Approved JD Forms
JD Aerial Maps

**NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND
REQUEST FOR APPEAL**

Applicant: Resolution Copper Mining LLC		File Number: SPL-2009-00315-MB	Date: July 11, 2012
Attached is:		See Section below	
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)		A
	PROFFERED PERMIT (Standard Permit or Letter of permission)		B
	PERMIT DENIAL		C
X	APPROVED JURISDICTIONAL DETERMINATION		D
	PRELIMINARY JURISDICTIONAL DETERMINATION		E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://usace.army.mil/inet/functions/cw/cecwo/reg> or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

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

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

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

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

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

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:

DISTRICT ENGINEER
Los Angeles District, Corps of Engineers
ATTN: Chief, Regulatory Division
P.O. Box 532711
Los Angeles, CA 90053-2325
Tel. (213) 452-3425

If you only have questions regarding the appeal process you may also contact:

DIVISION ENGINEER
South Pacific Division, Corps of Engineers
ATTN: Tom Cavanaugh
Administrative Appeal Review Officer,
South Pacific Division, CESPDPDS-O, 2042B
1455 Market Street, San Francisco, California 94103-1399
Tel. (415) 503-6574

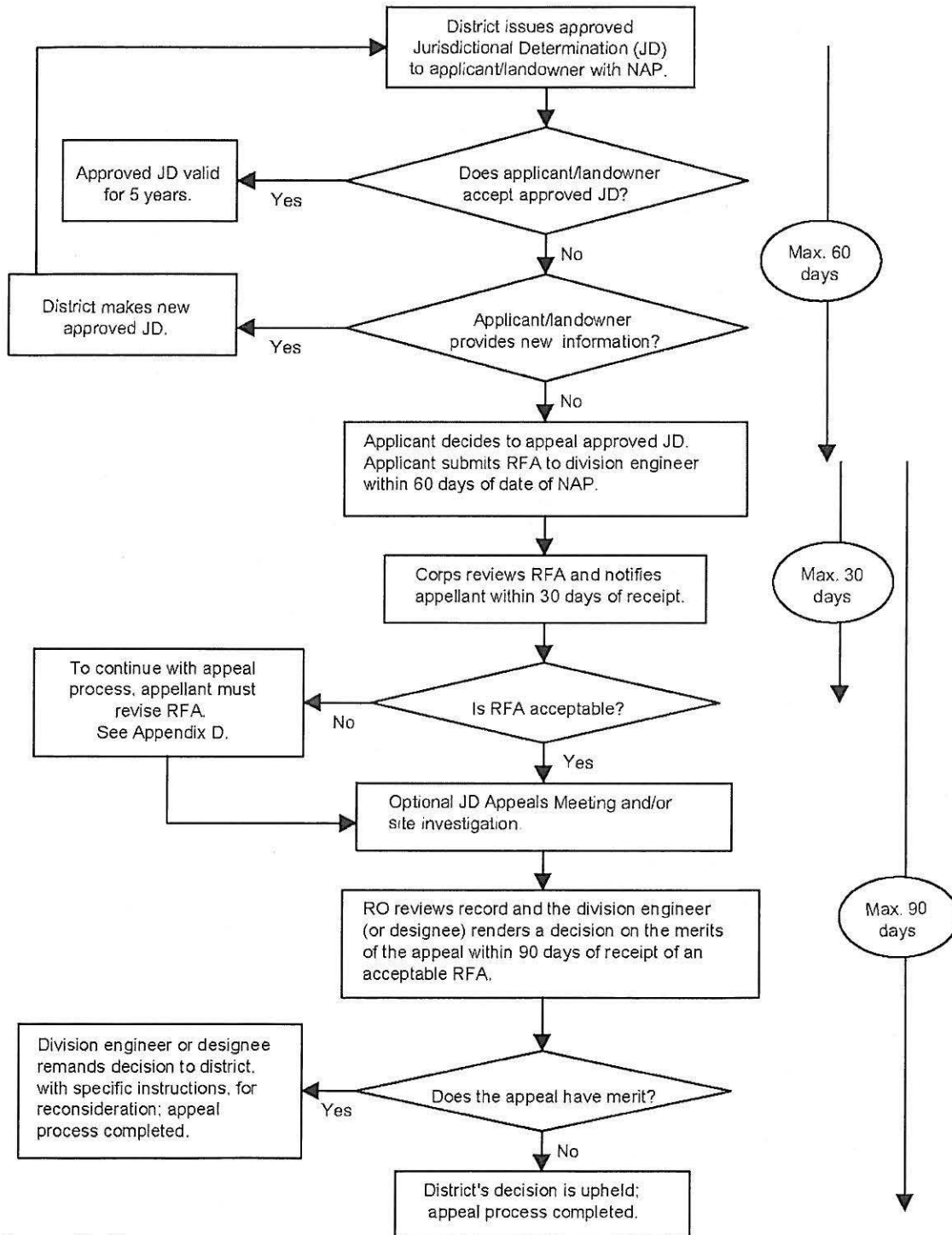
RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity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

Signature of appellant or agent.

Date:

Telephone number:

Administrative Appeal Process for Approved Jurisdictional Determinations





402 W. Main Street
Superior, Arizona
+1 (520) 689 9374

May 15, 2017

Ms. Mary Rasmussen
US Forest Service
Supervisor's Office
2324 East McDowell Road
Phoenix, AZ 85006-2496

Subject: Resolution Copper Mining, LLC – Mine Plan of Operations and Land Exchange – Response to EIS-85

Dear Ms. Rasmussen,

In response to action item EIS-85, response letters from the US Army Corps of Engineers regarding jurisdictional determinations are attached.

Should you have any questions or require further information please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Vicky Peacey".

Vicky Peacey,
Senior Manager, Permitting and Approvals; Resolution Copper Company, as Manager of Resolution Copper Mining, LLC

Cc: Ms. Mary Morissette; Senior Environmental Specialist; Resolution Copper Company

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