DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
LOS ANGELES DISTRICT
3636 NORTH CENTRAL AVENUE, SUITE 900
PHOENIX, AZ 85012-1939

October 13, 2021

SUBJECT: Preliminary Jurisdictional Determination

Ms. Tracy Hamilton
HDR Engineering, Inc.
20 East Thomas Road, Suite 2500
Phoenix, Arizona 85012

Dear Ms. Hamilton:

I am responding to your request as the authorized agent for Mr. Edward T. Keable, National Park Service (NPS), dated September 13, 2021 for a preliminary Department of the Army jurisdictional determination (JD) for your proposed project, Trans-Canyon Water Distribution Pipeline Replacement (File No. SPL-2021-00429). The proposed project is located within Grand Canyon National Park, Coconino County, Arizona (Latitude 36.097779°, Longitude -112.095726°).

The Corps' evaluation process for determining whether a Department of the Army permit is needed involves two tests. If both tests are met, a permit would likely be required. The first test determines whether the proposed project is located within the Corps' geographic jurisdiction (i.e., it is within a water of the United States). The second test determines whether as proposed, the project involves a regulated activity under Corps' authority, i.e., Section 10 of the Rivers and Harbors Act of 1899, Section 404 of the Clean Water Act, or Section 103 of the Marine Protection Research and Sanctuaries Act. The determination in this letter pertains only to the question of geographic jurisdiction.

Based on available information, I have preliminarily determined waters of the U.S. may be present on the proposed Trans-Canyon Water Distribution Pipeline Replacement project site in the approximate locations noted on the enclosed map. The basis for this finding may be found on the enclosed Preliminary Jurisdictional Determination (JD) form. Preliminary JDs are non-binding indications of the presence of waters of the U.S., including wetlands, on a parcel. Preliminary JDs are advisory in nature and may not be appealed.

This determination was conducted to identify the extent of the Corps' Clean Water Act jurisdiction on the proposed Trans-Canyon Water Distribution Pipeline Replacement 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.

Thank you for participating in the regulatory program. If you have any questions, please contact Therese Carpenter at (602) 230-6952 or via email at Anne.T.Carpenter@usace.army.mil. Please help me to evaluate and improve the regulatory experience for others by completing the customer survey form at https://regulatory.ops.usace.army.mil/customer-service-survey/.

Sincerely,

Sallie Diebolt
Chief, Arizona Branch
Regulatory Division

Enclosure(s)

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL		
Applicant: National Park Service	File Number: SPL-2021-00429	Date: OCTOBER 13, 2021

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
	APPROVED JURISDICTIONAL DETERMINATION	D
X	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://www.usace.army.mil/cecw/pages/reg_materials.aspx 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: Therese Carpenter Project Manager U.S. Army Corps of Engineers Los Angeles District 3636 North Central Avenue, Suite 900 Phoenix, Arizona 85012-1939 Phone: (602) 230-6952 Email: Anne.T.Carpenter@usace.army.mil	If you only have questions regarding the appeal process you may also contact: Thomas J. Cavanaugh Administrative Appeal Review Officer U.S. Army Corps of Engineers South Pacific Division 450 Golden Gate Avenue San Francisco, California 94102 Phone: (415) 503-6574 Fax: (415) 503-6646 Email: thomas.j.cavanaugh@usace.army.mil

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:

Appendix 2 - PRELIMINARY JURISDICTIONAL DETERMINATION (PJD) FORM

BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR PJD: July 1, 2021

B. NAME AND ADDRESS OF PERSON REQUESTING PJD: Tracy Hamilton, Authorized Agent - 20 E Thomas Rd., Ste. 2500, Phoenix, AZ 8501

C. DISTRICT OFFICE, FILE NAME, AND NUMBER: Los Angeles, Trans-Canyon Water Distribution Pipeline Grand Canyon, SPL-2021-0042

D. PROJECT LOCATION(S) AND BACKGROUND INFORMATION:
(USE THE TABLE BELOW TO DOCUMENT MULTIPLE AQUATIC RESOURCES AND/OR AQUATIC RESOURCES AT DIFFERENT SITES)

State: AZ County/parish/borough: Coconino City: N/A

Center coordinates of site (lat/long in degree decimal format):

Lat.: varies Long.:

Universal Transverse Mercator: varies

Name of nearest waterbody: Colorado River

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

☐ Office (Desk) Determination. Date:

☐ Field Determination. Date(s):

TABLE OF AQUATIC RESOURCES IN REVIEW AREA WHICH "MAY BE" SUBJECT TO REGULATORY JURISDICTION.

Site number	Latitude (decimal degrees)	Longitude (decimal degrees)	Estimated amount of aquatic resource in review area (acreage and linear feet, if applicable)	Type of aquatic resource (i.e., wetland vs. non-wetland waters)	Geographic authority to which the aquatic resource "may be" subject (i.e., Section 404 or Section 10/404)
W-1	36.19351183	-112.0336897	0.009	wetland	Section 404
W-2	36.19333125	-112.0334526	0.015	wetland	Section 404
S-1a	36.19341892	-112.0335407	0.022	non-wetland	Section 404
W-3	36.19286302	-112.0327642	0.085	wetland	Section 404
S-1b	36.19263245	-112.0325289	0.155	non-wetland	Section 404
W-4	36.19238158	-112.032414	0.031	wetland	Section 404

Continued on next page

TABLE OF AQUATIC RESOURCES IN REVIEW AREA WHICH "MAY BE" SUBJECT TO REGULATORY JURISDICTION.

Site number	Latitude (decimal degrees)	Longitude (decimal degrees)	Estimated amount of aquatic resource in review area (acreage and linear feet, if applicable)	Type of aquatic resource (i.e., wetland vs. non-wetland waters)	Geographic authority to which the aquatic resource "may be" subject (i.e., Section 404 or Section 10/404)
W-5	36.19220164	-112.0323095	0.033	Wetland	Section 404
S-1c	36.1915017	-112.0318877	0.018	Non-wetland	Section 404
S-1d	36.19049408	-112.0319124	0.167	Non-wetland	Section 404
S-1e	36.18830722	-112.0319642	0.099	Non-wetland	Section 404
S-1f	36.18778576	-112.0322044	0.014	Non-wetland	Section 404
S-1g	36.18545452	-112.0319777	0.044	Non-wetland	Section 404
S-1h	36.18496751	-112.032073	0.091	Non-wetland	Section 404
S-1i	36.18427666	-112.0324566	0.029	Non-wetland	Section 404
S-1j	36.18463572	-112.0340897	0.041	Non-wetland	Section 404
S-1k	36.1841292	-112.0347183	0.009	Non-wetland	Section 404
S-1l	36.1823924	-112.0347154	0.041	Non-wetland	Section 404
S-1m	36.18139495	-112.0344775	0.187	Non-wetland	Section 404
S-1n	36.17929771	-112.0342623	0.037	Non-wetland	Section 404
E-2	36.17882633	-112.0343881	0.026	Non-wetland	Section 404
E-3	36.17817824	-112.0356179	0.03	Non-wetland	Section 404
E-4	36.17729342	-112.0363744	0.034	Non-wetland	Section 404
S-1o	36.17628263	-112.0373178	0.014	Non-wetland	Section 404
W-6	36.1751058	-112.037951	0.008	Wetland	Section 404
S-1p	36.17243879	-112.0389617	0.056	Non-wetland	Section 404
E-5a	36.17101882	-112.039598	0.152	Non-wetland	Section 404
E-5b	36.17085568	-112.0405431	0.071	Non-wetland	Section 404
S-1q	36.17118848	-112.0404459	0.053	Non-wetland	Section 404
E-6a	36.17062859	-112.0407264	0.01	Non-wetland	Section 404
E-6b	36.1703296	-112.0412757	0.013	Non-wetland	Section 404
S-1r	36.17038645	-112.0414798	0.047	Non-wetland	Section 404
W-7	36.17035045	-112.0414523	0.023	Wetland	Section 404
W-8	36.10583419	-112.0946171	0.18	Wetland	Section 404
W-9	36.10254114	-112.0957922	0.102	Wetland	Section 404
S-1s	36.10213977	-112.0959981	0.125	Non-wetland	Section 404
W-10	36.10240518	-112.0961172	0.032	Wetland	Section 404
W-11	36.10165498	-112.0958859	0.061	Wetland	Section 404
W-14	36.10112317	-112.0958341	0.12	Wetland	Section 404
W-12	36.10050873	-112.0954317	0.014	Wetland	Section 404
W-13	36.0998505	-112.0948663	0.092	Wetland	Section 404
S-1t	36.09979408	-112.0943838	0.264	Non-wetland	Section 404
W-15	36.09990214	-112.0947182	0.068	Wetland	Section 404
W-16	36.09975771	-112.0936795	0.015	Wetland	Section 404
W-17	36.09970246	-112.0939073	0.035	Wetland	Section 404
W-18	36.0989331	-112.092616	0.099	Wetland	Section 404
W-19	36.09854265	-112.092704	0.082	Wetland	Section 404
R-1a	36.09837983	-112.0932262	0.031	Non-wetland	Section 10/404

W-20	36.09812656	-112.0954451	0.022	Wetland	Section 404
R-1b	36.09764905	-112.0955467	0.826	Non-wetland	Section 10/404
R-1c	36.09882836	-112.099924	0.344	Non-wetland	Section 10/404
W-21	36.10015865	-112.1033202	0.409	Wetland	Section 404
R-1d	36.10068883	-112.1042686	0.008	Non-wetland	Section 10/404
R-1e	36.09932452	-112.1111199	0.066	Non-wetland	Section 10/404
S-8	36.09894815	-112.1113672	0.105	Non-wetland	Section 404
E-9	36.08853429	-112.1218562	0.002	Non-wetland	Section 404
E-10	36.08748466	-112.1228159	0.004	Non-wetland	Section 404
E-11	36.08681626	-112.1235391	0.015	Non-wetland	Section 404
E-12	36.08560059	-112.1248134	0.011	Non-wetland	Section 404
E-13	36.08419612	-112.1242959	0.091	Non-wetland	Section 404
S-14a	36.08398626	-112.1236133	0.014	Non-wetland	Section 404
E-15	36.07973905	-112.1255172	0.005	Non-wetland	Section 404
S-14b	36.07969837	-112.1258351	0.023	Non-wetland	Section 404
S-14c	36.07866827	-112.1273177	0.028	Non-wetland	Section 404
S-14d	36.07854597	-112.1274802	0.006	Non-wetland	Section 404
S-14e	36.0782426	-112.1279007	0.039	Non-wetland	Section 404
S-16a	36.0785219	-112.1265022	0.007	Non-wetland	Section 404
S-16b	36.07862348	-112.1265446	0.002	Non-wetland	Section 404
W-22	36.07878923	-112.1266287	0.408	Wetland	Section 404
W-23	36.07805858	-112.1282509	0.581	Wetland	Section 404
S-17	36.07723483	-112.1288286	0.005	Non-wetland	Section 404
S-18	36.07719758	-112.1286462	0.003	Non-wetland	Section 404
W-24	36.07728251	-112.1288403	0.065	Wetland	Section 404

1) The Corps of Engineers believes that there may be jurisdictional aquatic resources in the review area, and the requestor of this PJD is hereby advised of his or her option to request and obtain an approved JD (AJD) for that review area based on an informed decision after having discussed the various types of JDs and their characteristics and circumstances when they may be appropriate.
2) In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring "pre-construction notification" (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an AJD for the activity, the permit applicant is hereby made aware that: (1) the permit applicant has elected to seek a permit authorization based on a PJD, which does not make an official determination of jurisdictional aquatic resources; (2) the applicant has the option to request an AJD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an AJD could possibly result in less compensatory mitigation being required or different special conditions; (3) the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or other general permit authorization; (4) the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the Corps has determined to be necessary; (5) undertaking any activity in reliance upon the subject permit authorization without requesting an AJD constitutes the applicant's acceptance of the use of the PJD; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a PJD constitutes agreement that all aquatic resources in the review area affected in any way by that activity will be treated as jurisdictional, and waives any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7) whether the applicant elects to use either an AJD or a PJD, the JD will be processed as soon as practicable. Further, an AJD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331. If, during an administrative appeal, it becomes appropriate to make an official determination whether geographic jurisdiction exists over aquatic resources in the review area, or to provide an official delineation of jurisdictional aquatic resources in the review area, the Corps will provide an AJD to accomplish that result, as soon as is practicable. This PJD finds that there *"may be"* waters of the U.S. and/or that there *"may be"* navigable waters of the U.S. on the subject review area, and identifies all aquatic features in the review area that could be affected by the proposed activity, based on the following information:

SUPPORTING DATA. Data reviewed for PJD (check all that apply)

Checked items should be included in subject file. Appropriately reference sources below where indicated for all checked items:

- [x] Maps, plans, plots or plat submitted by or on behalf of the PJD requestor:
  Map: _____.
- [x] Data sheets prepared/submitted by or on behalf of the PJD requestor.
  - [ ] Office concurs with data sheets/delineation report.
  - [ ] Office does not concur with data sheets/delineation report. Rationale: _____
- [ ] Data sheets prepared by the Corps: _____.
- [x] Corps navigable waters' study: CoE LTR 8 NOV 73.
- [x] U.S. Geological Survey Hydrologic Atlas: USGS NHD - Figures 6-1 to 6-7.
  - [x] USGS NHD data.
  - [ ] USGS 8 and 12 digit HUC maps.
- [x] U.S. Geological Survey map(s). Cite scale & quad name: 1:24,000 - Bright Angel Point, Phantom Ranch, Grand Canyon.
- [x] Natural Resources Conservation Service Soil Survey. Citation: NRCS gSSURGO - Figures 5-1 to 5-7.
- [x] National wetlands inventory map(s). Cite name: USFWS NWI - Figures 6-1 to 6-7.
- [ ] State/local wetland inventory map(s): _____.
- [x] FEMA/FIRM maps: Figures 7-1 to 7-7.
- [ ] 100-year Floodplain Elevation is: _____.(National Geodetic Vertical Datum of 1929)
- [x] Photographs: [ ] Aerial (Name & Date): _____.
  or [x] Other (Name & Date): Appendix B. Representative Site Photographs.
- [ ] Previous determination(s). File no. and date of response letter: _____.
- [ ] Other information (please specify): _____.

IMPORTANT NOTE: The information recorded on this form has not necessarily been verified by the Corps and should not be relied upon for later jurisdictional determinations.

Therese Carpenter Digitally signed by Therese Carpenter Date: 2021.10.13 15:07:55 -07'00'

Signature and date of Regulatory staff member completing PJD

09/13/2021

Signature and date of person requesting PJD (REQUIRED, unless obtaining the signature is impracticable)[1]

[1] Districts may establish timeframes for requestor to return signed PJD forms. If the requestor does not respond within the established time frame, the district may presume concurrence and no additional follow up is necessary prior to finalizing an action.
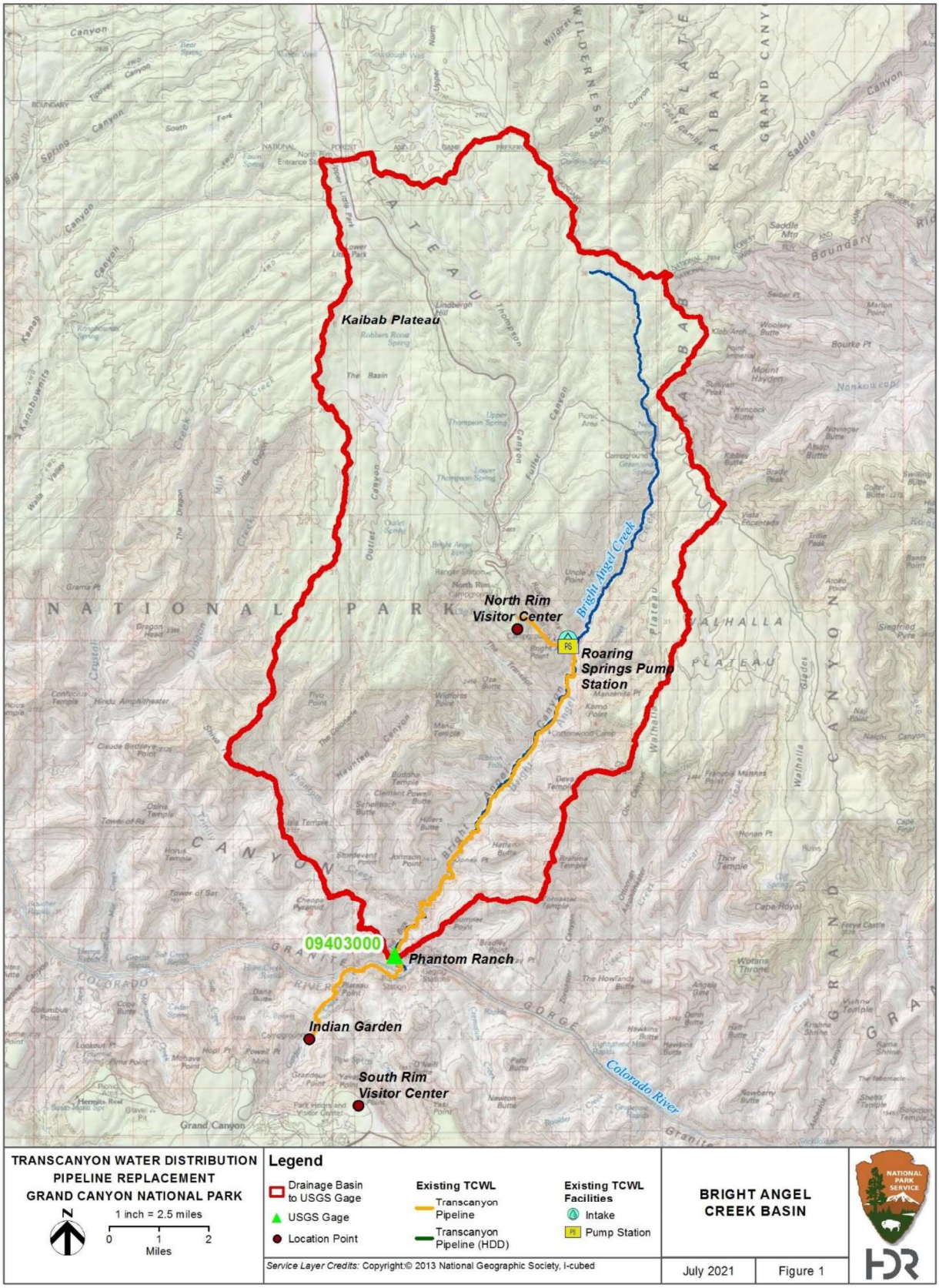
Figure 1. Location of Existing TCWL Pipeline and Facilities