APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): November 24, 2008

B. DISTRICT OFFICE, FILE NAME, AND NUMBER:Sacramento District, Snelling Tailings, SPK-2007-00079

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
State:California County/parish/borough: Merced City: Snelling
Center coordinates of site (lat/long in degree decimal format): Lat. 37.51687° **N**, Long. 120.441184° **W**.
Universal Transverse Mercator: 10
Name of nearest waterbody: Merced River
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Merced River
Name of watershed or Hydrologic Unit Code (HUC): 18040002
☒ Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.
☐ Check if other sites (e.g., offsite mitigation sites, disposal sites, etc…) are associated with this action and are recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):
☒ Office (Desk) Determination. Date: September 25, 2008
☐ Field Determination. Date(s):

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There **Are no** *"navigable waters of the U.S."* within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [*Required*]
☐ Waters subject to the ebb and flow of the tide.
☐ Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
Explain: .

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There **Are** *"waters of the U.S."* within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [*Required*]

1. **Waters of the U.S.**
   a. **Indicate presence of waters of U.S. in review area (check all that apply):** [1]
      ☐ TNWs, including territorial seas
      ☐ Wetlands adjacent to TNWs
      ☒ Relatively permanent waters[2] (RPWs) that flow directly or indirectly into TNWs
      ☐ Non-RPWs that flow directly or indirectly into TNWs
      ☒ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
      ☒ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
      ☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
      ☐ Impoundments of jurisdictional waters
      ☐ Isolated (interstate or intrastate) waters, including isolated wetlands

   b. **Identify (estimate) size of waters of the U.S. in the review area:**
      Non-wetland waters: linear feet: width (ft) and/or 38.005 acres.
      Wetlands: 91.885 acres.

   c. **Limits (boundaries) of jurisdiction** based on: **Established by OHWM.**
      Elevation of established OHWM (if known): .

2. **Non-regulated waters/wetlands (check if applicable):**[3]
   ☐ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.
   Explain: .

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

[1] Boxes checked below shall be supported by completing the appropriate sections in Section III below.
[2] For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).
[3] Supporting documentation is presented in Section III.F.

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

1. **TNW**
   Identify TNW: .

   Summarize rationale supporting determination: .

2. **Wetland adjacent to TNW**
   Summarize rationale supporting conclusion that wetland is "adjacent": .

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under *Rapanos* have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are "relatively permanent waters" (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody[4] is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

1. **Characteristics of non-TNWs that flow directly or indirectly into TNW**

   (i) General Area Conditions:
   Watershed size: 1276 **square miles**
   Drainage area: **Pick List**
   Average annual rainfall: 10.93 inches
   Average annual snowfall: 0.1 inches

   (ii) Physical Characteristics:
   (a) Relationship with TNW:
   ☐ Tributary flows directly into TNW.
   ☒ Tributary flows through **2** tributaries before entering TNW.

   Project waters are **25-30** river miles from TNW.
   Project waters are **1 (or less)** river miles from RPW.
   Project waters are **15-20** aerial (straight) miles from TNW.
   Project waters are **1 (or less)** aerial (straight) miles from RPW.
   Project waters cross or serve as state boundaries. Explain: .

   Identify flow route to TNW[5]: The tributary flows into the Merced River where it is a RPW, and then the Merced River becomes a TNW at River Mile 20.
   Tributary stream order, if known: approx. 4th .

   (b) General Tributary Characteristics (check all that apply):
   Tributary is: ☐ Natural
   ☐ Artificial (man-made). Explain: .

[4] Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.
[5] Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

☒ Manipulated (man-altered). Explain: This is an area that was dredged for gold mining.

Tributary properties with respect to top of bank (estimate):
Average width: 40 feet
Average depth: 6 feet
Average side slopes: **2:1.**

Primary tributary substrate composition (check all that apply):

☐ Silts	☐ Sands	☐ Concrete
☒ Cobbles	☐ Gravel	☐ Muck
☐ Bedrock	☐ Vegetation. Type/% cover:	
☐ Other. Explain: .		

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: stable banks, due to large substrate size..
Presence of run/riffle/pool complexes. Explain: Presence of runs, riffles, and pools.
Tributary geometry: **Meandering**
Tributary gradient (approximate average slope): 0.0023 %

(c) Flow:
Tributary provides for: **Seasonal flow**
Estimate average number of flow events in review area/year: **20 (or greater)**
Describe flow regime: highly regulated; spring floods reduced by 80% from historical conditions..
Other information on duration and volume: .

Surface flow is: **Confined.** Characteristics: channel banks contain all but highest flood flows.

Subsurface flow: **Yes**. Explain findings: groundwater in adjacent areas found to be correlated to river stage.
☐ Dye (or other) test performed: .

Tributary has (check all that apply):
☒ Bed and banks
☒ OHWM[6] (check all indicators that apply):

☐ clear, natural line impressed on the bank	☐ the presence of litter and debris
☐ changes in the character of soil	☐ destruction of terrestrial vegetation
☐ shelving	☒ the presence of wrack line
☐ vegetation matted down, bent, or absent	☐ sediment sorting
☐ leaf litter disturbed or washed away	☐ scour
☐ sediment deposition	☐ multiple observed or predicted flow events
☒ water staining	☒ abrupt change in plant community
☐ other (list):	

☐ Discontinuous OHWM.[7] Explain: .

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):

☐ High Tide Line indicated by:	☐ Mean High Water Mark indicated by:
☐ oil or scum line along shore objects	☐ survey to available datum;
☐ fine shell or debris deposits (foreshore)	☐ physical markings;
☐ physical markings/characteristics	☐ vegetation lines/changes in vegetation types.
☐ tidal gauges	
☐ other (list):	

(iii) Chemical Characteristics:
Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).
Explain: water color is clear and expected to be of high quality.
Identify specific pollutants, if known: .

(iv) Biological Characteristics. Channel supports (check all that apply):
☒ Riparian corridor. Characteristics (type, average width): willows and cottonwoods; typically 10-20 ft wide.
☒ Wetland fringe. Characteristics: willows and cottonwoods; typically 10-20 ft wide.
☒ Habitat for:
☒ Federally Listed species. Explain findings: CNDDB indicates multiple listed species in general vicinity.
☒ Fish/spawn areas. Explain findings: area is actively maintained by CDFG as Chinnok salmon spawning area.

[6]A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.
[7]Ibid.

☒ Other environmentally-sensitive species. Explain findings: CNDDB query of project vicinity.
☐ Aquatic/wildlife diversity. Explain findings: .

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics:
Properties:
Wetland size: 91.885 acres
Wetland type. Explain: Emergent.
Wetland quality. Explain: .
Project wetlands cross or serve as state boundaries. Explain: .

(b) General Flow Relationship with Non-TNW:
Flow is: **Perennial flow**. Explain: wetlands have water year-round and are hydrologically coneected to the RPW via subsurface flow.

Surface flow is**: Confined**
Characteristics: Ponds with standing water.

Subsurface flow: **Yes**. Explain findings: groundwater found to contribute to wetland ponds in adjacent areas.
☐ Dye (or other) test performed: .

(c) Wetland Adjacency Determination with Non-TNW:
☒ Directly abutting
☒ Not directly abutting
☐ Discrete wetland hydrologic connection. Explain: .
☐ Ecological connection. Explain: .
☐ Separated by berm/barrier. Explain: .

(d) Proximity (Relationship) to TNW
Project wetlands are **25-30** river miles from TNW.
Project waters are **15-20** aerial (straight) miles from TNW.
Flow is from: **Wetland to navigable waters.**
Estimate approximate location of wetland as within the **100 - 500-year** floodplain.

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: water ranges from clear to muddy depending on the season and supports hydrophytic vegetation.
Identify specific pollutants, if known: .

(iii) Biological Characteristics. Wetland supports (check all that apply):

☒ Riparian buffer. Characteristics (type, average width): ring of vegetation approximately 20 ft. wide.
☒ Vegetation type/percent cover. Explain: Mixed riparian vegetation, typically with high percent cover.
☐ Habitat for:
☒ Federally Listed species. Explain findings: CNDDB indicates multiple listed species in general vicinity.
☐ Fish/spawn areas. Explain findings: .
☒ Other environmentally-sensitive species. Explain findings: CNDDB query of project vicinity.
☐ Aquatic/wildlife diversity. Explain findings: .

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in the cumulative analysis: **30 (or more)**
Approximately (91.885) acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

Directly abuts? (Y/N)	Size (in acres)	Directly abuts? (Y/N)	Size (in acres)
see attached pages			

Summarize overall biological, chemical and physical functions being performed: .

Areas for Adjacent Wetlands and Other Waters of the U.S.

Polygon ID number	Type of wetland	Abutting	Area of wetland	Other waters of the U.S.	Total area of wetland and other waters of the U.S.
			Acres	Acres	Acres
4	Seasonal wetland	No	0.038	0.000	0.038
5	Seasonal wetland	No	0.438	0.000	0.438
6	Seasonal wetland	No	0.346	0.000	0.346
7	Seasonal wetland	No	0.138	0.000	0.138
8	Seasonal wetland	No	0.071	0.000	0.071
9	Seasonal wetland	No	0.174	0.000	0.174
10	Perennial wetland	No	0.725	0.116	0.841
11	Seasonal wetland	No	0.019	0.000	0.019
12	Perennial wetland	No	1.223	0.000	1.223
13	Seasonal wetland	No	0.076	0.000	0.076
14	Riparian-associated wetla	Yes	0.399	0.000	0.399
15	Perennial wetland	No	0.957	0.000	0.957
16	Perennial wetland	No	0.474	0.000	0.474
17	Riparian-associated wetla	No	0.047	0.000	0.047
18	Riparian-associated wetla	Yes	0.597	0.000	0.597
19	Riparian-associated wetla	Yes	1.826	0.000	1.826
20	Perennial wetland	No	0.429	0.000	0.429
21	Perennial wetland	No	1.534	0.055	1.589
22	Perennial wetland	No	0.819	0.657	1.476
23	Perennial wetland	No	1.063	0.148	1.211
27	Perennial wetland	No	0.078	0.000	0.078
28	Seasonal wetland	No	0.059	0.000	0.059
29	Seasonal wetland	No	0.198	0.000	0.198
30	Seasonal wetland	No	0.152	0.000	0.152
31	Perennial wetland	No	0.675	0.590	1.265
33	Perennial wetland	Yes	0.171	0.000	0.171
34	Perennial wetland	No	0.000	0.429	0.429
35	Seasonal wetland	No	0.020	0.000	0.020
36	Perennial wetland	No	0.052	0.000	0.052
37	Perennial wetland	No	2.097	2.171	4.267
39	Perennial wetland	No	0.233	0.000	0.233

Polygon ID number	Type of wetland	Abutting	Area of wetland	Other waters of the U.S.	Total area of wetland and other waters of the U.S.
			Acres	Acres	Acres
40	Perennial wetland	No	0.582	0.000	0.582
41	Perennial wetland	No	0.332	0.397	0.729
42	Riparian-associated wetla	Yes	0.441	0.000	0.441
43	Perennial wetland	Yes	1.823	0.442	2.265
44	Perennial wetland	No	0.096	0.000	0.096
45	Seasonal wetland	No	0.026	0.000	0.026
47	Perennial wetland	No	0.195	0.151	0.346
48	Seasonal wetland	No	0.064	0.000	0.064
49	Seasonal wetland	No	0.298	0.000	0.298
101	Seasonal wetland	No	0.047	0.000	0.047
102	Seasonal wetland	No	0.018	0.000	0.018
103	Seasonal wetland	No	0.013	0.000	0.013
104	Seasonal wetland	No	0.041	0.000	0.041
105	Riparian-associated wetla	No	0.050	0.000	0.050
106	Seasonal wetland	No	0.113	0.000	0.113
107	Seasonal wetland	No	0.019	0.000	0.019
108	Perennial wetland	No	0.363	0.060	0.423
109	Seasonal wetland	No	0.046	0.000	0.046
110	Seasonal wetland	No	0.015	0.000	0.015
111	Seasonal wetland	No	0.105	0.000	0.105
112	Seasonal wetland	No	0.069	0.000	0.069
113	Seasonal wetland	No	0.024	0.000	0.024
114	Perennial wetland	No	0.000	0.547	0.547
115	Perennial wetland	No	7.812	3.730	11.542
116	Seasonal wetland	No	0.071	0.000	0.071
117	Seasonal wetland	No	0.126	0.000	0.126
118	Seasonal wetland	No	0.011	0.000	0.011
119	Seasonal wetland	No	0.038	0.000	0.038
120	Seasonal wetland	No	0.186	0.000	0.186
124	Seasonal wetland	No	0.034	0.000	0.034
125	Seasonal wetland	No	0.036	0.000	0.036

Areas for Adjacent Wetlands and Other Waters of the U.S.

Polygon ID number	Type of wetland	Abutting	Area of wetland	Other waters of the U.S.	Total area of wetland and other waters of the U.S.
			Acres	Acres	Acres
126	Seasonal wetland	No	0.021	0.000	0.021
127	Seasonal wetland	No	0.054	0.000	0.054
128	Seasonal wetland	No	0.027	0.000	0.027
129	Seasonal wetland	No	0.088	0.000	0.088
130	Seasonal wetland	No	0.043	0.000	0.043
131	Seasonal wetland	No	0.174	0.000	0.174
132	Seasonal wetland	No	0.079	0.000	0.079
133	Seasonal wetland	No	0.156	0.000	0.156
134	Perennial wetland	No	0.259	0.000	0.259
135	Seasonal wetland	No	0.049	0.000	0.049
136	Seasonal wetland	No	0.037	0.000	0.037
137	Perennial wetland	No	0.426	0.095	0.522
138	Perennial wetland	No	0.954	0.000	0.954
139	Seasonal wetland	No	0.046	0.000	0.046
140	Seasonal wetland	No	0.076	0.000	0.076
142	Seasonal wetland	No	0.073	0.000	0.073
143	Seasonal wetland	No	0.023	0.000	0.023
144	Seasonal wetland	No	0.049	0.000	0.049
145	Perennial wetland	No	0.156	0.802	0.958
146	Perennial wetland	No	0.168	0.000	0.168
147	Perennial wetland	No	0.125	0.245	0.371
150	Perennial wetland	No	0.829	1.856	2.684
151	Perennial wetland	No	0.106	0.000	0.106
152	Seasonal wetland	No	0.025	0.000	0.025
153	Seasonal wetland	No	0.039	0.000	0.039
154	Perennial wetland	No	0.055	0.000	0.055
155	Perennial wetland	No	0.172	0.000	0.172
156	Perennial wetland	No	0.542	0.000	0.542
157	Perennial wetland	No	0.229	0.000	0.229
158	Perennial wetland	No	0.072	0.000	0.072
159	Seasonal wetland	No	0.084	0.000	0.084
160	Perennial wetland	No	0.769	0.146	0.916
161	Seasonal wetland	No	0.017	0.000	0.017
162	Seasonal wetland	No	0.025	0.000	0.025
163	Seasonal wetland	No	0.008	0.000	0.008
164	Seasonal wetland	No	0.031	0.000	0.031
165	Seasonal wetland	No	0.029	0.000	0.029
166	Seasonal wetland	No	0.023	0.000	0.023
167	Perennial wetland	No	0.047	0.000	0.047
168	Perennial wetland	No	0.036	0.000	0.036
169	Seasonal wetland	No	0.004	0.000	0.004
170	Perennial wetland	No	0.019	0.000	0.019
171	Perennial wetland	No	0.040	0.000	0.040
172	Perennial wetland	No	0.386	1.169	1.555
173	Perennial wetland	No	0.053	0.000	0.053
174	Seasonal wetland	No	0.012	0.000	0.012
175	Perennial wetland	No	1.035	1.492	2.527
176	Seasonal wetland	No	0.067	0.000	0.067
177	Perennial wetland	No	0.017	0.000	0.017
178	Perennial wetland	No	0.009	0.000	0.009
179	Perennial wetland	No	0.004	0.000	0.004
180	Perennial wetland	No	0.006	0.000	0.006
181	Perennial wetland	No	0.052	0.000	0.052
182	Perennial wetland	No	0.032	0.000	0.032
183	Seasonal wetland	No	0.017	0.000	0.017
184	Perennial wetland	No	0.716	0.000	0.716
185	Perennial wetland	No	0.774	0.157	0.932
186	Perennial wetland	No	0.060	0.000	0.060
187	Seasonal wetland	No	0.023	0.000	0.023
188	Perennial wetland	No	0.043	0.000	0.043
189	Perennial wetland	No	0.064	0.000	0.064
190	Perennial wetland	No	0.012	0.000	0.012

Areas for Adjacent Wetlands and Other Waters of the U.S.

Polygon ID number	Type of wetland	Abutting	Area of wetland	Other waters of the U.S.	Total area of wetland and other waters of the U.S.
			Acres	Acres	Acres
191	Perennial wetland	No	0.010	0.000	0.010
192	Perennial wetland	No	0.087	0.000	0.087
193	Perennial wetland	No	0.030	0.000	0.030
194	Perennial wetland	No	0.101	0.000	0.101
195	Perennial wetland	No	0.019	0.000	0.019
196	Perennial wetland	No	0.123	0.000	0.123
197	Perennial wetland	No	0.149	0.000	0.149
198	Perennial wetland	No	0.109	0.531	0.640
199	Perennial wetland	No	0.052	0.000	0.052
200	Seasonal wetland	No	0.039	0.000	0.039
201	Seasonal wetland	No	0.043	0.000	0.043
202	Perennial wetland	No	0.123	0.000	0.123
203	Seasonal wetland	No	0.009	0.000	0.009
204	Seasonal wetland	No	0.023	0.000	0.023
205	Seasonal wetland	No	0.024	0.000	0.024
206	Seasonal wetland	No	0.048	0.000	0.048
207	Perennial wetland	No	0.194	0.000	0.194
209	Perennial wetland	No	0.097	0.000	0.097
210	Perennial wetland	No	0.748	0.150	0.899
211	Perennial wetland	No	0.123	0.000	0.123
212	Perennial wetland	No	1.855	0.000	1.855
213	Perennial wetland	No	0.474	0.114	0.588
215	Perennial wetland	No	5.190	2.228	7.418
216	Seasonal wetland	No	0.019	0.000	0.019
217	Seasonal wetland	No	0.005	0.000	0.005
218	Perennial wetland	No	1.042	0.120	1.162
219	Perennial wetland	No	0.998	0.000	0.998
220	Seasonal wetland	No	0.251	0.000	0.251
221	Seasonal wetland	No	0.058	0.000	0.058
222	Seasonal wetland	No	0.015	0.000	0.015
223	Seasonal wetland	No	0.063	0.000	0.063

Polygon ID number	Type of wetland	Abutting	Area of wetland	Other waters of the U.S.	Total area of wetland and other waters of the U.S.
			Acres	Acres	Acres
224	Seasonal wetland	No	0.125	0.000	0.125
225	Seasonal wetland	No	0.254	0.000	0.254
226	Seasonal wetland	No	0.281	0.000	0.281
227	Seasonal wetland	No	0.026	0.000	0.026
228	Seasonal wetland	No	0.286	0.000	0.286
229	Seasonal wetland	No	0.129	0.000	0.129
230	Seasonal wetland	No	0.038	0.000	0.038
231	Perennial wetland	No	0.154	0.000	0.154
232	Perennial wetland	No	0.032	0.000	0.032
234	Seasonal wetland	No	0.070	0.000	0.070
235	Seasonal wetland	No	0.078	0.000	0.078
236	Seasonal wetland	No	0.058	0.000	0.058
237	Seasonal wetland	No	0.442	0.000	0.442
238	Seasonal wetland	No	0.007	0.000	0.007
239	Seasonal wetland	No	0.094	0.000	0.094
240	Seasonal wetland	No	0.047	0.000	0.047
241	Perennial wetland	No	0.239	0.021	0.261
242	Perennial wetland	No	2.271	0.057	2.328
243	Perennial wetland	No	0.743	0.000	0.743
244	Perennial wetland	No	0.000	0.438	0.438
245	Perennial wetland	No	0.394	0.000	0.394
246	Seasonal wetland	No	0.116	0.000	0.116
247	Perennial wetland	No	0.020	0.000	0.020
248	Perennial wetland	No	0.254	0.000	0.254
249	Seasonal wetland	No	0.023	0.000	0.023
250	Seasonal wetland	No	0.034	0.000	0.034
251	Seasonal wetland	No	0.037	0.000	0.037
252	Perennial wetland	No	0.141	0.050	0.190
253	Seasonal wetland	No	0.048	0.000	0.048
254	Perennial wetland	No	0.042	0.000	0.042
255	Perennial wetland	No	0.092	0.000	0.092

Areas for Adjacent Wetlands and Other Waters of the U.S.

Polygon ID number	Type of wetland	Abutting	Area of wetland	Other waters of the U.S.	Total area of wetland and other waters of the U.S.
			Acres	Acres	Acres
256	Perennial wetland	No	0.124	0.000	0.124
258	Seasonal wetland	No	0.006	0.000	0.006
259	Seasonal wetland	No	0.006	0.000	0.006
260	Seasonal wetland	No	0.054	0.000	0.054
261	Seasonal wetland	No	0.035	0.000	0.035
262	Seasonal wetland	No	0.028	0.000	0.028
263	Seasonal wetland	Yes	0.044	0.000	0.044
264	Seasonal wetland	No	0.089	0.000	0.089
265	Perennial wetland	No	0.062	0.000	0.062
266	Perennial wetland	No	0.073	0.000	0.073
267	Perennial wetland	No	0.054	0.000	0.054
268	Perennial wetland	No	0.050	0.000	0.050
269	Seasonal wetland	No	0.018	0.000	0.018
270	Seasonal wetland	No	0.011	0.000	0.011
271	Perennial wetland	No	0.338	0.000	0.338
272	Seasonal wetland	No	0.121	0.000	0.121
273	Seasonal wetland	No	0.023	0.000	0.023
274	Perennial wetland	No	0.505	0.000	0.505
275	Perennial wetland	No	0.286	0.000	0.286
276	Seasonal wetland	No	0.082	0.000	0.082
277	Seasonal wetland	No	0.021	0.000	0.021
278	Perennial wetland	No	1.763	0.000	1.763
279	Perennial wetland	No	0.361	0.000	0.361
280	Seasonal wetland	No	0.078	0.000	0.078
281	Perennial wetland	No	0.629	0.000	0.629
282	Perennial wetland	No	0.522	0.000	0.522
283	Perennial wetland	No	0.290	0.000	0.290
284	Perennial wetland	No	0.257	0.000	0.257
287	Perennial wetland	No	0.035	0.000	0.035
288	Perennial wetland	No	0.214	0.000	0.214
291	Seasonal wetland	No	0.060	0.000	0.060
292	Perennial wetland	No	0.186	0.000	0.186
293	Perennial wetland	No	0.271	0.000	0.271
294	Perennial wetland	No	0.132	0.105	0.237
295	Riparian-associated wetla	Yes	1.096	0.336	1.431
296	Seasonal wetland	No	0.164	0.000	0.164
298	Riparian-associated wetla	Yes	1.808	0.000	1.808
299	Riparian-associated wetla	Yes	0.118	0.000	0.118
300	Riparian-associated wetla	Yes	0.255	0.000	0.255
303	Riparian-associated wetla	Yes	1.322	0.000	1.322
304	Perennial wetland	No	0.023	0.000	0.023
305	Perennial wetland	No	0.295	0.042	0.337
306	Perennial wetland	No	0.136	0.000	0.136
307	Perennial wetland	No	0.326	0.043	0.368
308	Seasonal wetland	No	0.021	0.000	0.021
309	Perennial wetland	No	1.612	0.000	1.612
310	Riparian-associated wetla	Yes	0.546	0.000	0.546
311	Perennial wetland	No	0.443	0.000	0.443
312	Seasonal wetland	No	0.028	0.000	0.028
313	Perennial wetland	No	0.134	0.000	0.134
314	Perennial wetland	No	0.086	0.000	0.086
315	Seasonal wetland	No	0.149	0.000	0.149

C. SIGNIFICANT NEXUS DETERMINATION

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Draw connections between the features documented and the effects on the TNW, as identified in the *Rapanos* Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

Note: the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:

1. **Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D: .

2. **Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: .

3. **Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: The wetlands adjacent to the RPW are in the flood plain of the river and are also hydrologically connected to the RPW via subsurface flows through the mine tailings. The RPW flows directly into the TNW as the RPW is the same river as the TNW.

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):

1. **TNWs and Adjacent Wetlands.** Check all that apply and provide size estimates in review area:
   - ☐ TNWs: linear feet width (ft), Or, acres.
   - ☐ Wetlands adjacent to TNWs: acres.

2. **RPWs that flow directly or indirectly into TNWs.**
   - ☒ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial: the Merced River is not a TNW at this river mile but does become a TNW 28 miles downstream. The tributary that flows into the Merced River just below the project site is a diversion channel of the Merced River.
   - ☐ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally: .

   Provide estimates for jurisdictional waters in the review area (check all that apply):
   - ☒ Tributary waters: **17,212.8** linear feet width (ft).
   - ☐ Other non-wetland waters: acres.
     Identify type(s) of waters: .

3. **Non-RPWs[8] that flow directly or indirectly into TNWs.**

[8]See Footnote # 3.

☐ Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional waters within the review area (check all that apply):
☐ Tributary waters: linear feet width (ft).
☐ Other non-wetland waters: acres.
Identify type(s) of waters: .

4. Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.
☒ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.
☒ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: **Wetlands are fed by subsurface flow and rise and fall according to river level. Wetlands also collect water from the surrounding landscape and feed into the RPW.**

☐ Wetlands directly abutting an RPW where tributaries typically flow "seasonally." Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: .

Provide acreage estimates for jurisdictional wetlands in the review area: **17.673** acres.

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.
☒ Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetlands in the review area: **74.212** acres.

6. Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.
☐ Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional wetlands in the review area: acres.

7. Impoundments of jurisdictional waters.[9]
As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.
☐ Demonstrate that impoundment was created from "waters of the U.S.," or
☐ Demonstrate that water meets the criteria for one of the categories presented above (1-6), or
☐ Demonstrate that water is isolated with a nexus to commerce (see E below).

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):[10]
☐ which are or could be used by interstate or foreign travelers for recreational or other purposes.
☐ from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
☐ which are or could be used for industrial purposes by industries in interstate commerce.
☐ Interstate isolated waters. Explain: .
☐ Other factors. Explain: .

Identify water body and summarize rationale supporting determination: .

Provide estimates for jurisdictional waters in the review area (check all that apply):
☐ Tributary waters: linear feet width (ft).
☐ Other non-wetland waters: acres.
Identify type(s) of waters: .
☐ Wetlands: acres.

[9] To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.
[10] Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA *Memorandum Regarding CWA Act Jurisdiction Following Rapanos.*

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):

- ☐ If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
- ☐ Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
  - ☐ Prior to the Jan 2001 Supreme Court decision in "*SWANCC*," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).
- ☐ Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain: .
- ☐ Other: (explain, if not covered above): .

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):

- ☐ Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
- ☐ Lakes/ponds: acres.
- ☐ Other non-wetland waters: acres. List type of aquatic resource: .
- ☐ Wetlands: acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):

- ☐ Non-wetland waters (i.e., rivers, streams): linear feet, width (ft).
- ☐ Lakes/ponds: acres.
- ☐ Other non-wetland waters: acres. List type of aquatic resource: .
- ☐ Wetlands: acres.

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):

- ☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: .
- ☒ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
  - ☒ Office concurs with data sheets/delineation report.
  - ☐ Office does not concur with data sheets/delineation report.
- ☐ Data sheets prepared by the Corps: .
- ☐ Corps navigable waters' study: .
- ☐ U.S. Geological Survey Hydrologic Atlas: .
  - ☐ USGS NHD data.
  - ☐ USGS 8 and 12 digit HUC maps.
- ☐ U.S. Geological Survey map(s). Cite scale & quad name: .
- ☐ USDA Natural Resources Conservation Service Soil Survey. Citation: .
- ☐ National wetlands inventory map(s). Cite name: .
- ☐ State/Local wetland inventory map(s): .
- ☐ FEMA/FIRM maps: .
- ☐ 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
- ☐ Photographs: ☐ Aerial (Name & Date): .
  or ☐ Other (Name & Date): .
- ☐ Previous determination(s). File no. and date of response letter: .
- ☐ Applicable/supporting case law: .
- ☐ Applicable/supporting scientific literature: .
- ☐ Other information (please specify): .

B. ADDITIONAL COMMENTS TO SUPPORT JD: The Merced River at this location is upstream of the section of the Merced River designated as a TNW. The RPW subject to this JD is a diversion channel whose flows both originate and end in the Merced River. All wetlands on this project site, both abutting and adjacent, are contained with in the 100-500-year floodplain. The subsurface flows through the mine tailings hydrologically connect the wetlands directly to the RPWs.