

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

## SECTION I: BACKGROUND INFORMATION

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**A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD):** 15-Sep-2008

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER:** Sacramento District, SPK-2008-01069-JD3

**C. PROJECT LOCATION AND BACKGROUND INFORMATION:**

State : CA - California  
 County/parish/borough: Sacramento  
 City: Rancho Cordova  
 Lat: 38.6348  
 Long: -121.2252  
 Universal Transverse Mercator: 10S  
 Name of nearest waterbody: American River  
 Name of nearest Traditional Navigable Water (TNW): American River  
 Name of watershed or Hydrologic Unit Code (HUC): 18020111



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 the action and are recorded on a different JD form.

**D. REVIEW PERFORMED FOR SITE EVALUATION:**



Office Determination Date: 15-Sep-2008



Field Determination Date(s):

## SECTION II: SUMMARY OF FINDINGS

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**A. RHA SECTION 10 DETERMINATION OF JURISDICTION**

There are not "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area.



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.

**1. Waters of the U.S.****a. Indicate presence of waters of U.S. in review area:<sup>1</sup>**

Water Name	Water Type(s) Present
SPK-2008-01069, ED2	Non-RPWs that flow directly or indirectly into TNWs

**b. Identify (estimate) size of waters of the U.S. in the review area:**Area: 16.1874 (m<sup>2</sup>)

Linear: 28.956 (m)

**c. Limits (boundaries) of jurisdiction:**

based on: Established by OHWM.

OHWM Elevation: (if known)

**2. Non-regulated waters/wetlands:<sup>3</sup>**

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. TNW**

Not Applicable.

**2. Wetland Adjacent to TNW**

Not Applicable.

**B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):****1. Characteristics of non-TNWs that flow directly or indirectly into TNW****(i) General Area Conditions:**

Watershed size: 5 acres

Drainage area: 5 acres

Average annual rainfall: 19 inches

Average annual snowfall: inches

**(ii) Physical Characteristics****(a) Relationship with TNW:**

- Tributary flows directly into TNW.
- Tributary flows through [ ] tributaries before entering TNW.

:Number of tributaries

Project waters are 1 (or less) river miles from TNW.

Project waters are [ ] river miles from RPW.

Project Waters are 1 (or less) aerial (straight) miles from TNW.

Project waters are [ ] aerial(straight) miles from RPW.



Project waters cross or serve as state boundaries.

Explain:

Identify flow route to TNW:<sup>5</sup>

Flows directly from a culvert on the project site, to the American River, a TNW

**Tributary Stream Order, if known:**

Order	Tributary Name
1	SPK-2008-01069, ED2

**(b) General Tributary Characteristics:**

**Tributary is:**

Tributary Name	Natural	Artificial	Explain	Manipulated	Explain
SPK-2008-01069, ED2	X	-	-	-	-

**Tributary properties with respect to top of bank (estimate):**

Tributary Name	Width (ft)	Depth (ft)	Side Slopes
SPK-2008-01069, ED2	2	1	2:1

**Primary tributary substrate composition:**

Tributary Name	Silt	Sands	Concrete	Cobble	Gravel	Muck	Bedrock	Vegetation	Other
SPK-2008-01069, ED2	-	-	-	X	-	-	-	-	-

**Tributary (conditions, stability, presence, geometry, gradient):**

Tributary Name	Condition\Stability	Run\Riffle\Pool Complexes	Geometry	Gradient (%)
SPK-2008-01069, ED2	The bed and banks are stable	None	Relatively straight	5

**(c) Flow:**

Tributary Name	Provides for	Events Per Year	Flow Regime	Duration & Volume
SPK-2008-01069, ED2	Ephemeral flow	20 (or greater)	The flow is reported to be during and immediately following storm events.	-

**Surface Flow is:**

Tributary Name	Surface Flow	Characteristics
SPK-2008-01069, ED2	Discrete and confined	All flows are within a defined bed and bank

**Subsurface Flow:**

Tributary Name	Subsurface Flow	Explain Findings	Dye (or other) Test
SPK-2008-01069, ED2	Unknown	-	-

**Tributary has:**

Tributary Name	Bed & Banks	OHWM	Discontinuous OHWM <sup>7</sup>	Explain
SPK-2008-01069, ED2	X	X	-	-

**Tributaries with OHWM<sup>6</sup> - (as indicated above)**

Tributary Name	OHWM	Clear	Litter	Changes in Soil	Destruction Vegetation	Shelving	Wrack Line	Matted/Absent Vegetation	Sediment Sorting	Leaf Litter	Scour	Sediment Deposition	F
SPK-2008-01069, ED2	X	-	-	-	-	-	-	X	-	-	X	-	

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction:

**High Tide Line indicated by:**

Not Applicable.

**Mean High Water Mark indicated by:**

Not Applicable.

**(iii) Chemical Characteristics:**

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).

Tributary Name	Explain	Identify specific pollutants, if known
SPK-2008-01069, ED2	Water appears to be clear. The majority of the flow is comes from the storm drain system within the adjacent parking lot.	Unknown

**(iv) Biological Characteristics. Channel supports:**

Tributary Name	Riparian Corridor	Characteristics	Wetland Fringe	Characteristics	Habitat
SPK-2008-01069, ED2	-	-	-	-	-

**2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW****(i) Physical Characteristics:****(a) General Wetland Characteristics:****Properties:**

Not Applicable.

**(b) General Flow Relationship with Non-TNW:****Flow is:**

Not Applicable.

**Surface flow is:**

Not Applicable.

**Subsurface flow:**

Not Applicable.

**(c) Wetland Adjacency Determination with Non-TNW:**

Not Applicable.

**(d) Proximity (Relationship) to TNW:**

Not Applicable.

**(ii) Chemical Characteristics:****Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).**

Not Applicable.

**(iii) Biological Characteristics. Wetland supports:**

Not Applicable.

**3. Characteristics of all wetlands adjacent to the tributary (if any):****All wetlands being considered in the cumulative analysis:**

Not Applicable.

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

Not Applicable.

**C. SIGNIFICANT NEXUS DETERMINATION**

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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.

**Findings for:** SPK-2008-01069, ED2

This feature is the lower portion of a natural drainage carrying water into the American River from the adjacent flood plain. Much of the flood plain drained by this feature has been paved to create parking for the California State University Aquatic Center. The feature has a defined bed and bank and flows at a minimum, during and immediately after storm events. The drainage conveys all flows, including pollutants that may be found in the adjacent parking lot, directly into the TNW.

**D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE:**

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**1. TNWs and Adjacent Wetlands:**

Not Applicable.

**2. RPWs that flow directly or indirectly into TNWs:**

Not Applicable.

**Provide estimates for jurisdictional waters in the review area:**

Not Applicable.

**3. Non-RPWs that flow directly or indirectly into TNWs:<sup>8</sup>**

Not Applicable.

**Provide estimates for jurisdictional waters in the review area:**

Tributary Name	Type	Size (Linear) (m)	Size (Area) (m <sup>2</sup> )
SPK-2008-01069, ED2	Non-RPWs that flow directly or indirectly into TNWs	-	16.187424
<b>Total:</b>		<b>0</b>	<b>16.187424</b>

**4. Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.**

Not Applicable.

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

Not Applicable.

**5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs:**

Not Applicable.

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

Not Applicable.

**6. Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs:**

Not Applicable.

**Provide estimates for jurisdictional wetlands in the review area:**

Not Applicable.

**7. Impoundments of jurisdictional waters:<sup>9</sup>**

Not Applicable.

**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:<sup>10</sup>**

Not Applicable.

**Identify water body and summarize rationale supporting determination:**

Not Applicable.

**Provide estimates for jurisdictional waters in the review area:**

Not Applicable.

**F. NON-JURISDICTIONAL WATERS. INCLUDING WETLANDS**

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):

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

Not Applicable.

**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.**

Not Applicable.

**SECTION IV: DATA SOURCES.****A. SUPPORTING DATA. Data reviewed for JD**

(listed items shall be included in case file and, where checked and requested, appropriately reference below):

Data Reviewed	Source Label	Source Description
--Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant	Nimbus Hatchery Weir Replacement Project	Delineation of Waters of the U.S., Including Wetlands
--U.S. Geological Survey Hydrologic Atlas	Lower American 18020111	-
----USGS 8 and 12 digit HUC maps	Lower American 18020111	-

--Photographs	Consultant submitted	Photos and aerals submitted in the delineation report
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**B. ADDITIONAL COMMENTS TO SUPPORT JD:****Description**

This drainage has been identified by the consultant as ephemeral. It carries water from within developed portions of the floodplain and surrounding areas directly to the American River. This feature serves as an important connection between the river and its floodplain, conveying all flows, including pollutants that may be found in the adjacent parking lot, directly into the TNW. Refer to JD SPK-2008-99 for the Traditional Navigable Water Navigable-in-Fact determination for this reach of the American River.

<sup>1</sup>-Boxes checked below shall be supported by completing the appropriate sections in Section III below.

<sup>2</sup>-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).

<sup>3</sup>-Supporting documentation is presented in Section III.F.

<sup>4</sup>-Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

<sup>5</sup>-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.

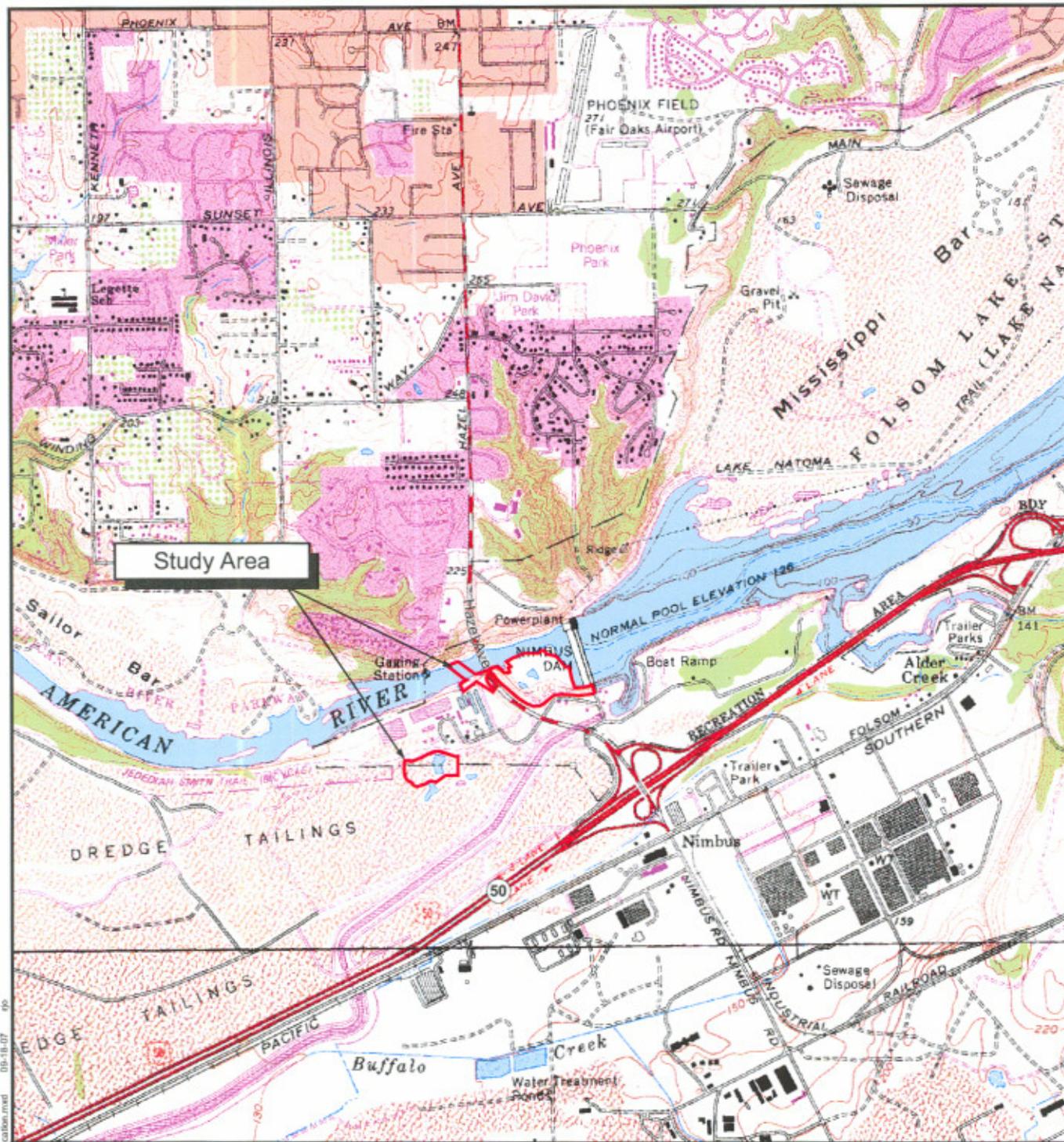
<sup>6</sup>-A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's 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.

<sup>7</sup>-Ibid.

<sup>8</sup>-See Footnote #3.

<sup>9</sup>-To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.

<sup>10</sup>-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.

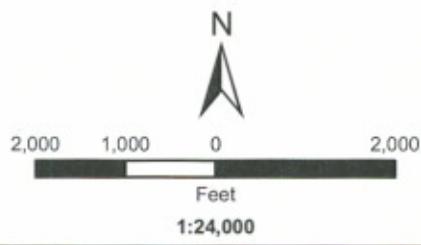


10113\_Nimbus\_Dam\GIS\19113\_dam\_Fig\_1\_Location.mxd 08-18-07

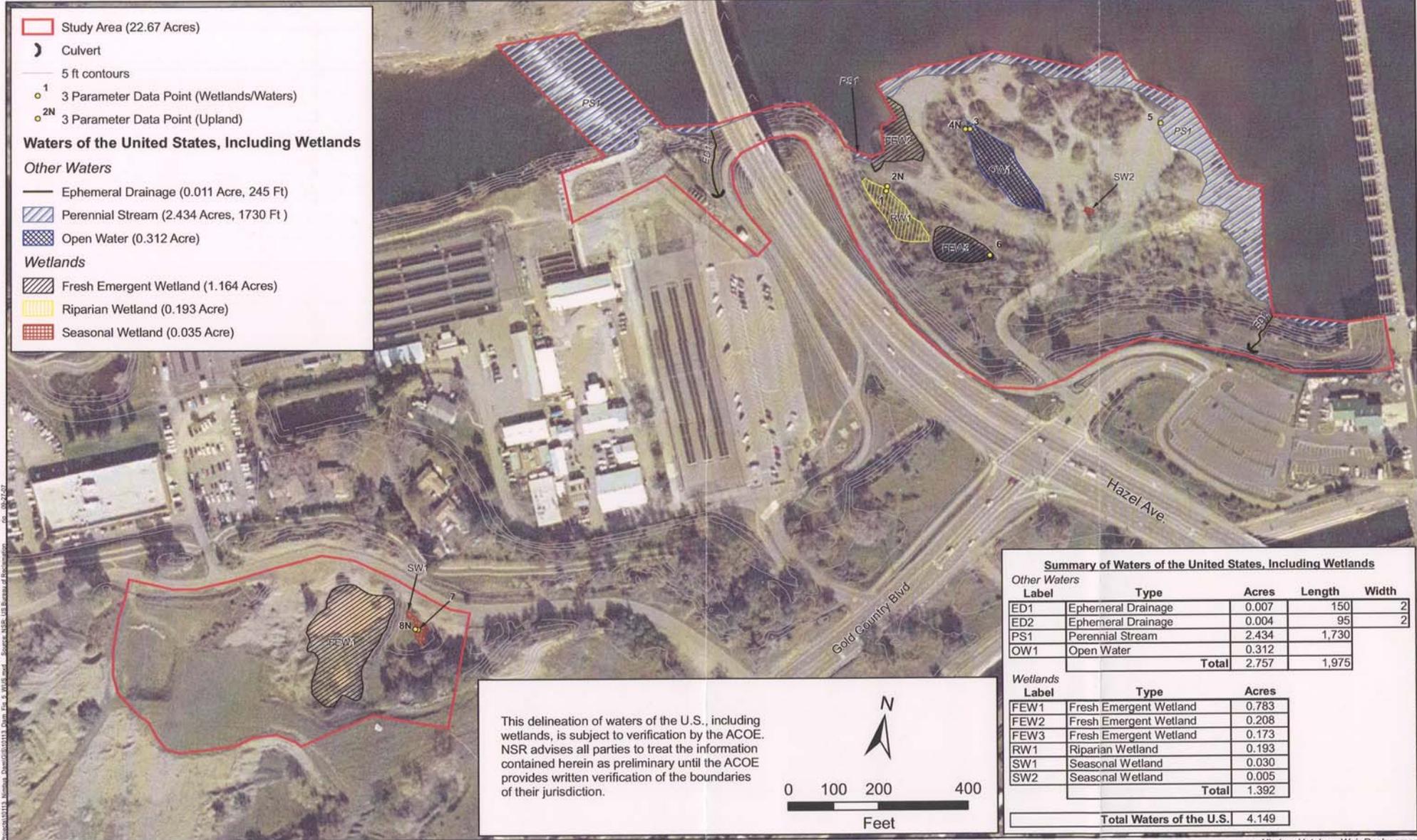
Study Area

Public Land Survey:  
Rio De Los Americanos Land Grant

USGS 7.5 Quad:  
Folsom - Original 1967, Revised 1980



**Figure 1**  
Study Area Location and Vicinity



- Study Area (22.67 Acres)
  - Culvert
  - 5 ft contours
  - 1 3 Parameter Data Point (Wetlands/Waters)
  - 2N 3 Parameter Data Point (Upland)
- Waters of the United States, Including Wetlands**
- Other Waters**
- Ephemeral Drainage (0.011 Acre, 245 Ft)
  - Perennial Stream (2.434 Acres, 1730 Ft)
  - Open Water (0.312 Acre)
- Wetlands**
- Fresh Emergent Wetland (1.164 Acres)
  - Riparian Wetland (0.193 Acre)
  - Seasonal Wetland (0.035 Acre)

**Summary of Waters of the United States, Including Wetlands**

**Other Waters**

Label	Type	Acres	Length	Width
ED1	Ephemeral Drainage	0.007	150	2
ED2	Ephemeral Drainage	0.004	95	2
PS1	Perennial Stream	2.434	1,730	
OW1	Open Water	0.312		
<b>Total</b>		<b>2.757</b>	<b>1,975</b>	

**Wetlands**

Label	Type	Acres
FEW1	Fresh Emergent Wetland	0.783
FEW2	Fresh Emergent Wetland	0.208
FEW3	Fresh Emergent Wetland	0.173
RW1	Riparian Wetland	0.193
SW1	Seasonal Wetland	0.030
SW2	Seasonal Wetland	0.005
<b>Total</b>		<b>1.392</b>

<b>Total Waters of the U.S.</b>	<b>4.149</b>
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This delineation of waters of the U.S., including wetlands, is subject to verification by the ACOE. NSR advises all parties to treat the information contained herein as preliminary until the ACOE provides written verification of the boundaries of their jurisdiction.

N  
  
 0 100 200 400  
 Feet

Project: 01113, Location: Dams/0101/0113, Date: Feb. 4, 2018, 10:27:07 AM, Source: NSR, US Bureau of Reclamation



**Photograph 1. View of ED1 looking north toward the American River.**



**Photograph 2. View of ED2 looking northeast toward Nimbus Dam.**

R:\Projects\10113 West Oak Nimbus Dam Weir\af ac 0807



North State Resources, Inc.

*Nimbus Hatchery Weir Replacement*

**Figure 9**  
**Ephemeral Drainage**