**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): March 15, 2012**

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Sacramento District, Yokohl Ranch, SPK-2007-01984**

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

State: **California** County/parish/borough: **Tulare** City: **N/A**
Center coordinates of site (lat/long in degree decimal format): Lat. **36.26520°**, Long. **-119.02294°**
Universal Transverse Mercator: **11 318278 4015262**
Name of nearest waterbody: **Tule River**
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: **Tule River**
Name of watershed or Hydrologic Unit Code (HUC): **Upper Tule. California., 18030006**
☒ 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: **JD forms were prepared for isolated waters and non jurisdictional waters requiring a significant nexus on the project site under the ID number (SPK-2007-01984)**

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

☐ Office (Desk) Determination. Date:
☒ Field Determination. Date(s): **February 16-18, 2010, April 13 & 15, 2010, and May 19, 2010**

**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, wide, and/or **40.28** acres.
      Wetlands: **45.02** acres.

   c. **Limits (boundaries) of jurisdiction** based on: **Established by OHWM.**
      Elevation of established OHWM (if known): **500 to 1,300 ft**

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: **N/A**

   Summarize rationale supporting determination: **N/A**

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

**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: **20,179 acres**
   Drainage area: **43,819 acres**
   Average annual rainfall: **13.63** inches
   Average annual snowfall: **< 1** inches

   **(ii) Physical Characteristics:**
   (a) Relationship with TNW:
   ☐ Tributary flows directly into TNW.
   ☒ Tributary flows through **10 (or more)** tributaries before entering TNW.

   Project waters are **30 (or more)** river miles from TNW.
   Project waters are **1 (or less)** river miles from RPW.
   Project waters are **10-15** 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: **N/A**

   Identify flow route to TNW[5]: **Yokohl Creek (RPW) exits the project site (Lat 36.28218°, Long -119.05892°) and flows northwest (7 miles) to the Consolidated Peoples Ditch. Flow continues southwest through the Consilidated Peoples Ditch (1 mile), Outside Creek (10 miles), Inside Creek (4 miles), Elk Bayou (13 miles), to the Tule River, a traditionally-navigable-water. The Tule River continues 12 miles before entering the Tule River Canal in the Tulare Lake Basin. Both the Tule River and the Tulare Lake are traditionally navigable waters that were used historically in interstate or foreign commerce.**
   Tributary stream order, if known: **4**

[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.

(b) General Tributary Characteristics (check all that apply):

**Tributary** is: ☒ Natural
☐ Artificial (man-made). Explain:
☐ Manipulated (man-altered). Explain:

**Tributary** properties with respect to top of bank (estimate):
Average width: **10** feet
Average depth: **2** feet
Average side slopes: **Vertical (1:1 or less).**

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: **Most of the stream channel is relatively stable, but there are some areas of sloughing banks and eroding sand bars.**
Presence of run/riffle/pool complexes. Explain: **run/riffle/complexes do not exist within the review area. The creek consists of low gradients flows and pools.**
Tributary geometry: **Relatively straight**
Tributary gradient (approximate average slope): **1** %

(c) Flow:
Tributary provides for: **Seasonal flow**
Estimate average number of flow events in review area/year: **20 (or greater)**
Describe flow regime: **Flows vary with season and are highly influenced by rainfall. Typically, flows begin with the onset of rains in November or December and continue until late summer. The creek lacks flows during the summer months, but some of the deeper pools may remain inundated on a perennial basis.**
Other information on duration and volume:

Surface flow is: **Discrete and confined**. Characteristics: **Surface meander seasonally within the incised stream channel.**

Subsurface flow: **No**. Explain findings: **The creek is underlayed with bedrock formations occurring just below or on the substrate surface.**
☐ 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:**

[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.

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).
Explain: **In periods of high flows, water is typically clear with little silt or sedimentation and water quality is generally good. However, during lower flows associated with high ambient temperatures, water quality becomes degraded because of increased temperatures, low oxygen content, and algal blooms. A high organic content from cattle grazing operation in the watershed contributes to the lowered water quality.**
Identify specific pollutants, if known: **Cattle waste.**

**(iv) Biological Characteristics. Channel supports (check all that apply):**
☐ Riparian corridor. Characteristics (type, average width):
☒ Wetland fringe. Characteristics: **Large portions of the length of the creek support adjacent wetlands, backwater wetlands, and wetland vegetation at the edge of the streambed and within the incised channel.**
☒ Habitat for:
☐ Federally Listed species. Explain findings:
☒ Fish/spawn areas. Explain findings: **Yokohl Creek porvides habitat and potential spawning sites for some non-game fish species including hitch (Lavinia exilicauda), green sunfish (Lepomis cuanellus, catfish (Ameiurus spp.), and mosquito fish (Gambusia affinis). The creek is not a trout stream nor does it support a sport fishery.**
☒ Other environmentally-sensitive species. Explain findings: **The western pond turtle (Actinemys marmorata), a California species of special concern, is known to inhabit the creek in low abundance.**
☒ Aquatic/wildlife diversity. Explain findings: **Yokohl creek had multiple species of amphibians and reptiles within or near the banks. The creek also serves as a semipermanent water source within the vicinity.**

**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: **45.02** acres
Wetland type. Explain: **seasonal wetland (alkali meadow and ephemeral pool), ephemeral swale, and freshwater seep**
Wetland quality. Explain: **Wetland functions and values are generally moderate because of heavy disturbance by cattle.**
Project wetlands cross or serve as state boundaries. Explain: **N/A**

(b) General Flow Relationship with Non-TNW:
Flow is: **Ephemeral flow**. Explain: **Flows from wetlands adjacent to RPW and other tributaries generally only occurs during rain events late in the rainy season, once the ground becomes saturated.**

Surface flow is**: Overland sheetflow**
Characteristics: **The majority of flow patterns between the wetlands and Non-TNW are overland sheet flow with a moderately confined channel or flow path.**

Subsurface flow: **Unknown**. Explain findings: **It is unknown if subsurface flows are present. There is a potential that limited subsurface flows exist in area of shallow bedrock during periods of high saturation.**
☐ Dye (or other) test performed: **No dye test was performed.**

(c) Wetland Adjacency Determination with Non-TNW:
☒ Directly abutting
☒ Not directly abutting
☒ Discrete wetland hydrologic connection. Explain: **Several features exist just outside of the creek and tributary channels and are connected during periods of high flows. The remaining wetlands are connected through overland sheet flows and ephemeral flows through discrete channels.**
☐ Ecological connection. Explain:
☐ Separated by berm/barrier. Explain:

(d) Proximity (Relationship) to TNW
Project wetlands are **30 (or more)** river miles from TNW.
Project waters are **10-15** aerial (straight) miles from TNW.
Flow is from: **Wetland to navigable waters.**
Estimate approximate location of wetland as within the **2-year or less** 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 is typically clear with little silt or sedimentation and water quality is generally good. However, the water quality in some of the ephemeral pools becomes degraded late in the year with a lowered**

**oxygen content as temperatures and water levels decrease and cattle utilization increases. A high organic content fron cattle grazing operations in the watershed constributes to the lowered water quality.**
Identify specific pollutants, if known: **Cattle waste**

**(iii) Biological Characteristics. Wetland supports (check all that apply):**
☐ Riparian buffer. Characteristics (type, average width):
☒ Vegetation type/percent cover. Explain: **Vegetation type is variable and consists of various wetland species within an overall landscape of upland grassland species.**
☒ Habitat for:
☒ Federally Listed species. Explain findings: **Some of the ephemeral pools support the federally-listed vernal pool fairy shrimp (Branchinencta lynchi)**
☐ Fish/spawn areas. Explain findings:
☒ Other environmentally-sensitive species. Explain findings: **Some ephemeral pools support the spiny-sepaled button celery (Eryngium spinosepalum) and the western spadefoot toad (Spea hammondi), both State species of concern.**
☒ Aquatic/wildlife diversity. Explain findings: **Wetlands provide habitat for a variety of sensitive and non-sensitive invertebrates, amphibians, and reptiles.**

**3. Characteristics of all wetlands adjacent to the tributary (if any)**
All wetland(s) being considered in the cumulative analysis: **30 (or more)**
Approximately **45.02** acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

| Feature ID | Directly Abuts? (Y/N) | Size (acres) | Feature ID | Directly Abuts? (Y/N) | Size (acres) |
|---|---|---|---|---|---|
| am_JV_001 | N | 0.016 | ep_JV_007 | N | 0.011 |
| am01 | N | 11.685 | ep_JV_027 | N | 0.001 |
| am01a | N | 0.023 | ep01a | N | 0.009 |
| am01b | N | 0.114 | ep02a | N | 0.027 |
| am01c | N | 0.218 | ep03a | N | 0.012 |
| am02 | Y | 0.782 | ep04b | N | 0.018 |
| am03 | Y | 0.127 | ep124 | N | 0.010 |
| am04 | Y | 1.355 | ep125 | N | 0.006 |
| am05 | Y | 0.319 | ep126 | N | 0.409 |
| am06 | Y | 0.821 | ep127 | N | 0.036 |
| am07 | Y | 0.217 | ep135 | N | 0.013 |
| am09 | Y | 0.200 | ep19 | N | 0.091 |
| am10 | Y | 2.249 | ep308 | N | 0.002 |
| am11 | Y | 0.578 | ep310 | N | 0.009 |
| am12 | Y | 0.317 | ep311 | N | 0.001 |
| am13 | Y | 0.178 | ep312 | N | 0.014 |
| am15 | Y | 0.349 | ep313 | N | 0.014 |
| am16 | Y | 0.646 | ep316 | N | 0.015 |
| am17 | Y | 0.339 | ep318 | N | 0.061 |
| am18 | Y | 1.347 | ep320 | N | 0.003 |
| am19 | Y | 0.558 | ep321 | N | 0.004 |
| am19 | Y | 0.267 | ep321a | N | 0.018 |
| am20 | Y | 0.082 | ep321b | N | 0.035 |
| am21 | Y | 0.189 | ep325 | N | 0.012 |
| am22 | Y | 1.434 | ep326 | N | 0.004 |
| am23 | Y | 0.809 | ep331 | N | 0.004 |

| Feature ID | Directly Abuts? (Y/N) | Size (acres) | Feature ID | Directly Abuts? (Y/N) | Size (acres) |
|---|---|---|---|---|---|
| am25 | Y | 0.316 | ep333 | N | 0.001 |
| am26 | N | 0.285 | ep333a | N | 0.004 |
| am27 | Y | 1.337 | ep333b | N | 0.010 |
| am28 | N | 1.777 | ep336 | N | 0.007 |
| am29 | Y | 0.465 | ep38 | N | 0.074 |
| am30 | N | 0.627 | ep631 | N | 0.007 |
| am32 | N | 1.107 | ep632 | N | 0.003 |
| am33 | N | 0.027 | ep759 | N | 0.017 |
| am34 | N | 0.018 | ep762 | N | 0.019 |
| am35 | Y | 0.513 | ep800 | N | 0.004 |
| am36 | N | 0.248 | ep818 | N | 0.010 |
| am37 | N | 0.054 | ep829 | N | 0.069 |
| am38 | N | 1.255 | ep830 | N | 0.011 |
| am39 | Y | 0.638 | ep835 | N | 0.012 |
| am40 | Y | 0.049 | ep836 | N | 0.019 |
| am41 | Y | 1.089 | ep837 | N | 0.009 |
| am42 | Y | 0.072 | ep838 | N | 0.245 |
| am43 | N | 0.722 | seep73 | N | 0.255 |
| am43a | N | 0.004 | seep74 | N | 0.055 |
| am44 | N | 0.834 | sp03 | N | 0.029 |
| am45 | N | 0.172 | sp04 | N | 0.034 |
| am46 | Y | 0.427 | sw04 | N | 0.002 |
| am47 | N | 1.693 | sw11 | N | 0.002 |
| am47a | N | 0.045 | sw11a | N | 0.002 |
| am47b | N | 0.185 | sw11b | N | 0.004 |
| am48 | Y | 0.210 | sw13 | N | 0.091 |
| am49 | Y | 0.067 | sw56 | N | 0.025 |
| am50 | Y | 0.462 | sw59 | N | 0.029 |
| am79a | N | 0.275 | swet01 | Y | 0.164 |
| am83 | N | 1.939 | swet02 | N | 0.227 |
| bkwtr01 | Y | 0.559 | swet03 | N | 0.046 |

Summarize overall biological, chemical and physical functions being performed: **Wetlands directly abutting Yokohl Creek filter water flowing down stream and function to remove pollutants as the flows slow down and water passes slowly through the wetlands before reentering the creek. Water held within these wetlands recharge the creek and increase the hydroperiod as waters begin to dry. The wetlands along the creek also serve as habitat for invertebrates and amphibians. Adjacent non-abutting wetlands filter water that flows from the surrounding uplands, removing cattle waste from entering the creek. These wetlands also serve to recharge the creek through overland and discrete flows as well as recharge groundwater through percolation.**

**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:
   **There are approximately 13.38 acre of non-RPWs making up eight tributaries to Yokohl Creek. There are eleven adjacent wetlands totaling 1.69 acres. These tributaries and their wetlands are located in the steep hills to the north and south of the Yokohl Creek The watersheds for these tributaries are located almost entirely within the review area. The hills within the review area are relatively steep with small localized watersheds drained rapidly by gullies and ephemeral tributaries along the hillsides. The difference in elevation between the creek bed and the highest point of each micro-watershed ranges from over 600 feet to over 900 feet in less than one mile. The tributaries were identified and by the presence of an ordinary high water mark while gullies and the upper reaches of each tributary did not have a defined ordinary high water mark. Due to the grade of the watersheds, many of the tributaries flow over a short period of time following storm events. The three larger tributaries located on the south side of Yokohl Creek flow for a longer period, but are still associated with storm events. The existing ranching operations have created multiple impoundments for cattle along these tributaries. The water provided by these impoundments is crucial in the success of cattle operations within the review area. These tributaries function to drain the site and deliver water to Yokohl Creek, potentially providing a significant water source to the creek. The tributaries also carry highly oxygenated water, increasing the oxygen levels within the creek and waters downstream of the review site.**

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:
   **There are 66 wetlands, totaling 23.80 acres, adjacent to Yokohl Creek. These features receive water from the direct precipitation and runoff from the surrounding grasslands. Each feature serves to filter and retain water that reaches the creek through discrete drainages and short reaches of overland sheet flow. The wetlands filter nutrients from cattle waste and keep the additional nutrient load from water entering the creek. The wetlands also retain water that then enters the creek over an extended period, reducing flood risk and prolonging the creek hydroperiod. Wetlands are also habitat for Federally-listed species and California species of special concern. The wetlands within the watershed of Yokohl Creek impact the TNW by improving water quality and reducing the flashy nature of the drainage area.**

**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, wide, 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:
   ☒ 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: **The creek flows continuously from the beginning of the rain year, around November or December, until the dry season, typically around June or July. The high flows are estimated to around 1.3 cfs. Although the creek**

**does not flow during the summer months, some of the deeper pools within the creek channel remain inundated on a pernnial basis.**

Provide estimates for jurisdictional waters in the review area (check all that apply):
☒ Tributary waters: **26.89** acres.
☐ Other non-wetland waters: acres.
Identify type(s) of waters:

**3. Non-RPWs[8] that flow directly or indirectly into TNWs.**
☒ 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: **8.69** acres.
☒ Other non-wetland waters: **4.69** acres.
Identify type(s) of waters: **Cattle Ponds within the tributaries**

**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 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: **Multiple wetlands are located along the creek corridor with a direct hydrologic connection to Yokohl Creek. Wetlands included at "abutting" are only those directly touching the creek with either one directional or multidirectional flow.**

Provide acreage estimates for jurisdictional wetlands in the review area: **19.53** 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: **23.80** 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: **1.69** 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:

[8] See Footnote # 3.
[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.***

**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, wide.
☐ Other non-wetland waters: acres.
Identify type(s) of waters:
☐ Wetlands: acres.

**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, wide.
☐ 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, wide.
☐ 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: **Yokohl Ranch, County of Tulare, Ca, prepared by Quad Knopf, dated February 2012**
☒ 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: **1:24K; CA-Rocky Hill, Chickencoop Canyon, Lindsay, and Springville**
☐ 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): **Site visits were conducted on February 16-18, 2010 and April 13 & 15, 2010, including a site visit with Rob Leidy of EPA on May 19, 2010.**

**B. ADDITIONAL COMMENTS TO SUPPORT JD:**

**In 1983 flood waters in the Tulare Lake Basin were pumped north up the South Fork Kings River Canal (10 miles), the South Fork Kings River (18 miles), the James Bypass (32 miles) to Fresno Slough (12 miles), finally entering the San Joaquin River at the Mendota Pool (Lat 36.78486°, Long -120.37009°). The San Joaquin River is the nearest water jurisdictional under Section 10 of the Rivers and Harbors Act, approximately 135 river miles from the the project site. The Tule River is considered a traditionally navigable water by the United States Environmental Protection Agency, Region IX, in a memorandum dated April 7, 2005. The Tule River was used in the past or was susceptible to use in insterstate of foreign commerce prior to the construction of the Success Dam. The Tule River is approximately 35 river miles from the project site.**