

**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): May 31, 2016

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Sacramento District, LIBERTY ROAD PROPERTY, SPK-2005-00507

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: **California** County/parish/borough: **San Joaquin** City: **Galt**
Center coordinates of site (lat/long in degree decimal format): Lat. **38.236162°**, Long. **-121.285893°**
Universal Transverse Mercator: **10 650015.41 4233407.26**

Name of nearest waterbody: **Dry Creek**

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: **Mokelumne River**

Name of watershed or Hydrologic Unit Code (HUC): **Upper Mokelumne, 18040012**

Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.

Check if other sites (e.g., onsite 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: **May 31, 2016**

Field Determination. Date(s): **April 12, 2016**

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 and are not** "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 waters² (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 **11.17** acres.

Wetlands: **1.01** acres.

c. Limits (boundaries) of jurisdiction based on: 1987 Delineation Manual

Elevation of established OHWM (if known): **N/A**

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:

Parcel B contains a system of constructed closed depressions and swales. These constructed depression and swale features exist on a higher elevation terrace of the historic Dry Creek channel system that is no longer subject to flooding from Dry Creek (i.e., + 10 feet in elevation), they should be considered to be hydrologically isolated and not "adjacent" (i.e. bordering, neighboring, or contiguous) to Dry Creek. Except for some faunal support/habitat functioning, they do not have a significant

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.

nexus with either Dry Creek or downstream traditional navigable waters. These features are the result of grading for a development project that never came to fruition. The combined total area of waters that are preamble excluded is 3.24 acres.

Parcel C consists mostly of tilled seasonal emergent closed depressional and swale features with a total area of isolated features is 1.54 acres. These depression and swale features exist on a much higher elevation terrace feature than Dry Creek and the unnamed tributary. They are not “adjacent” to Dry Creek. There is no evidence that there are any hydrologic connections from these depressions and swales to either Dry Creek or to the unnamed tributary channel system that runs generally east to west through the Site. These depression and swale features have been regularly tilled and used for crop production for decades. The depressions and swales in Parcel C do not have a significant nexus with either Dry Creek or downstream traditional navigable waters.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

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: **No TNW's exist in the survey area.**

Summarize rationale supporting determination:

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 waterbody⁴ 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: **747 square miles**

Drainage area: **348 square miles**

Average annual rainfall: **14.06 inches**

Average annual snowfall: **0 inches**

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

(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 **20-25** 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: **No Waters cross over Sate boundaries**

Identify flow route to TNW⁵: **The unnamed tributary travels slightly north into Dry Creek. Dry Creek forms the approximate boundary between Sacramento and San Joaquin Counties. Dry Creek flows into the Cosumnes River, which in turn flows into the traditional navigable waters (TNW) of the San Joaquin River. The San Joaquin River joins the Sacramento River near the northern tip of Winter Island (approximate Latitude/Longitude of 30o 03' 44.21" N and 121o 52' 09.62" W).**

Tributary stream order, if known: **1. Unnamed tributary; 2. Dry Creek; 3. Cosumnes; 4. San Jauquin.**

(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: **200** feet
 Average depth: **15** feet
 Average side slopes: **4:1 (or greater).**

Primary tributary substrate composition (check all that apply):

- | | | |
|---|--|-----------------------------------|
| <input checked="" type="checkbox"/> Silts | <input checked="" type="checkbox"/> Sands | <input type="checkbox"/> Concrete |
| <input type="checkbox"/> Cobbles | <input type="checkbox"/> Gravel | <input type="checkbox"/> Muck |
| <input type="checkbox"/> Bedrock | <input checked="" type="checkbox"/> Vegetation. Type/% cover: N/A - | |
| <input type="checkbox"/> Other. Explain: | | |

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain:
 Presence of run/riffle/pool complexes. Explain: **No presence of run/riffle/pool complexes**
 Tributary geometry: **Relatively straight**
 Tributary gradient (approximate average slope): **1%**

(c) Flow:

Tributary provides for: **Perrineal Flow**
 Estimate average number of flow events in review area/year: **365**
 Describe flow regime: **Perrineal**
 Other information on duration and volume: Flow controlled by 6-foot concrete box culvert at lower end.

Surface flow is: **Discrete and confined.** Characteristics:

Subsurface flow: **Unknown.** Explain findings:

- Dye (or other) test performed: **N/A**

Tributary has (check all that apply):

- Bed and banks
- OHWM⁶ (check all indicators that apply):

<input checked="" type="checkbox"/> clear, natural line impressed on the bank	<input type="checkbox"/> the presence of litter and debris
<input checked="" type="checkbox"/> changes in the character of soil	<input type="checkbox"/> destruction of terrestrial vegetation
<input checked="" type="checkbox"/> shelving	<input checked="" type="checkbox"/> the presence of wrack line
<input checked="" type="checkbox"/> vegetation matted down, bent, or absent	<input type="checkbox"/> sediment sorting
<input type="checkbox"/> leaf litter disturbed or washed away	<input type="checkbox"/> scour

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.

⁶A 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.

- sediment deposition
- water staining
- other (list):
- Discontinuous OHWM.⁷ Explain:
- multiple observed or predicted flow events
- abrupt change in plant community

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

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

(iii) Chemical Characteristics:

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.). Explain: **no distinct visible pollutant.**

Identify specific pollutants, if known: **There is a potential for pollutants typical of agriculture including pesticides, fertilizers, animal waste, nitrogen compounds and sediments, as well as runoff from surrounding roads, housing, rangeland, pastures, farms and other surrounding land uses.**

(iv) Biological Characteristics. Channel supports (check all that apply):

- Riparian corridor. Characteristics (type, average width):
- Wetland fringe. Characteristics:
- Habitat for:
 - Federally Listed species. Explain findings:
 - Fish/spawn areas. Explain findings:
 - Other environmentally-sensitive species. Explain findings:

Aquatic/wildlife diversity. **the seasonal wetlands with other similarly situated waters within this watershed provide habitat, food, breeding and life support for a diverse number of native plant and animal species, including invertebrates, birds, mammals, and downstream fish, some of which may be federally listed threatened and/or endangered and/or commercially important. These wetlands provide support functions to both species that are endemic to this type of habitat as well as highly mobile migratory species. These wetlands have the capacity to transfer nutrients and organic carbon that feed downstream food webs. They also provide habitat and lifecycle support functions for fish and wildlife species that may be present in Dry Creek.**

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: **1.02** acres

Wetland type. Explain: **seasonal wetlands**

Wetland quality. Explain: **Unevaluated. Wetlands appear to have normal function.**

Project wetlands cross or serve as state boundaries. **Project waters do not cross over or serve as state boundaries.**

(b) General Flow Relationship with Non-TNW:

Flow is: **Intermittent flow.** Explain: **Under normal wet season precipitation the seasonal wetlands on site fill with water. Water hits the restrictive underlying layer and moves laterally. These features receive lateral near surface flows, as well as direct precipitation, and store the water first in the soil pore space above the restrictive layer (i.e. perched water table), then as ponded water above the surface. Once the stored water in the complex's depressions reach an elevation above the restrictive layer they begin to contribute near surface flow to swales within the complex. These swales then responds in a similar fashion to the rest of the complex: first storing and filling with water and then contributing near surface flows. The depressions in the complex may have once functioned as vernal pools, however due to land altering and soil movement over the decades, they now perform as seasonal wetlands.**

Surface flow is: **Discrete and confined**

Characteristics: **Flow remains confined to the seasonal wetlands.**

⁷Ibid.

Subsurface flow: **yes** . Explain findings: **Subsurface flow occurs during the wet season above the restrictive layer and persists after rain events as discussed in b above.**

Dye (or other) test performed:

(c) Wetland Adjacency Determination with Non-TNW:

- Directly abutting
- Not directly abutting
 - Discrete wetland hydrologic connection. Explain:
 - Ecological connection.
 - Separated by berm/barrier. Explain:

(d) Proximity (Relationship) to TNW

Project wetlands are **25-30** river miles from TNW.
 Project waters are **20-25** aerial (straight) miles from TNW.
 Flow is from: **wetland to navigable waters.**
 Estimate approximate location of wetland as within the **1-500 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 appears normal for this type of aquatic feature.**

Identify specific pollutants, if known: **There is a potential for pollutants typical of agriculture including pesticides, fertilizers, animal waste, nitrogen compounds and sediments, as well as runoff from surrounding roads, housing, rangeland, pastures, farms and other surrounding land uses.**

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

- Riparian buffer. Characteristics (type, average width):
- Vegetation type/percent cover. Explain:
- Habitat for:
 - Federally Listed species. Explain findings:
 - Fish/spawn areas. Explain findings:
 - Other environmentally-sensitive species. Explain findings:
 - Aquatic/wildlife diversity. Explain findings: **The seasonal wetlands with other similarly situated waters**

within this watershed provide habitat, food, breeding and life support for a diverse number of native plant and animal species, including invertebrates, birds, mammals, and downstream fish, some of which may be federally listed threatened and/or endangered and/or commercially important. These wetlands provide support functions to both species that are endemic to this type of habitat as well as highly mobile migratory species. These wetlands have the capacity to transfer nutrients and organic carbon that feed downstream food webs. They also provide habitat and lifecycle support functions for fish and wildlife species that may be present in Dry Creek.

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

All wetland(s) being considered in the cumulative analysis: **12**
 Approximately **1.01** acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

Aquatic Feature	Directly Abuts? Y/N	Size (in acres)
C-2	Y	0.19
C-3	Y	0.088
C-12	Y	0.011
C-13	Y	0.035
C-14/C-15	Y	0.061
C-16	Y	0.098
C-17	Y	0.063
C-32	Y	0.019
C-46	Y	0.015
Wetland D	Y	0.23
Channel E	Y	0.2

Summarize overall biological, chemical and physical functions being performed:

These wetlands perform several functions important to the biological, chemical and physical integrity of unnamed tributary onsite and Dry Creek. This nexus is neither speculative nor insubstantial. These wetlands, along with other similarly situated wetlands in the watershed, store precipitation and slowly deliver this water to the unnamed tributary that flows directly into Dry Creek.

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:

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 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:

Provide estimates for jurisdictional waters in the review area (check all that apply):

- Tributary waters: linear feet 11.17 acres.
- Other non-wetland waters:
Identify type(s) of waters:

3. Non-RPWs⁸ 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: linear feet, wide.
- 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: **See Section B below**
 - 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: 1.02 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 jurisdictional. Data supporting this conclusion is provided at Section III.C.

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

⁸See 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.

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): The wetlands that occur in Parcels B and C are dominantly closed depression/swale complexes with no hydrologic connection to either Dry Creek or the unnamed tributary of Dry Creek that runs generally east to west through the site.**

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: **4.75** 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:
- 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-LODI NORTH**
- 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 Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): N/A
 or Other (Name & Date): **Ground photos**
- Previous determination(s). File no. and date of response letter: **October 10, 1991**
- Applicable/supporting case law:
- Applicable/supporting scientific literature:
- Other information (please specify):

B. ADDITIONAL COMMENTS TO SUPPORT JD:

The unnamed tributary on site has connection with Dry Creek, therefore the unnamed tributary is under Federal jurisdiction. Pockets of emergent wetlands were found within the unnamed tributary as was a zone of emergent wetlands approximately seven feet wide surrounding the unnamed tributary.

Parcel B supports a system of constructed closed depressions and swales that have been in existence since around 1984. Air photo analyses indicate that these depressions were likely constructed wholly within uplands in 1984. The combined total area of all depressions in Parcel B is 3.24 acres. All of the constructed depression and swale features in Parcel B exist on a higher elevation terrace surface that is no longer subject to flooding from Dry Creek. Therefore, the depressions and swales in Parcel B are not within Federal Jurisdiction and are preamble excluded.

Parcel C consists mostly of ephemeral closed depressions and swale features with a total area of 1.54 acres of non-jurisdictional waters, and 0.593 of jurisdictional waters. Analyses of historic aerial photos show that the non-jurisdictional depressions and swales have been tilled for decades. The depression and swale features within Parcel C (a) exist on a higher elevation terrace feature than the unnamed tributary, and (b) show no evidence that there are any hydrologic connections from the depressions and swales to either Dry Creek or to the unnamed tributary that runs generally east to west through the Site. Therefore, Parcel C depressions and swales are hydrologically isolated and not "adjacent" (i.e., bordering, neighboring, or contiguous). Further analyses of significant nexus shows that these isolated depressions and swales do not directly support the physical, chemical, and biological integrity of downstream traditional navigable waters.

Wetland D is the collection basin for storm water flows into the unnamed tributary. It is an emergent wetland with a jurisdictional area of 0.23 acre. Because of its direct hydrologic connection with the unnamed tributary on the Site, Wetland D would be under Federal Jurisdiction.

Channel E is a small drainage ditch that is located along the eastern boundary of the Site and adjacent to SR 99 (highway). The ditch receives runoff from east of the highway in three culverts under the highway. The runoff flows through the ditch into a small basin (Wetland D), where it enters the unnamed tributary through another culvert under a berm. The total jurisdictional area of the ditch is 0.20 acre. Because of this direct hydrologic connection to Wetland D, we have determined that this small drainage ditch is within U.S. Federal Jurisdiction.