



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

I. ADMINISTRATIVE INFORMATION

Completion Date of Approved Jurisdictional Determination (AJD): [February 26, 2021](#).

ORM Number: [200400655](#).

Associated JDs: [N/A](#).

Review Area Location¹: State/Territory: [CA](#). City: [Sacramento](#). County/Parish/Borough: [Sacramento](#).

Center Coordinates of Review Area: Latitude [38.485616](#). Longitude [-121.375104](#).

II. FINDINGS

A. Summary: Check all that apply. At least one box from the following list **MUST** be selected. Complete the corresponding sections/tables and summarize data sources.

- The review area is comprised entirely of dry land (i.e., there are no waters or water features, including wetlands, of any kind in the entire review area). Rationale: [N/A or describe rationale](#).
- There are “navigable waters of the United States” within Rivers and Harbors Act jurisdiction within the review area (complete table in Section II.B).
- There are “waters of the United States” within Clean Water Act jurisdiction within the review area (complete appropriate tables in Section II.C).
- There are waters or water features excluded from Clean Water Act jurisdiction within the review area (complete table in Section II.D).

¹ Map(s)/figure(s) are attached to the AJD provided to the requestor.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

B. Rivers and Harbors Act of 1899 Section 10 (§ 10)²

C. Clean Water Act Section 404

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
Elder Creek	0.022	acres	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Elder Creek is a tributary to the Sacramento River, an (a)(1) water of the U.S., via Morrison Creek. Elder Creek is a perennial stream augmented by summer irrigation and urban run-off.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ³				
Exclusion Name	Exclusion Size		Exclusion ⁴	Rationale for Exclusion Determination
SW1	0.195	acres	(b)(1) Non-adjacent wetland.	This wetland meets the definition of paragraph (c)(16); however, it does not abut, nor is it inundated by flooding from, an (a)(1) – (a)(3) water in a typical year, nor is it physically separated from an (a)(1) – (a)(3) water by a natural or artificial barrier.
SW2	0.068	acres	(b)(1) Non-adjacent wetland.	This wetland meets the definition of paragraph (c)(16); however, it does not abut, nor is it inundated by flooding from, an (a)(1) – (a)(3) water in a typical year, nor is it physically separated from an (a)(1) – (a)(3) water by a natural or artificial barrier.
SW3	0.013	acres	(b)(1) Non-adjacent wetland.	This wetland meets the definition of paragraph (c)(16); however, it does not abut, nor is it inundated by flooding from, an (a)(1) – (a)(3) water in a typical year, nor is it

² If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

³ Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

⁴ Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

Excluded waters ((b)(1) – (b)(12)): ³				
Exclusion Name	Exclusion Size		Exclusion ⁴	Rationale for Exclusion Determination
				physically separated from an (a)(1) – (a)(3) water by a natural or artificial barrier.
SW4	0.003	acres	(b)(1) Non-adjacent wetland.	This wetland meets the definition of paragraph (c)(16); however, it does not abut, nor is it inundated by flooding from, an (a)(1) – (a)(3) water in a typical year, nor is it physically separated from an (a)(1) – (a)(3) water by a natural or artificial barrier.
SW5	0.005	acres	(b)(1) Non-adjacent wetland.	This wetland meets the definition of paragraph (c)(16); however, it does not abut, nor is it inundated by flooding from, an (a)(1) – (a)(3) water in a typical year, nor is it physically separated from an (a)(1) – (a)(3) water by a natural or artificial barrier.
SW7	0.011	acres	(b)(1) Non-adjacent wetland.	This wetland meets the definition of paragraph (c)(16); however, it does not abut, nor is it inundated by flooding from, an (a)(1) – (a)(3) water in a typical year, nor is it physically separated from an (a)(1) – (a)(3) water by a natural or artificial barrier.
SW8	0.006	acres	(b)(1) Non-adjacent wetland.	This wetland meets the definition of paragraph (c)(16); however, it does not abut, nor is it inundated by flooding from, an (a)(1) – (a)(3) water in a typical year, nor is it physically separated from an (a)(1) – (a)(3) water by a natural or artificial barrier.
SW9	0.011	acres	(b)(1) Non-adjacent wetland.	This wetland meets the definition of paragraph (c)(16); however, it does not abut, nor is it inundated by flooding from, an (a)(1) – (a)(3) water in a typical year, nor is it physically separated from an (a)(1) – (a)(3) water by a natural or artificial barrier.
SW10	0.006	acres	(b)(1) Non-adjacent wetland.	This wetland meets the definition of paragraph (c)(16); however, it does not abut, nor is it inundated by flooding from, an (a)(1) – (a)(3)



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

Excluded waters ((b)(1) – (b)(12)): ³				
Exclusion Name	Exclusion Size		Exclusion ⁴	Rationale for Exclusion Determination
				water in a typical year, nor is it physically separated from an (a)(1) – (a)(3) water by a natural or artificial barrier.
SW11	0.018	acres	(b)(1) Non-adjacent wetland.	This wetland meets the definition of paragraph (c)(16); however, it does not abut, nor is it inundated by flooding from, an (a)(1) – (a)(3) water in a typical year, nor is it physically separated from an (a)(1) – (a)(3) water by a natural or artificial barrier.
SW12	0.156	acres	(b)(1) Non-adjacent wetland.	This wetland meets the definition of paragraph (c)(16); however, it does not abut, nor is it inundated by flooding from, an (a)(1) – (a)(3) water in a typical year, nor is it physically separated from an (a)(1) – (a)(3) water by a natural or artificial barrier.
SW13	0.051	acres	(b)(1) Non-adjacent wetland.	This wetland meets the definition of paragraph (c)(16); however, it does not abut, nor is it inundated by flooding from, an (a)(1) – (a)(3) water in a typical year, nor is it physically separated from an (a)(1) – (a)(3) water by a natural or artificial barrier.
SW14	0.002	acres	(b)(1) Non-adjacent wetland.	This wetland meets the definition of paragraph (c)(16); however, it does not abut, nor is it inundated by flooding from, an (a)(1) – (a)(3) water in a typical year, nor is it physically separated from an (a)(1) – (a)(3) water by a natural or artificial barrier.
SW15	0.002	acres	(b)(1) Non-adjacent wetland.	This wetland meets the definition of paragraph (c)(16); however, it does not abut, nor is it inundated by flooding from, an (a)(1) – (a)(3) water in a typical year, nor is it physically separated from an (a)(1) – (a)(3) water by a natural or artificial barrier.
SW16	0.165	acres	(b)(1) Non-adjacent wetland.	This wetland meets the definition of paragraph (c)(16); however, it does not abut, nor is it inundated by



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

Excluded waters ((b)(1) – (b)(12)): ³				
Exclusion Name	Exclusion Size		Exclusion ⁴	Rationale for Exclusion Determination
				flooding from, an (a)(1) – (a)(3) water in a typical year, nor is it physically separated from an (a)(1) – (a)(3) water by a natural or artificial barrier.
SW17	0.004	acres	(b)(1) Non-adjacent wetland.	This wetland meets the definition of paragraph (c)(16); however, it does not abut, nor is it inundated by flooding from, an (a)(1) – (a)(3) water in a typical year, nor is it physically separated from an (a)(1) – (a)(3) water by a natural or artificial barrier.
SW18	0.003	acres	(b)(1) Non-adjacent wetland.	This wetland meets the definition of paragraph (c)(16); however, it does not abut, nor is it inundated by flooding from, an (a)(1) – (a)(3) water in a typical year, nor is it physically separated from an (a)(1) – (a)(3) water by a natural or artificial barrier.
SW20	0.028	acres	(b)(1) Non-adjacent wetland.	This wetland meets the definition of paragraph (c)(16); however, it does not abut, nor is it inundated by flooding from, an (a)(1) – (a)(3) water in a typical year, nor is it physically separated from an (a)(1) – (a)(3) water by a natural or artificial barrier.
SW21	0.061	acres	(b)(1) Non-adjacent wetland.	This wetland meets the definition of paragraph (c)(16); however, it does not abut, nor is it inundated by flooding from, an (a)(1) – (a)(3) water in a typical year, nor is it physically separated from an (a)(1) – (a)(3) water by a natural or artificial barrier.
VP1	0.094	acres	(b)(1) Non-adjacent wetland.	This wetland meets the definition of paragraph (c)(16); however, it does not abut, nor is it inundated by flooding from, an (a)(1) – (a)(3) water in a typical year, nor is it physically separated from an (a)(1) – (a)(3) water by a natural or artificial barrier.
VP2	0.007	acres	(b)(1) Non-adjacent wetland.	This wetland meets the definition of paragraph (c)(16); however, it does



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

Excluded waters ((b)(1) – (b)(12)): ³				
Exclusion Name	Exclusion Size		Exclusion ⁴	Rationale for Exclusion Determination
				not abut, nor is it inundated by flooding from, an (a)(1) – (a)(3) water in a typical year, nor is it physically separated from an (a)(1) – (a)(3) water by a natural or artificial barrier.
CP3	0.092	acres	(b)(1) Non-adjacent wetland.	This wetland meets the definition of paragraph (c)(16); however, it does not abut, nor is it inundated by flooding from, an (a)(1) – (a)(3) water in a typical year, nor is it physically separated from an (a)(1) – (a)(3) water by a natural or artificial barrier. Furthermore, there is no hydrologic
VP4	0.018	acres	(b)(1) Non-adjacent wetland.	This wetland meets the definition of paragraph (c)(16); however, it does not abut, nor is it inundated by flooding from, an (a)(1) – (a)(3) water in a typical year, nor is it physically separated from an (a)(1) – (a)(3) water by a natural or artificial barrier.
VP5	0.376	acres	(b)(1) Non-adjacent wetland.	This wetland meets the definition of paragraph (c)(16); however, it does not abut, nor is it inundated by flooding from, an (a)(1) – (a)(3) water in a typical year, nor is it physically separated from an (a)(1) – (a)(3) water by a natural or artificial barrier.
VP6	0.007	acres	(b)(1) Non-adjacent wetland.	This wetland meets the definition of paragraph (c)(16); however, it does not abut, nor is it inundated by flooding from, an (a)(1) – (a)(3) water in a typical year, nor is it physically separated from an (a)(1) – (a)(3) water by a natural or artificial barrier.
VP7	0.004	acres	(b)(1) Non-adjacent wetland.	This wetland meets the definition of paragraph (c)(16); however, it does not abut, nor is it inundated by flooding from, an (a)(1) – (a)(3) water in a typical year, nor is it physically separated from an (a)(1) – (a)(3) water by a natural or artificial barrier. Furthermore, there



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

Excluded waters ((b)(1) – (b)(12)): ³				
Exclusion Name	Exclusion Size		Exclusion ⁴	Rationale for Exclusion Determination
VP8	0.646	acres	(b)(1) Non-adjacent wetland.	is no hydrologic This wetland meets the definition of paragraph (c)(16); however, it does not abut, nor is it inundated by flooding from, an (a)(1) – (a)(3) water in a typical year, nor is it physically separated from an (a)(1) – (a)(3) water by a natural or artificial barrier.

III. SUPPORTING INFORMATION

A. Select/enter all resources that were used to aid in this determination and attach data/maps to this document and/or references/citations in the administrative record, as appropriate.

Information submitted by, or on behalf of, the applicant/consultant: [Aquatic Resources Delineation Reverification, Gerber Creek Phase 1, Sacramento County, dated May 21, 2020.](#)

This information is sufficient for purposes of this AJD.

Rationale: [N/A](#).

Data sheets prepared by the Corps:

Photographs: [Aerial and Other. 1\) Applicant's ground photos between April 7 and 8 and May 8, 2020; 2\) Aerial Imagery: GoogleEarth 7.3.3.7692. November 20, 2003, March 26, 2009, March 30, 2011, and February 28, 2015. Sacramento, California. Latitude 38.485616°N, Longitude -121.375104°W, eye alt 1550 ft. Retrieved September 22, 2020, from <http://www.earth.google.com>.](#)

Corps site visit(s) conducted on: [Date\(s\)](#).

Previous Jurisdictional Determinations (AJDs or PJDs): [AJD-200400655, dated March 28, 2008](#).

Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)

USDA NRCS Soil Survey: [NA](#).

USFWS NWI maps: [NA](#).

USGS topographic maps: [NA](#).

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Source	Sacramento County Rainfall and Stream Level Information System Flood's website: https://www.sacflood.org/level/?view=253d63a6-69ea-4c28-bd90-539059aa5fd8&view_group=99a123be-5de5-3678-7140-



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

Data Source (select)	Name and/or date and other relevant information
	d7bb445af1b3&group=44b3e158-f484-fb41-1077-1bd02a1c9800. Sacramento County's Elder Creek Phase 4 Drainage Improvement Project: https://waterresources.saccounty.net/Document/(Elder%20Creek)%20Newsletter%20202.pdf .
Other Issues	N/A.

B. Typical year assessment(s): N/A

C. Additional comments to support AJD: A small portion of Elder Creek, an a(2) tributary, is within the study area. Elder Creek is the nearest (a)(2) water to the non-adjacent wetlands within the review area. Elder Creek is a tributary to the Sacramento River, an (a)(1) water of the U.S., via Morrison Creek. All the non-adjacent wetlands are dispersed through out the entire study area boundary. All of the non-adjacent wetlands are not abutting the nearest a(2) waters - Elder Creek. At high rain period, these wetlands flow thru swales to Elder Creek. The closest the 3 non-adjacent wetlands (SW-1, SW-3 & VP-3) are approximately 70-80 feet from Elder Creek prior to Elder Creek Phase 4 Drainage Improvement Project in 2017. After construction, the distance between SW-1, SW-3 & VP-3 and Elder Creek (top of the bank) is approximately 25 ft.