



**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): .

ORM Number: [SPK-2019-00634](#).

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

Review Area Location¹: State/Territory: [CA](#). City: [none](#). County/Parish/Borough: [Tulare and Kern](#).

Center Coordinates of Review Area: Latitude [35.949836°](#). Longitude [-119.121187°](#) .

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: .
- 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.



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

§ 10 Name	§ 10 Size	§ 10 Criteria	Rationale for § 10 Determination
N/A.	N/A. acres	N/A	N/A.

C. Clean Water Act Section 404

Territorial Seas and Traditional Navigable Waters ((a)(1) waters): ³			
(a)(1) Name	(a)(1) Size	(a)(1) Criteria	Rationale for (a)(1) Determination
N/A.	N/A. acres	N/A.	N/A.

Tributaries ((a)(2) waters):			
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
N/A.	N/A. acres	N/A	N/A.

Lakes and ponds, and impoundments of jurisdictional waters ((a)(3) waters):			
(a)(3) Name	(a)(3) Size	(a)(3) Criteria	Rationale for (a)(3) Determination
N/A.	N/A. acres	N/A	N/A.

Adjacent wetlands ((a)(4) waters):			
(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
N/A.	N/A. acres	N/A	N/A.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
GRB1	2.080 acres	(b)(11) Groundwater recharge, water reuse, or a wastewater recycling structure constructed or excavated in upland or in a non-jurisdictional water	Review of Google Earth aerial imagery shows location was an orchard through April 2017. The upland location was converted to a groundwater recharge basin between April 2017 and early 2018.
GRB2	4.128 acres	b)(11) Groundwater recharge, water	Review of Google Earth aerial

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 A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD Form.

⁴ 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.

⁵ 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
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NAVIGABLE WATERS PROTECTION RULE**

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
			reuse, or a wastewater recycling structure constructed or excavated in upland or in a non-jurisdictional water	imagery shows location was an orchard through April 2017. The upland location was converted to a groundwater recharge basin between April 2017 and early 2018.
GRB3	8.461	acres	b)(11) Groundwater recharge, water reuse, or a wastewater recycling structure constructed or excavated in upland or in a non-jurisdictional water	Review of Google Earth aerial imagery shows location farmed or fallow from September 1994 through April 2006. The upland location was converted to a groundwater recharge basin between April 2006 and May 2009.
GRB4	5.79	acres	b)(11) Groundwater recharge, water reuse, or a wastewater recycling structure constructed or excavated in upland or in a non-jurisdictional water	Review of Google Earth and consultant provided imagery shows the location farmed from 1984 to 1994. The upland location was converted to a groundwater recharge basin between September 1994 and June 2003. According to the applicant, construction of the basin was funded by a grant from the Audubon Society.
PON4	0.429	acres	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	Review of Google Earth imagery shows the pond was constructed between March 2015 and April 2017. PON4 is lined with black pond liner and is adjacent to a vineyard. Earlier aerial images show the pond location as an upland area in agricultural use prior to pond construction.
PON5	0.087	acres	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	Review of Google Earth imagery shows the pond to have been constructed by 2003. Prior aerials show the location as an upland agricultural field prior to pond construction.
PON6	0.315	acres	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	Review of Google Earth imagery shows pond constructed between 2015 and 2017. Most of area that is occupied by pond was farmed prior to April 2017. Southwest corner of pond appears to overlap with a former farm pond that was present in September 1994.
PON7	0.287	acres	(b)(8) Artificial lake/pond	Review of Google Earth imagery



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
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NAVIGABLE WATERS PROTECTION RULE**

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
			constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	shows pond present in September 1994. Applicant provided July 24, 1969, USGS aerial shows the location prior to pond construction as an upland area being used for agricultural purposes.
PON10	0.091	acres	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	Review of Google Earth imagery shows pond present along an upland agricultural field as early as September 1994. Pond is used for agricultural purposes and has been constructed in an upland area.
PON12	0.210	acres	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	Review of Google Earth imagery shows pond present in September 1994. Applicant provided July 24, 1969, USGS aerial, shows pond location as upland area in agricultural use.
PON13	0.098	acres	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	Review of Google Earth imagery shows pond present in September 1994. Applicant provided July 24, 1969, USGS aerial, shows pond location as upland area in agricultural use.
NVD3	0.481	acres	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	Unlined, unvegetated, earthen ditch along the edge of an agricultural field. Appears constructed between 2003 and 2009. NVD3 location appears to be upland agricultural area prior to ditch construction. The ditch has no drain to waters of the U.S. and the nearest stream is the Tule River, which is approximately 3 miles to the north.
NVD4	0.023	acres	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	Unlined, unvegetated, earthen ditch along the edge of an agricultural field. Appears constructed in 2010. NVD4 location was an upland agricultural area prior to ditch construction. The ditch has no apparent drain to waters of the U.S. and the nearest streams are the Tule River (approximately 3.3 miles



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REGULATORY PROGRAM
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NAVIGABLE WATERS PROTECTION RULE**

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
				to the north and Deer Creek (approximately 3.25 miles to the south).
NVD5	0.054	acres	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	Unlined, unvegetated, earthen ditch along the edge of an agricultural field. Ditch appears to have been constructed by 2006. NVD5 location was an upland agricultural area prior to ditch construction. There is no drain to waters of the U.S. and the nearest streams are the Tule River (approximately 3.3 miles to the north and Deer Creek (approximately 3.15 miles to the south).

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: (2020.11.12-AJD request-201900634.pdf and 2020.12.04-historic_imagery_grb_4_pon_7_12_13-201900634.pdf).

This information is sufficient for purposes of this AJD.

Rationale: N/A .

Data sheets prepared by the Corps: .

Photographs: Aerial: Google Earth Pro: 9/3/1994, 6/3/2003, 4/27/2006, 5/24/2009, 12/31/2014, 8/7/2012, 2/20/2014, 3/30/2015, 4/1/2017, 2/8/2018, 3/1/2020.

Corps site visit(s) conducted on: .

Previous Jurisdictional Determinations (AJDs or PJDs): .

Antecedent Precipitation Tool: provide detailed discussion in Section III.B.

USDA NRCS Soil Survey: .

USFWS NWI maps: .

USGS topographic maps: .

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.



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Data Source (select)	Name and/or date and other relevant information
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Issues	N/A.

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

C. Additional comments to support AJD: In accordance with the Navigable Waters Protection Rule (NWPR), groundwater recharge structures that are constructed in uplands or non-jurisdictional waters are not waters of the U.S. According to the available imagery and information, GRB 1-4 are groundwater recharge basins that were constructed in uplands. Pre-construction aerial imagery shows the basins to have been constructed on upland areas that were previously used for agricultural purposes. The NWPR also considers artificial lake/pond constructed or excavated in upland or a non-jurisdictional water to be non-jurisdictional, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6). PON 4-7, 10, 12-13 all appear to have been constructed on upland areas and are not impoundments of any jurisdictional waters. Additionally the NWPR considers ditches that are not (a)(1) or (a)(2) waters, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1), to be non-jurisdictional. NVD 3-5 are not (a)(1) or (a)(2) waters and appear to have been constructed solely in upland areas. The ditches appear to be used for agricultural purposes and have no apparent drainage to waters of the U.S.