



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

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I. ADMINISTRATIVE INFORMATION

Completion Date of Approved Jurisdictional Determination (AJD): [July 12, 2021](#).

ORM Number: [SPK-2021-00318](#).

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

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

Center Coordinates of Review Area: Latitude [38.9554](#). Longitude [-122.6315](#).

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](#).
- 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
E01a.	0.007 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	The subject channels flow only in direct response to precipitation (e.g., rain or snowfall) (33 CFR 328.3(c)(3)).
E01b	0.010 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	The subject channels flow only in direct response to precipitation (e.g., rain or snowfall) (33 CFR

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.



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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
				328.3(c)(3).
E10c	0.005	acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	The subject channels flow only in direct response to precipitation (e.g., rain or snowfall) (33 CFR 328.3(c)(3)).
E10d	0.008	acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	The subject channels flow only in direct response to precipitation (e.g., rain or snowfall) (33 CFR 328.3(c)(3)).

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: [Draft Delineation of Jurisdictional Waters of the United States prepared by Gallaway Enterprises March, 2021](#) .
This information is sufficient for purposes of this AJD.
Rationale: [N/A](#) .
- Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\)](#).
- Photographs: [Aerial: GoogleEarth 7.3.3.7692. \(2019, October 10\). Clearlake, California. 38.9554 latitude, -122.63483° longitude. Retrieved July 12, 2021, from http://www.earth.google.com 2021 Digital Globe. \(2021 January 11\). Clearlake, California. 38.9554° latitude, -122.62483° longitude zoom level 16 \(500 feet\). Retrieved July 12, 2021, from https://evwhs.digitalglobe.com.](#)
- Corps site visit(s) conducted on: [May 17, 2021](#).
- Previous Jurisdictional Determinations (AJDs or PJDs): [ORM Number\(s\) and date\(s\)](#).
- Antecedent Precipitation Tool: [*provide detailed discussion in Section III.B.*](#)
- USDA NRCS Soil Survey: [Title\(s\) and/or date\(s\)](#).
- USFWS NWI maps: [Title\(s\) and/or date\(s\)](#).
- USGS topographic maps: [USGS. \(1945\). Topographic Map Lower Lake, California. 1:62500 scale. 1947 ed. Retrieved from https://ngmdb.usgs.gov/topoview/viewer/#14/38.9554/-122.6315](#)

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 Sources	N/A.



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Data Source (select)	Name and/or date and other relevant information
Other Issues	N/A.

- B. Typical year assessment(s):** The aerial image obtained through Digital Globe was captured during an extreme drought during the wet season and show no indication of water within the project area. Imagery from January 11, 2021 was also reviewed showing no indication of water within the project area. The mild drought are within the typical year as the Corps Antecedent Precipitation Calculator indicated that at the time of this aerial the area was experiencing normal conditions. This ephemeral feature does not indicate evidence of persistent flow.
- C. Additional comments to support AJD:** Site visit showed no evidence of waters present with no connectivity to any tributary. Review of available information indicates that the water flows only in direct response to precipitation (e.g., rain or snow fall). There is no information available to indicate that the subject channel flows continuously seasonally and more than in direct response to precipitation (e.g., seasonally when the groundwater table is elevated). This data supports the conclusion that the subject channel is ephemeral and not seasonally intermittent.