



**DEPARTMENT OF THE ARMY**  
U.S. ARMY CORPS OF ENGINEERS, SACRAMENTO DISTRICT  
1325 J STREET  
SACRAMENTO CA 95814-2922

CESPK-RDC-N

9 August 2024

MEMORANDUM FOR RECORD

SUBJECT: US Army Corps of Engineers (Corps) Approved Jurisdictional Determination in accordance with the "Revised Definition of 'Waters of the United States'"; (88 FR 3004 (January 18, 2023) as amended by the "Revised Definition of 'Waters of the United States'; Conforming" (8 September 2023) ,<sup>1</sup> SPK-2019-00895.

1. BACKGROUND. An Approved Jurisdictional Determination (AJD) is a Corps document stating the presence or absence of waters of the United States on a parcel or a written statement and map identifying the limits of waters of the United States on a parcel. AJDs are clearly designated appealable actions and will include a basis of JD with the document.<sup>2</sup> AJDs are case-specific and are typically made in response to a request. AJDs are valid for a period of five years unless new information warrants revision of the determination before the expiration date or a District Engineer has identified, after public notice and comment, that specific geographic areas with rapidly changing environmental conditions merit re-verification on a more frequent basis.<sup>3</sup>

On January 18, 2023, the Environmental Protection Agency (EPA) and the Department of the Army ("the agencies") published the "Revised Definition of 'Waters of the United States,'" 88 FR 3004 (January 18, 2023) ("2023 Rule"). On September 8, 2023, the agencies published the "Revised Definition of 'Waters of the United States'; Conforming", which amended the 2023 Rule to conform to the 2023 Supreme Court decision in *Sackett v. EPA*, 598 U.S., 143 S. Ct. 1322 (2023) ("*Sackett*").

This Memorandum for Record (MFR) constitutes the basis of jurisdiction for a Corps AJD as defined in 33 CFR §331.2. For the purposes of this AJD, we have relied on Section 10 of the Rivers and Harbors Act of 1899 (RHA),<sup>4</sup> the 2023 Rule as amended, as well as other applicable guidance, relevant case law, and longstanding practice in evaluating jurisdiction.

2. SUMMARY OF CONCLUSIONS.

---

<sup>1</sup> While the Revised Definition of "Waters of the United States"; Conforming had no effect on some categories of waters covered under the CWA, and no effect on any waters covered under RHA, all categories are included in this Memorandum for Record for efficiency.

<sup>2</sup> 33 CFR 331.2.

<sup>3</sup> Regulatory Guidance Letter 05-02.

<sup>4</sup> USACE has authority under both Section 9 and Section 10 of the Rivers and Harbors Act of 1899 but for convenience, in this MFR, jurisdiction under RHA will be referred to as Section 10.

CESPK-RDC-N

SUBJECT: 2023 Rule, as amended, Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), [SPK-2019-00895]

a. A list of each individual feature within the review area and the jurisdictional status of each one (i.e., identify whether each feature is/is not a water of the United States and/or a navigable water of the United States).

(1) Seasonal Wetland (SW-7), Seasonal Wetland (SW-8), Vernal Pool (VP-121), Vernal Pool (VP-122)/Vernal Pool (VP-123), Vernal Pool (VP-124), Vernal Pool (VP-125), Vernal Pool (VP-126), Vernal Pool (VP-127), Vernal Pool (VP-128), Vernal Pool (VP-129), Vernal Pool (VP-130)/Seasonal Wetland 6 (SW-6), Vernal Pool (VP-131), Vernal Pool (VP-132), Vernal Pool (VP-133), Vernal Pool (VP-134), Vernal Pool (VP-135), Vernal Pool (VP-136), Vernal Pool (VP-137), Vernal Pool (VP-138), Vernal Pool (VP-141), Vernal Pool (VP-139), and Vernal Pool (VP-140), are one wetland consistent with the Memorandum on LRB-2021-01386, and non-jurisdictional.

### 3. REFERENCES.

a. "Revised Definition of 'Waters of the United States,'" 88 FR 3004 (January 18, 2023) ("2023 Rule")

b. "Revised Definition of 'Waters of the United States'; Conforming" 88 FR 61964-61969 (September 8, 2023)

c. *Sackett v. EPA*, 598 U.S., 143 S. Ct. 1322 (2023)

4. REVIEW AREA. The approximately 6.8-acre review area is located northeast of the intersection of [REDACTED]

[REDACTED] The area marked as "Study Area" in the enclosed map titled *Aquatic Resources Delineation*, [REDACTED], is the review area discussed in this MFR.

5. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), THE TERRITORIAL SEAS, OR INTERSTATE WATER TO WHICH THE AQUATIC RESOURCE IS CONNECTED. The Sacramento River is the nearest downstream TNW (Enclosures 2). The Sacramento District identifies the Sacramento River as a navigable water of the United States pursuant to the Rivers and Harbors Act and 33 CFR Part 329 (i.e., a Section 10 Water) from Suisun Bay, an arm of the San Francisco Bay, to Keswick Dam, at river mile 301.6.

6. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, THE TERRITORIAL SEAS, OR INTERSTATE WATER.

a. The subject waters are geographically near Pleasant Grove Creek which flows approximately 14.6 miles west to Pleasant Grove Creek Canal. Pleasant Grove Creek Canal flows for approximately 7.48 miles with a navigable stretch of the Sacramento River (Enclosure 2 and 3). The wetlands SW-6/VP-130, SW-7, SW-8, VP-121, VP-122/VP-123, VP-124, VP-125, VP-126, VP-127, VP-128, VP-129, VP-131, VP-132, VP-133, VP-134, VP-135, VP-136, VP-137, VP-138/VP-141, VP-139, and VP-140 are within a wetland

CESPK-RDC-N

SUBJECT: 2023 Rule, as amended, Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), [SPK-2019-00895]

mosaic and do not have a continuous surface connection to an (a)(1), (a)(2), and(a)(3) water. Consistent with Memorandum on LRB-2021-01386, generally act as a single ecological unit and function as a single wetland.

b. The entirety of the review area is surrounded by road infrastructure on the western and southern borders, and a commercial parking lot on the north and east. The review area is higher than the surrounding roads. There are no culverts or any additional infrastructure that would provide a surface connection to other parcels containing connections to jurisdictional waters. The absence of a feature that could provide a surface connection was observed during the Corps July 18, 2024, site visit.

7. SECTION 10 JURISDICTIONAL WATERS<sup>5</sup>: Aquatic resources or other features within the review area determined to be jurisdictional in accordance with Section 10 of the Rivers and Harbors Act of 1899. N/A

8. SECTION 404 JURISDICTIONAL WATERS: Aquatic resources within the review area that were found to meet the definition of waters of the United States in accordance with the 2023 Rule as amended, consistent with the Supreme Court’s decision in *Sackett*.

a. Traditional Navigable Waters (TNWs) (a)(1)(i): N/A

b. The Territorial Seas (a)(1)(ii): N/A.

c. Interstate Waters (a)(1)(iii): N/A.

d. Impoundments (a)(2): N/A.

e. Tributaries (a)(3): N/A.

f. Adjacent Wetlands (a)(4): N/A.

g. Additional Waters (a)(5): N/A.

9. NON-JURISDICTIONAL AQUATIC RESOURCES AND FEATURES

a. Aquatic resources and other features within the review area identified in the 2023 Rule as amended as not “waters of the United States” even where they otherwise

---

<sup>5</sup> 33 CFR 329.9(a) A waterbody which was navigable in its natural or improved state, or which was susceptible of reasonable improvement (as discussed in § 329.8(b) of this part) retains its character as “navigable in law” even though it is not presently used for commerce or is presently incapable of such use because of changed conditions or the presence of obstructions.

CESPK-RDC-N

SUBJECT: 2023 Rule, as amended, Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), [SPK-2019-00895]

meet the terms of paragraphs (a)(2) through (5) and determined to meet one of the exclusions listed in 33 CFR 328.3(b).<sup>6</sup> N/A

b. Aquatic resources and features within the review area that were determined to be non-jurisdictional because they do not meet one or more categories of waters of the United States under the 2023 Rule as amended (e.g., tributaries that are non-relatively permanent waters; non-tidal wetlands that do not have a continuous surface connection to a jurisdictional water.

(1) The wetland mosaic within the review area, consisting of SW-6, SW-7, SW-8, VP-121, VP-122, VP-123, VP-124, VP-125, VP-126, VP-127, VP-128, VP-129, VP-130, VP-131, VP-132, VP-133, VP-134, VP-135, VP-136, VP-137, VP-138, VP-139, VP-140, and VP-141, totals 0.12-acres. The wetland SW-6, SW-7, SW-8, VP-121, VP-122, VP-123, VP-124, VP-125, VP-126, VP-127, VP-128, VP-129, VP-130, VP-131, VP-132, VP-133, VP-134, VP-135, VP-136, VP-137, VP-138, VP-139, VP-140, and VP-141, does not fit the “Waters of the United States” definition as it doesn’t meet the requirements of a water identified in 33 CFR 328.3(a)(1) through (a)(3) and it does not possess a continuous surface connection to a jurisdictional water. This wetland was evaluated as a singular wetland, consistent with Memorandum on LRB-2021-01386.

(2) The area surrounding this wetland is upland and without a discrete feature to convey water. The wetland is surrounded by upland grassland. It is apparent after reviewing aerial imagery from GoogleEarth, Digital Globe, and LiDAR, in addition to the Corps site visit, that no features that could provide a continuous surface connection are present. The review area is at a higher elevation than the roads that surround the site to the west and east. Additionally, no discrete feature that could convey surface water from the wetland out of the review area is present in or around the review area.

(3) Prior land use within the review area resulted in several earthen manmade berms and soil mounds. In particular, there is a berm along the west side of the mapped wetland SW-8 and a large mound of soil near the center of the site. Additionally, a graded area runs through the center of the site and along the boundry of the site. These changes to the review area did not add or remove the presence of a continuous surface connection.

(4) After a review of arial imagery from GoogleEarth and Digital Globe, it appears the wetlands within the review area are inundated around the same time during the wet season indicating the presence of a subsurface connection within the wetland mosaic. This is further supported by the soil mapped within the review area. A single soil unit is mapped within the review area (NRCS 2024). This soil consists of very stony loam overlaying unweather bedrock soil starting at 11 to 15 inches. The soil is described as somewhat excessively drained, with a depth to restrictive feature ranging from 11 to 15 inches.

---

<sup>6</sup> 88 FR 3004 (January 18, 2023)

CESPK-RDC-N

SUBJECT: 2023 Rule, as amended, Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), [SPK-2019-00895]

10. DATA SOURCES. List sources of data/information used in making determination. Include titles and dates of sources used and ensure that information referenced is available in the administrative record.

- a. U.S. Army Corps of Engineers. July 18, 2024. Field Site Evaluation.
- b. U.S. Army Corps of Engineers. May 28, 2024. Office Evaluation.
- c. The May 24, 2024, *Aquatic Resources Delineation*, [REDACTED] map supplied and prepared by [REDACTED]
- d. Memorandum on LRB-2021-01386 (February 16, 2024). U.S. Environmental Protection Agency and Office of the Assistant Secretary of the Army (Civil Works) U.S. Department of the Army.
- e. NRCS (April 25, 2024) Custom Soil Resource Report for Placer County, California, Western Part, [REDACTED] (SPK 2019-00895). Natural Resources Conservation Service, U.S. Department of Agriculture, retrieved from <https://websoilsurvey.sc.egov.usda.gov/App/WebsoilSurvey.aspx>.
- f. USFWS (n.d.) National Wetland Inventory. Project Area: Yuba County, California. Source Imagery Date: 1984. Washington D.C.: U.S. Fish and Wildlife Service, Dept. of the Interior. Retrieved May 28, 2024, from Wetland Mapper: <https://fwsprimary.wim.usgs.gov/wetlands/apps/wetlands-mapper/>.
- g. FEMA (Effective November 2, 2018) Flood Map Service Center. National Flood Hazard Layer 06061C0941H. Federal Emergency Management Agency, U.S. Department of Homeland Security. Retrieved May 28, 2024, from <https://msc.fema.gov/portal/search?AddressQuery=-121.194838%2C%2038.786521>.
- h. Google Earth 7.3.3.7692 (November 23, 2023, April 22, 2023, and October 22, 2020). Placer County, California, 38.8111 N, -121.2937° W, eye alt 905 ft. Retrieved May 28, 2024, from <http://www.earth.google.com>.
- i. The Corps previous Aquatic Resources Delineation Verification, issued on May 25, 2020.
- j. Historic Aerials (2005, 2002, and 1984), Historic Aerial Viewer, NETRonline. Placer County, California, Latitude 38.8111°, Longitude -121.2937°. Retrieved May 28, 2024, from <http://www.historicaerials.com/viewer>.
- k. *LiDAR* (SPK-2019-00895) [map], 1:1000. Generated by the US Army Corps of Engineers, May 28, 2024.

CESPK-RDC-N

SUBJECT: 2023 Rule, as amended, Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), [SPK-2019-00895]

l. Digital Globe: May 9, 2024, Digital Globe Imagery (SPK-2019-00895) [map]. 1:280. Generated by Army Corps of Engineers, June 11, 2024. Using ArcGIS Pro.

m. Digital Globe: Feb 11, 2024, Digital Globe Imagery (SPK-2019-00895) [map]. 1:280. Generated by Army Corps of Engineers, June 11, 2024. Using ArcGIS Pro.

n. Digital Globe: Jan 22, 2023, Digital Globe Imagery (SPK-2019-00895) [map]. 1:280. Generated by Army Corps of Engineers, June 11, 2024. Using ArcGIS Pro.

o. Digital Globe: Jan 29, 2022, Digital Globe Imagery (SPK-2019-00895) [map]. 1:280. Generated by Army Corps of Engineers, June 11, 2024. Using ArcGIS Pro.

p. NHD: Flow Path Map Closeup (SPK-2019-00895) [map]. 1:2,000. Generated by Army Corps of Engineers, June 11, 2024. Using ArcGIS Pro.

q. NHD: Flow Path Map Downstream TNW [map]. 1:20,000. Generated by Army Corps of Engineers, June 11, 2024. Using ArcGIS Pro.

r. Geological Survey. 2023. National Geospatial Program, USGS National Hydrography Dataset Best Resolution (NHD) for Hydrological Unit (HU) 8 – 18020161. Shapefile: U.S. Geological Survey.

## 11. OTHER SUPPORTING INFORMATION.

a. The wetland within the review area, SW-6, SW-7, SW-8, VP-121, VP-122, VP-123, VP-124, VP-125, VP-126, VP-127, VP-128, VP-129, VP-130, VP-131, VP-132, VP-133, VP-134, VP-135, VP-136, VP-137, VP-138, VP-139, VP-140, and VP-141, is not adjacent wetland as it does not share a continuous surface connection to an (a)(1), (a)(2), or (a)(3) water. Lack of a continuous surface connection to an (a)(1), (a)(2), and (a)(3) water can be seen on the aerial imagery and LiDAR. Additionally, during the Corps site visit no culverts or other features that could provide a continuous surface connection were observed.

b. The Corps of Engineers Antecedent Precipitation Tool (APT) indicated that the Corps July 18, 2024, site visit occurred during the dry season, when three-month antecedent precipitation was within the range of normal, with the Palmer Drought Severity Index (PDSI) indicating incipient drought conditions regionally. The APT indicated that the agent's original January 27, 2020, site visit occurred during the wet season, when three-month antecedent precipitation was within the range of normal, with the PDSI indicating mild drought conditions regionally. The APT indicated that the agent's secondary May 6, 2024, site visit occurred during the dry season, when three-month antecedent precipitation was within the range of normal, and the PDSI indicated incipient wetness rather than drought conditions regionally. The February 11, 2024, January 22, 2023, and January 29, 2022, images from Digital Globe and the November 11, 2023, image from Google Earth were helpful in this review. The APT shows that the November 11, 2023, Google Earth Imagery was obtained during the wet season, when three-month antecedent

CESPK-RDC-N

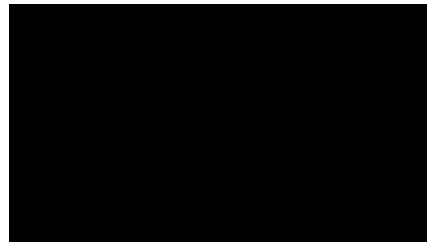
SUBJECT: 2023 Rule, as amended, Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), [SPK-2019-00895]

precipitation was normal. The APT shows that the April 22, 2023, Google Earth imagery was obtained during the dry season, when three-month antecedent precipitation was normal. The APT shows that the October 22, 2020, Google Earth imagery was obtained during the dry season, when three-month antecedent precipitation was normal. The May 9, 2024, image from Digital Globe and the April 22, 2023, and October 22, 2020, images from Google Earth were acquired in the dry season, as a result they proved not to be as helpful in this review. The APT shows the February 11, 2024, Digital Globe Imagery was acquired in the wet season, when three-month antecedent precipitation was normal. The APT shows the January 22, 2023, Digital Globe Imagery was acquired in the wet season, when three-month antecedent precipitation was wetter than normal. The APT shows the January 29, 2022, Digital Globe Imagery was acquired in the wet season when three-month antecedent precipitation was normal.

12. NOTE: The structure and format of this MFR were developed in coordination with the EPA and Department of the Army. The MFR's structure and format may be subject to future modification or may be rescinded as needed to implement additional guidance from the agencies; however, the approved jurisdictional determination described herein is a final agency action.

Enclosures

1. Aquatic Resources Delineation Map
2. Flow Path Maps
3. LiDAR Map
4. Feb 11, 2024, Digital Globe Imagery
5. Jan 22, 2023, Digital Globe Imagery
6. Jan 29, 2022, Digital Globe Imagery

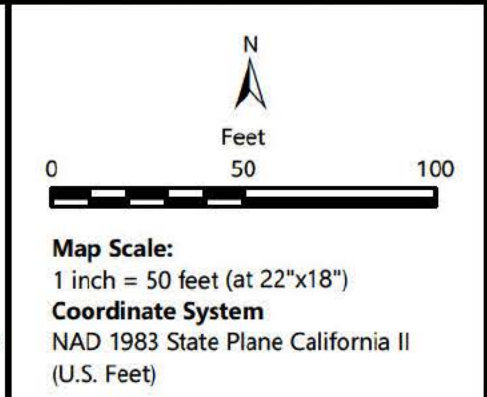




| Aquatic Resource Features *     |              |
|---------------------------------|--------------|
| <b>Wetlands</b>                 |              |
| <b>Seasonal Wetland</b>         |              |
| Feature ID                      | Acreage      |
| SW-6                            | 0.001        |
| SW-7                            | 0.002        |
| SW-8                            | 0.025        |
| <b>0.027</b>                    |              |
| <b>Vernal Pool</b>              |              |
| Feature ID                      | Acreage      |
| VP-121                          | 0.003        |
| VP-122                          | 0.016        |
| VP-123                          | 0.016        |
| VP-124                          | 0.002        |
| VP-125                          | 0.008        |
| VP-126                          | 0.001        |
| VP-127                          | 0.003        |
| VP-128                          | 0.001        |
| VP-129                          | 0.003        |
| VP-130                          | 0.005        |
| VP-131                          | 0.001        |
| VP-132                          | 0.001        |
| VP-133                          | 0.002        |
| VP-134                          | 0.001        |
| VP-135                          | 0.003        |
| VP-136                          | 0.002        |
| VP-137                          | 0.002        |
| VP-138                          | 0.005        |
| VP-139                          | 0.004        |
| VP-140                          | 0.004        |
| VP-141                          | 0.004        |
| <b>0.087</b>                    |              |
| <b>Acreage</b>                  |              |
| <b>Total Wetlands:</b>          | <b>0.114</b> |
| <b>Acreage</b>                  |              |
| <b>Aquatic Resources Total:</b> | <b>0.114</b> |

**Prepared For:**  
 [Redacted]  
 [Redacted]  
 [Redacted]  
**Sources**  
 Aerial: City of Rocklin, 18 April 2018  
 Boundary: [Redacted]  
 Aquatic Resources: [Redacted]  
 [Redacted]

**Date Map Prepared:** 13 May 2024  
 Made in accordance with the  
*Updated Map and Drawing Standards for the  
 South Pacific Division Regulatory Program,*  
 as amended on February 10, 2016  
 \* Small summation errors may occur due to rounding



- Study Area (6.8 acres)
- Reference Coordinate (NAD83)
- Sample Point

- Aquatic Resources (0.114 acre) \***
- Wetlands**
  - Seasonal Wetland (0.027 acre)
  - Vernal Pool (0.087 acre)

P:\Water\_Oasis\_Regional\_Hourly - 23061\Map\1805\MXD\ARD\USACE\ARD\_Maps\042.mxd (01/3/2024)