



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

CESPK-RDC-S

05 June 2025

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-2020-00297.

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

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<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.

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.

## 1. SUMMARY OF CONCLUSIONS.

a. Provide 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).

Aquatic Resource ID	Jurisdictional/ Non-Jurisdictional	Authority
C3	Jurisdictional	Section 404
C4	Jurisdictional	Section 404
Culvert1	Jurisdictional	Section 404
SW16	Non-Jurisdictional	None
SW17	Non-Jurisdictional	None
SW18	Non-Jurisdictional	None
SW25	Non-Jurisdictional	None
SW31	Non-Jurisdictional	None
SW44	Non-Jurisdictional	None
SWS22	Non-Jurisdictional	None
SWS35	Non-Jurisdictional	None
SWS4	Non-Jurisdictional	None
SWS53	Non-Jurisdictional	None
VP140	Non-Jurisdictional	None
VP33	Non-Jurisdictional	None
VP34	Non-Jurisdictional	None
VP5	Non-Jurisdictional	None
VP50	Non-Jurisdictional	None
VP51	Non-Jurisdictional	None
VP52	Non-Jurisdictional	None
D-01	Non-Jurisdictional	None
DB-01	Non-Jurisdictional	None
DB-06	Non-Jurisdictional	None
ES1	Non-Jurisdictional	None
ES5	Non-Jurisdictional	None

<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-S

SUBJECT: 2023 Rule, as amended, Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), [SPK-2020-00297]

ES6	Non-Jurisdictional	None
SW1	Non-Jurisdictional	None
SW2	Non-Jurisdictional	None
SW59	Non-Jurisdictional	None
SW61	Non-Jurisdictional	None
SWS1	Non-Jurisdictional	None
SWS2	Non-Jurisdictional	None
SWS26	Non-Jurisdictional	None
SWS3	Non-Jurisdictional	None
SWS38	Non-Jurisdictional	None
SWS84	Non-Jurisdictional	None
SWS9	Non-Jurisdictional	None
VP1	Non-Jurisdictional	None
VP59	Non-Jurisdictional	None
VP7	Non-Jurisdictional	None
DB-09	Non-Jurisdictional	None
SW33	Non-Jurisdictional	None
VP133	Non-Jurisdictional	None
VP3	Non-Jurisdictional	None
VP4	Non-Jurisdictional	None
VP99	Non-Jurisdictional	None
D-02	Non-Jurisdictional	None
D-14	Non-Jurisdictional	None
D-15	Non-Jurisdictional	None
D-16	Non-Jurisdictional	None
DB-07	Non-Jurisdictional	None
DB-08	Non-Jurisdictional	None
SW7	Non-Jurisdictional	None
SW8	Non-Jurisdictional	None
D-11	Non-Jurisdictional	None
SW4	Non-Jurisdictional	None
SW5	Non-Jurisdictional	None
D-08	Non-Jurisdictional	None
D-09	Non-Jurisdictional	None
SW3	Non-Jurisdictional	None
SW47	Non-Jurisdictional	None
SW48	Non-Jurisdictional	None
SW49	Non-Jurisdictional	None
SW50	Non-Jurisdictional	None
SW55	Non-Jurisdictional	None
SWS76	Non-Jurisdictional	None

VP143	Non-Jurisdictional	None
VP144	Non-Jurisdictional	None
VP145	Non-Jurisdictional	None
VP146	Non-Jurisdictional	None
D-05	Non-Jurisdictional	None
D-06	Non-Jurisdictional	None
D-06b	Non-Jurisdictional	None
D-03	Non-Jurisdictional	None
D-04	Non-Jurisdictional	None
DB-02	Non-Jurisdictional	None
DB-03	Non-Jurisdictional	None
DB-04	Non-Jurisdictional	None
DB-05	Non-Jurisdictional	None
SWS81	Non-Jurisdictional	None
SWS82	Non-Jurisdictional	None
SWS83	Non-Jurisdictional	None
SWS86	Non-Jurisdictional	None
SWS89	Non-Jurisdictional	None

## 2. 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 (September 8, 2023))

c. *Sackett v. EPA*, 598 U.S. 651, 143 S. Ct. 1322 (2023)

3. REVIEW AREA. The approximately 303.36-acre review area is located within the U.S. Geological Survey (USGS) Lanes Bridge 7.5-minute quadrangle in Sections 4, 9, 16, 21, 28, and 33, Townships 11S and 12S, Range 20E, MDB&M, approximately six miles southwest of Millerton Lake in Madera County, California. The approximate center of the review area is 36.936224°, -119.793767° (Enclosure 1). There are no previous approved jurisdictional determinations that overlap with the review area.

4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), THE TERRITORIAL SEAS, OR INTERSTATE WATER TO WHICH THE AQUATIC RESOURCE IS

CONNECTED.<sup>5</sup> The nearest TNW to which the onsite aquatic resources are connected is the San Joaquin River.

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

Upstream of the review area, the San Joaquin River is diverted to Millerton Lake (which is formed by Friant Dam), which then flows to Madera Canal, then to Madera Lateral 6.2, which crosses through the review area. Within the review area, C3, C4, and Culvert1 are a segment of Madera Lateral 6.2, and SW4, SW5, and D-11 drain into the canal. Downstream, Madera Lateral 6.2 splits in numerous directions, and eventually connects back with the San Joaquin River (Enclosure 2 depicts one such flow path).

Other than SW4, SW5, and D-11, the aquatic resources within the review area that are located north of Madera Lateral 6.2 flow west into Little Dry Creek, which continues west until it merges into Cottonwood Creek. Cottonwood Creek runs southwest and flows into the Chowchilla Bypass, which runs northwest. Chowchilla Bypass flows into Eastside Bypass, which continues northwest until it reaches the San Joaquin River (Enclosure 2).

The aquatic resources within the review area that are located south of Madera Lateral 6.2 have no discernable connections to a downstream TNW. D-08, D-09, SW3, SW47, SW48, SW49, SW50, SW55, SWS76, VP143, VP144, VP145, VP146, D-05, D-06, and D-06b have a discernable flowpath that runs west-southwest out of the review area for over seven miles before terminating in an agricultural field. D-01, DB-01, DB-06, ES1, ES5, ES6, SW1, SW2, SW59, SW61, SWS1, SWS2, SWS26, SWS3, SWS38, SWS84, SWS9, VP1, VP59, VP7, DB-09, SW33, VP133, VP3, VP4, VP99, D-02, D-14, D-15, D-16, DB-07, DB-08, SW7, SW8, D-11, SW4, SW5, D-08, D-09, SW3, SW47, SW48, SW49, SW50, SW55, SWS76, VP143, VP144, VP145, VP146, D-05, D-06, D-06b, D-03, D-04, DB-02, DB-03, DB-04, DB-05, SWS81, SWS82, SWS83, SWS86, and SWS89 have a discernable flowpath that runs west-southwest out of the review area for over eight miles before terminating in a closed basin (Enclosure 2).

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<sup>5</sup> This MFR should not be used to complete a new stand-alone TNW determination. A stand-alone TNW determination for a water that is not subject to Section 9 or 10 of the Rivers and Harbors Act of 1899 (RHA) 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.

6. SECTION 10 JURISDICTIONAL WATERS<sup>6</sup>: Describe 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. Include the size of each aquatic resource or other feature within the review area and how it was determined to be jurisdictional in accordance with Section 10.<sup>7</sup> N/A, there are no Section 10 waters in the review area.

7. SECTION 404 JURISDICTIONAL WATERS: Describe the 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*. List each aquatic resource separately, by name, consistent with the naming convention used in section 1, above. Include a rationale for each aquatic resource, supporting that the aquatic resource meets the relevant category of "waters of the United States" in the 2023 Rule as amended. The rationale should also include a written description of, or reference to a map in the administrative record that shows, the lateral limits of jurisdiction for each aquatic resource, including how that limit was determined, and incorporate relevant references used. Include the size of each aquatic resource in acres or linear feet and attach and reference related figures as needed.

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): **C3, C4, and Culvert1** make up a 0.8646-acre segment of the Madera Lateral 6.2 irrigation canal. The canal is a relatively permanent tributary to the San Joaquin River, which is a TNW. According to the USGS National Hydrography Dataset (NHD), the C3, C4, and Culvert1 segment of the Madera Lateral 6.2 irrigation canal is part of a second-order tributary reach. The reach originates approximately 1 mile northeast of the review area, where it separates

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<sup>6</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.

<sup>7</sup> This MFR is not to be used to make a report of findings to support a determination that the water is a navigable water of the United States. The district must follow the procedures outlined in 33 CFR part 329.14 to make a determination that water is a navigable water of the United States subject to Section 10 of the RHA.

from the Madera Canal. The tributary reach ends approximately 1.7 miles downstream of the C3, C4, and Culvert1 segment of the review area, where the Madera Lateral 6.2 irrigation canal meets its first turnout. The total length of the tributary reach measures approximately 2.7 miles. Within the review area, flow travels southwest from C4 into Culvert1, which crosses under State Route 41, and then into C3. Flow from C3 continues southwest outside of the review area, where it splits off into a number of pipes and canals. The Madera Lateral 6.2 is mapped as a perennial river on the Lanes Bridge, California U.S. Geological Survey (USGS) 7.5-minute Topographic Quadrangle and is mapped as a canal ditch on the NHD. Based on historic aerial imagery, the Madera Lateral 6.2 canal was likely constructed sometime between 1946 and 1962. A review of aerial imagery between 2017 and 2025 with imagery taken during different times of year (specific dates evaluated include August 23, 2018, September 8, 2018, June 26, 2020, June 6, 2021, August 19, 2021, May 9, 2023, May 15, 2023, September 7, 2023, February 13, 2024, July 16, 2024, and January 30, 2025) demonstrate that the C3, C4, and Culvert1 tributary reach has flowing or standing water continuously during certain times of the year and for more than just a short duration in direct response to precipitation. Therefore, this reach of the of the Madera Lateral 6.2 irrigation canal is a relatively permanent water, and as such, it does not qualify as a (b)(3) excluded ditch. This reach meets the definition of an (a)(3) water under the 2023 Rule as amended. The following table provides the individual acreages of each feature:

Aquatic Resource ID	Acreage
C3	0.308
C4	0.349
Culvert1	0.013

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

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

## 8. NON-JURISDICTIONAL AQUATIC RESOURCES AND FEATURES

a. Describe 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 meet the terms of paragraphs (a)(2) through (5). Include the type of excluded aquatic resource or feature, the size of the aquatic resource or

feature within the review area and describe how it was determined to meet one of the exclusions listed in 33 CFR 328.3(b).<sup>8</sup>

**DB-06, DB-07, DB-08, and DB-09** make up a total of 0.479 acres of intrastate ponds within the review area. They were constructed in dry land as municipal settling basins. Each of the basins exhibit ordinary high water mark indicators. Aerial imagery demonstrates that DB-06 was constructed after 2017, DB-07 was constructed after 2008, DB-08 was constructed after 2004, and DB-09 was constructed after 1983. DB-06, DB-07, DB-08, and DB-09 are artificial ponds that were created by excavating dry land to collect and retain water, and which are used as settling basins. As these features meet the criteria of (b)(5) excluded waters, they are not “waters of the United States.” The following table provides the individual acreages of each feature:

Aquatic Resource ID	Acreage
DB-06	0.315
DB-07	0.081
DB-08	0.020
DB-09	0.063

b. Describe 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).

A total of 0.459 acres of non-relatively permanent tributaries are present within the review area. **D-01, D-02, D-03, D-04, D-05, D-06, D-06b, D-08, D-09, D-11, D-14, D-15, and D-16** are non-relatively permanent roadside ditches that only flow in response to precipitation events. **ES1, ES5, and ES6** are non-relatively permanent ephemeral streams that only flow in response to precipitation events. Aerial imagery taken on numerous dates, including on September 8, 2018, July 5, 2020, October 14, 2020, November 3, 2021, May 3, 2023, October 15, 2023, February 13, 2024, and December 2, 2024, was examined. Each of those dates were classified as having ‘normal’ or ‘wetter than normal’ 3-month antecedent precipitation conditions. The tributaries did not contain flowing or standing water on any of the observed dates, indicating that the tributaries do not flow continuously for certain times of the year and likely contain flows for only a short duration in direct response to

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<sup>8</sup> 88 FR 3004 (January 18, 2023)



precipitation. As these features do not meet one or more categories of waters of the U.S. under the 2023 Rule as amended, they are non-jurisdictional under Section 404 of the Clean Water Act. The following table provides the individual acreages of each feature:

Aquatic Resource ID	Acreage
D-01	0.001
D-02	0.003
D-03	0.003
D-04	0.022
D-05	0.001
D-06	0.003
D-06b	0.025
D-08	0.004
D-09	0.001
D-11	0.007
D-14	0.006
D-15	0.003
D-16	0.200
ES1	0.151
ES5	0.016
ES6	0.013

**SW16, SW17, SW18, SW25, SW31, SW44, SWS22, SWS35, SWS4, SWS53, VP140, VP33, VP34, VP5, VP50, VP51, and VP52** are aquatic resources that meet the Corps' three-part criteria for a wetland, but they do not meet the definition of Waters of the U.S., as they are not adjacent to an (a)(1), (a)(2), or (a)(3) water. Each of these aquatic resources are within a portion of the review area that slopes downward to the west. State Route 41 bisects this portion the review area down the middle. SW16, SW17, SW18, SW25, SWS22, SWS4, SWS53, VP33, VP34, VP5, VP50, VP51, and VP52 are located on the east side of State Route 41, and they are connected to the west side of State Route 41 via a culvert under the road. SW31, SW44, SWS35, and VP140 are located on the west side of State Route 41. All of the aquatic resources in this portion of the review area drain to the west and converge into SWS35, which is a seasonal wetland swale that, as mentioned previously, lacks adjacency to an (a)(1), (a)(2), or (a)(3) water. After converging into SWS35, any surface flow would continue west outside of the review area, where, after more than 3,000 feet, it would reach an unevaluated potentially jurisdictional water. The long distance between the wetlands and the potentially jurisdictional water are too extended and tenuous to constitute a continuous surface connection, and therefore, SW16, SW17, SW18, SW25, SW31, SW44, SWS22, SWS35, SWS4, SWS53,

VP140, VP33, VP34, VP5, VP50, VP51, and VP52 are not jurisdictional as they do not meet the definition of an (a)(4) wetland under the 2023 rule due to the lack of adjacency with a jurisdictional resource, and they do not meet any of the other categories of waters of the U.S. under the 2023 Rule as amended. The following table provides the individual acreages of each feature:

Aquatic Resource ID	Acreage
SW16	0.003
SW17	0.002
SW18	0.003
SW25	0.001
SW31	0.005
SW44	0.018
SWS22	0.167
SWS35	0.050
SWS4	0.013
SWS53	0.033
VP140	0.002
VP33	0.009
VP34	0.013
VP5	0.015
VP50	0.053
VP51	0.011
VP52	0.008

**DB-01, DB-02, DB-03, DB-04, and DB-05** make up a total of 3.796 acres of intrastate ponds within the review area. They are manmade detention basins constructed for agricultural purposes. Based on aerial imagery, each of the basins were constructed after 1946. Each of the basins exhibit ordinary high water mark indicators. Water was not observed in any of the basins in Digital Globe aerial imagery dated December 21, 2024, December 2, 2024, October 15, 2023, October 6, 2023, and September 7, 2023, or in EarthExplorer aerial imagery dated June 20, 2022, July 5, 2020, and September 8, 2018, indicating that the basins are not relatively permanent waters and, as such, are not (a)(3) tributaries or (a)(5) intrastate ponds. Furthermore, if evaluating each basin as a potential (a)(4) wetland, none of the basins are adjacent to an (a)(1), (a)(2), or (a)(3) water, so they would not meet the criteria of an (a)(4) water. Therefore, regardless of whether each basin is examined as a tributary, pond, or wetland, none of the basins meet the one or more categories of waters of the U.S. under the 2023 Rule as amended, and as such they are non-jurisdictional under Section 404 of the Clean Water Act. The following table provides the individual acreages of each feature:

Aquatic Resource ID	Acreage
DB-01	0.632
DB-02	0.206
DB-03	0.040
DB-04	1.014
DB-05	1.903

**SW1, SW2, SW59, SW61, SWS1, SWS2, SWS26, SWS3, SWS38, SWS84, SWS9, VP1, VP59, and VP7** are aquatic resources that meet the Corps' three-part criteria for a wetland, but they do not meet the definition of Waters of the U.S., as they are not adjacent to an (a)(1), (a)(2), or (a)(3) water. SW1, SW2, SWS1, SWS2, SWS26, SWS3, SWS38, SWS84, SWS9, VP1, and VP7 first drain to the southeast, where they converge into VP59, which is a vernal pool that, as mentioned previously, lacks adjacency to an (a)(1), (a)(2), or (a)(3) water. After converging into VP59, any surface flow would continue southeast outside of the review area, where after approximately 1,000 feet, the topography slope changes so that any surface flow would change direction and head southwest for approximately 1,250 feet, at which point it would re-enter the review area, where the topography again changes its slope so that surface flow would continue west. This segment of the review area also contains SW59 and SW61. All of the wetlands in this portion of the review area drain and converge into ES6, which, as discussed previously in this document, is a non-relatively permanent ephemeral stream that is non-jurisdictional under Section 404 of the Clean Water Act. As none of the wetlands in this portion of the review area abut an (a)(1), (a)(2), or (a)(3) water, SW1, SW2, SW59, SW61, SWS1, SWS2, SWS26, SWS3, SWS38, SWS84, SWS9, VP1, VP59, and VP7 are not jurisdictional because they do not meet the definition of an (a)(4) wetland under the 2023 rule due to the lack of adjacency with a jurisdictional resource, and they do not meet any of the other categories of waters of the U.S. under the 2023 Rule as amended. The following table provides the individual acreages of each feature:

Aquatic Resource ID	Acreage
SW1	0.042
SW2	0.021
SW59	0.084
SW61	0.008
SWS1	0.118
SWS2	0.020
SWS26	0.005
SWS3	0.049

SWS38	0.644
SWS84	0.046
SWS9	0.004
VP1	0.029
VP59	0.134
VP7	0.004

**SW33, VP3, VP4, VP99, and VP133** are aquatic resources that meet the Corps' three-part criteria for a wetland, but they do not meet the definition of Waters of the U.S., as they are not adjacent to an (a)(1), (a)(2), or (a)(3) water. Each of these aquatic resources are within a portion of the review area that slopes downward to the west. There are no nearby features that could provide a continuous connection from these aquatic resources to a jurisdictional water, and any flow from the aquatic resources would occur as overland sheet flow to the west. Furthermore, while these aquatic resources are relatively close to Avenue 15 and State Route 41, the segments of road in the vicinity do not have roadside ditches, swales, or erosional features that could provide a connection. As none of the wetlands in this portion of the review area abut an (a)(1), (a)(2), or (a)(3) water, SW33, VP3, VP4, VP99, and VP133 are not jurisdictional because they do not meet the definition of an (a)(4) wetland under the 2023 rule due to the lack of adjacency with a jurisdictional resource, and they do not meet any of the other categories of waters of the U.S. under the 2023 Rule as amended. The following table provides the individual acreages of each feature:

Aquatic Resource ID	Acreage
SW33	0.012
VP3	0.005
VP4	0.084
VP99	0.008
VP133	0.008

SW7, and SW8 are aquatic resources that meet the Corps' three-part criteria for a wetland, but they do not meet the definition of Waters of the U.S., as they are not adjacent to an (a)(1), (a)(2), or (a)(3) water. Both SW7 and SW8 drain towards D-15, which, as discussed previously in this document, is a non-relatively permanent ditch that is non-jurisdictional under Section 404 of the Clean Water Act. If viewing D-15 simply as a feature and connection that conveys water, the nearest potentially jurisdictional aquatic resource, which is unevaluated, is over 600 feet west of SW7 and SW8. The long distance between the wetlands and the potentially jurisdictional water are too extended and tenuous to constitute a continuous surface connection.

Therefore, as neither SW7 or SW8 are adjacent to an (a)(1), (a)(2), or (a)(3) water, they are not jurisdictional because they do not meet the definition of an (a)(4) wetland under the 2023 rule due to the lack of adjacency with a jurisdictional resource, and they do not meet any of the other categories of waters of the U.S. under the 2023 Rule as amended. The following table provides the individual acreages of each feature:

Aquatic Resource ID	Acreage
SW7	0.021
SW8	0.032

**SW4 and SW5** are aquatic resources that meet the Corps' three-part criteria for a wetland, but they do not meet the definition of Waters of the U.S., as they are not adjacent to an (a)(1), (a)(2), or (a)(3) water. Each of these aquatic resources are within a portion of the review area that drains downward to the south. State Route 41 bisects this portion of the review area down the middle, and SW4 and SW5 are located on the west side of the road. Both SW4 and SW5 drain south where, after approximately 280 feet, they meet D-11, which, as discussed previously in this document, is a non-relatively permanent roadside ditch that is non-jurisdictional under Section 404 of the Clean Water Act. As neither SW4 or SW5 abut an (a)(1), (a)(2), or (a)(3) water, they are not jurisdictional because they do not meet the definition of an (a)(4) wetland under the 2023 rule due to the lack of adjacency with a jurisdictional resource, and they do not meet any of the other categories of waters of the U.S. under the 2023 Rule as amended. The following table provides the individual acreages of each feature:

Aquatic Resource ID	Acreage
SW4	0.071
SW5	0.051

**SW3, SW47, SW48, SW49, SW50, SW55, SWS76, VP143, VP144, VP145, and VP146** are aquatic resources that meet the Corps' three-part criteria for a wetland, but they do not meet the definition of Waters of the U.S., as they are not adjacent to an (a)(1), (a)(2), or (a)(3) water. Each of these aquatic resources are within a portion of the review area that slopes downward to the southwest. State Route 41 runs north to south through this portion the review area and each of the aquatic resources are located to the west of the road. Any flow from these aquatic resources would occur as overland sheet flow to the southwest, and there are no nearby features that could provide a continuous connection from these aquatic resources to a jurisdictional water. As none of the wetlands in this portion of the review area abut

an (a)(1), (a)(2), or (a)(3) water, SW3, SW47, SW48, SW49, SW50, SW55, SWS76, VP143, VP144, VP145, and VP146 are not jurisdictional because they do not meet the definition of an (a)(4) wetland under the 2023 rule due to the lack of adjacency with a jurisdictional resource, and they do not meet any of the other categories of waters of the U.S. under the 2023 Rule as amended. The following table provides the individual acreages of each feature:

Aquatic Resource ID	Acreage
SW3	0.002
SW47	0.024
SW48	0.009
SW49	0.160
SW50	0.008
SW55	0.009
SWS76	0.163
VP143	0.302
VP144	0.040
VP145	0.252
VP146	0.187

**SWS81, SWS82, SWS83, SWS86, and SWS89** are aquatic resources that meet the Corps' three-part criteria for a wetland, but they do not meet the definition of Waters of the U.S., as they are not adjacent to an (a)(1), (a)(2), or (a)(3) water. Each of these aquatic resources are within a portion of the review area that slopes downward to the southwest. These aquatic resources drain into an unevaluated potential depression wetland outside of the review area. This depression also flows to the southwest outside of the review area, and it continues for approximately 2,800 feet until it eventually drains into a storm drain system grate that runs under a developed area. Although the depression is unevaluated, aerial imagery dated September 8, 2018, October 15, 2023, February 13, 2024, December 2, 2024, and January 24, 2025, demonstrate that it is not a relatively permanent water. Furthermore, if evaluating the depression as a potential wetland that is adjacent to the wetlands within the review area, due to the depression eventually draining into a storm drain system grate that runs under a developed area, the depression is not adjacent to an (a)(1), (a)(2), or (a)(3) water, and thus it would not be jurisdictional if it met the three-part criteria for a wetland, nor would it serve as a continuous surface connection for SWS81, SWS82, SWS83, SWS86, or SWS89, as the connection would be too extended and tenuous. Therefore, SWS81, SWS82, SWS83, SWS86, and SWS89 are not jurisdictional as they do not meet the definition of an (a)(4) wetland under the 2023 rule due to the lack of adjacency with a jurisdictional

resource, and they do not meet any of the other categories of waters of the U.S. under the 2023 Rule as amended. The following table provides the individual acreages of each feature:

Aquatic Resource ID	Acreage
SWS81	0.044
SWS82	0.058
SWS83	0.028
SWS86	0.001
SWS89	0.676

9. 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. *Aquatic Resource Delineation Report, Madera 41 South Expressway, State Route 41, Madera County, California* (and all appendices). April 2024.
- b. U.S. Army Corps of Engineers Research and Development Center Antecedent Precipitation Tool. Dates: June 29, 2012; August 28, 2013; June 19, 2014; June 29, 2014; June 29, 2016; July 1, 2016; September 8, 2018; June 26, 2020; July 5, 2020; October 14, 2020; November 3, 2021; June 20, 2022; May 3, 2023; October 15, 2023; February 13, 2024; July 16, 2024; December 2, 2024.
- c. *Madera Irrigation District SBx7-7 Supplement Report*. December 18, 2013.
- d. *Madera Irrigation District Water Supply Enhancement Project Final Environmental Impact Statement* (EIS-06-127). June 2011.
- e. *Water Management Plan with Addendums for Agricultural Water Management Plan*. Prepared by Madera Irrigation District. Adopted on March 24, 2021.
- f. *Madera Integrated Regional Water Management Plan*. December 2014.
- g. *County of Madera California Master Drainage Plan for Madera Ranchos, Bonadelle Ranchos, Root Creek*. June 1984.
- h. Maxar. Digital Globe aerial imagery dates: June 6, 2021; August 19, 2021; April 28, 2023; May 9, 2023; May 15, 2023; September 7, 2023; October 15, 2023;

CESPK-RDC-S

SUBJECT: 2023 Rule, as amended, Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), [SPK-2020-00297]

February 13, 2024; July 16, 2024; December 2, 2024. Retrieved from:  
<https://evwhs.digitalglobe.com/myDigitalGlobe/login>.

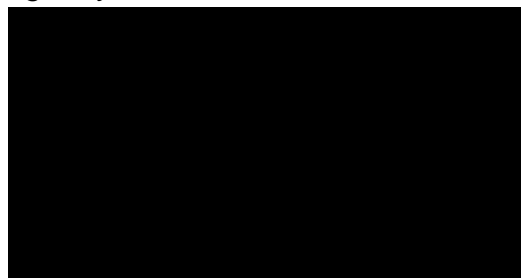
i. USGS. EarthExplorer aerial imagery dates: April 1, 1946; August 10, 1962; August 17, 1998; June 11, 2005; August 28, 2013; September 8, 2018; June 26, 2020; July 5, 2020; June 20, 2022. Retrieved from:  
<https://earthexplorer.usgs.gov/>.

j. USGS. Topographic Map. California Lanes Bridge Quadrangle 7 ½-minute series. 1:24,000 scale. 1947.

k. USGS. Topographic Map. California Lanes Bridge Quadrangle 7 ½-minute series. 1:24,000 scale. 1964.

10. OTHER SUPPORTING INFORMATION. N/A.

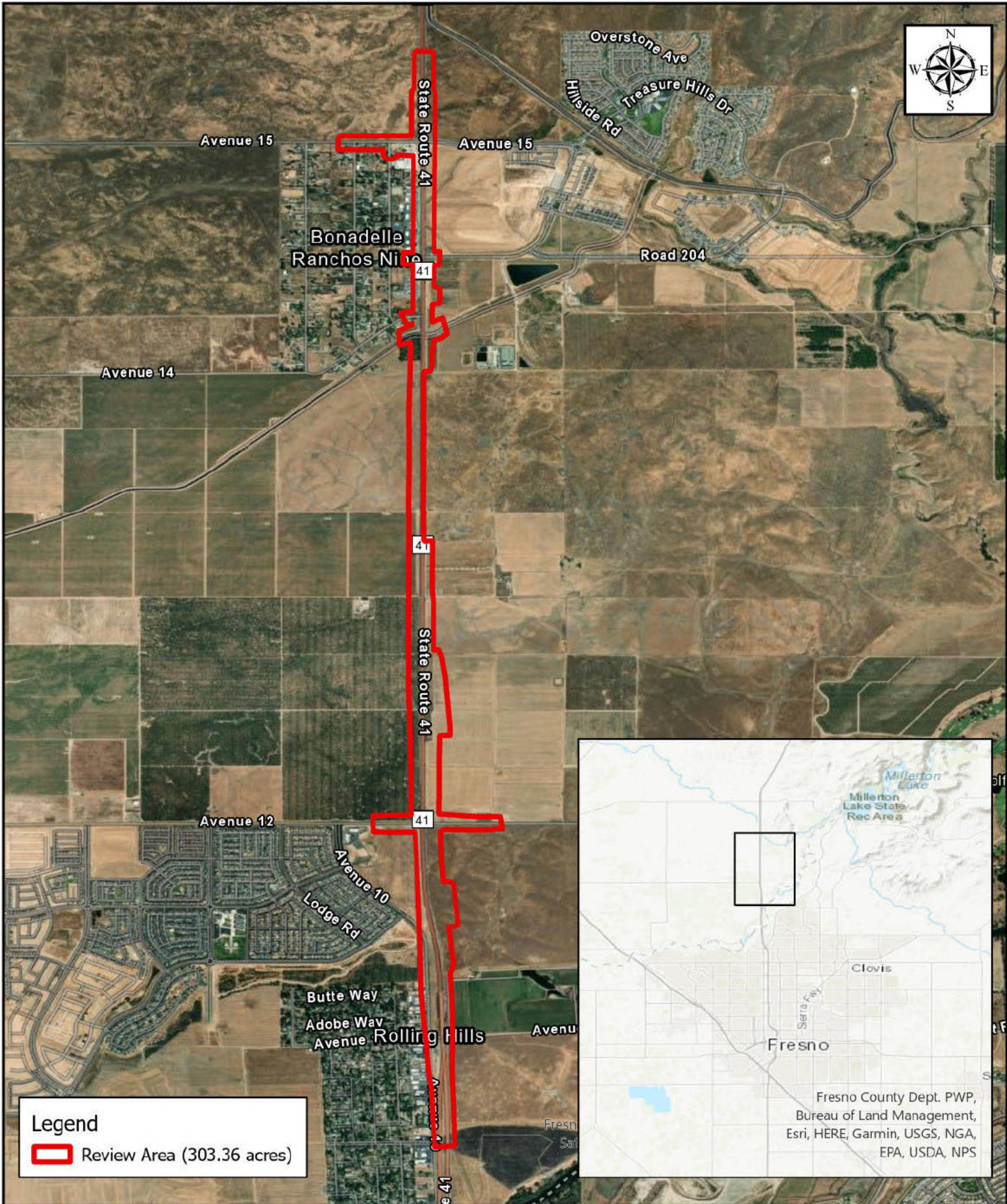
11. NOTE: The structure and format of this MFR were developed in coordination with the EPA and Department of the Army. The MFR's structure and format may be subject to future modification or may be rescinded as needed to implement additional guidance from the agencies; however, the approved jurisdictional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



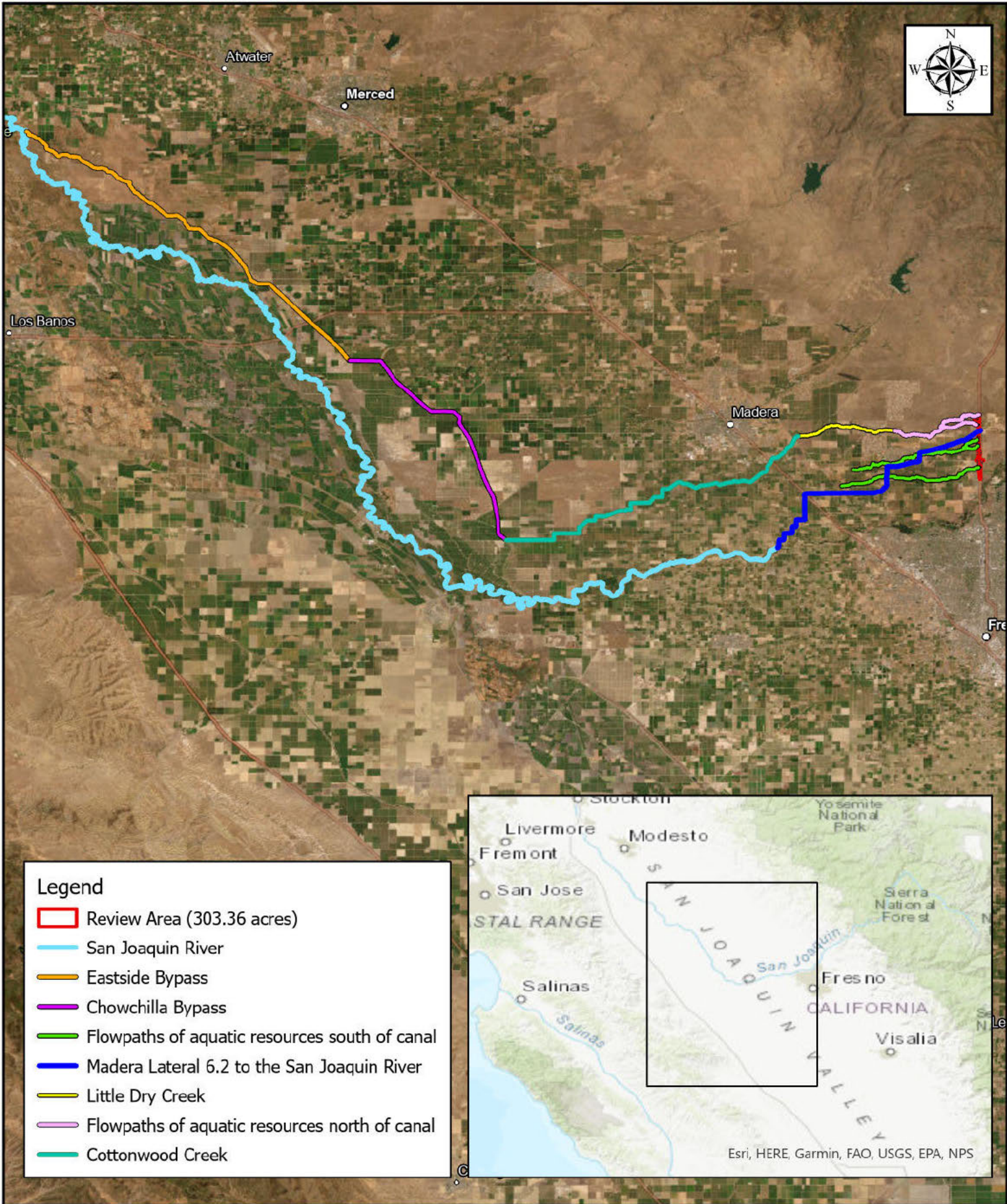
Three Encls

1. Review Area Map
2. Flowpath Map
3. Aquatic Resources Delineation Maps

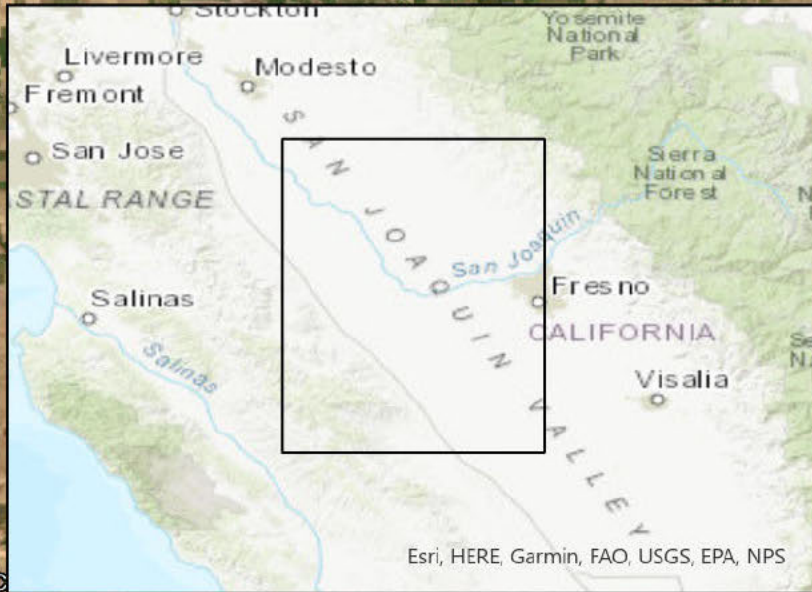




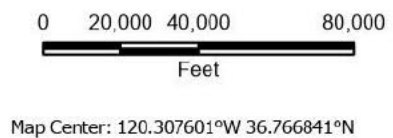




- Legend**
- Review Area (303.36 acres)
  - San Joaquin River
  - Eastside Bypass
  - Chowchilla Bypass
  - Flowpaths of aquatic resources south of canal
  - Madera Lateral 6.2 to the San Joaquin River
  - Little Dry Creek
  - Flowpaths of aquatic resources north of canal
  - Cottonwood Creek

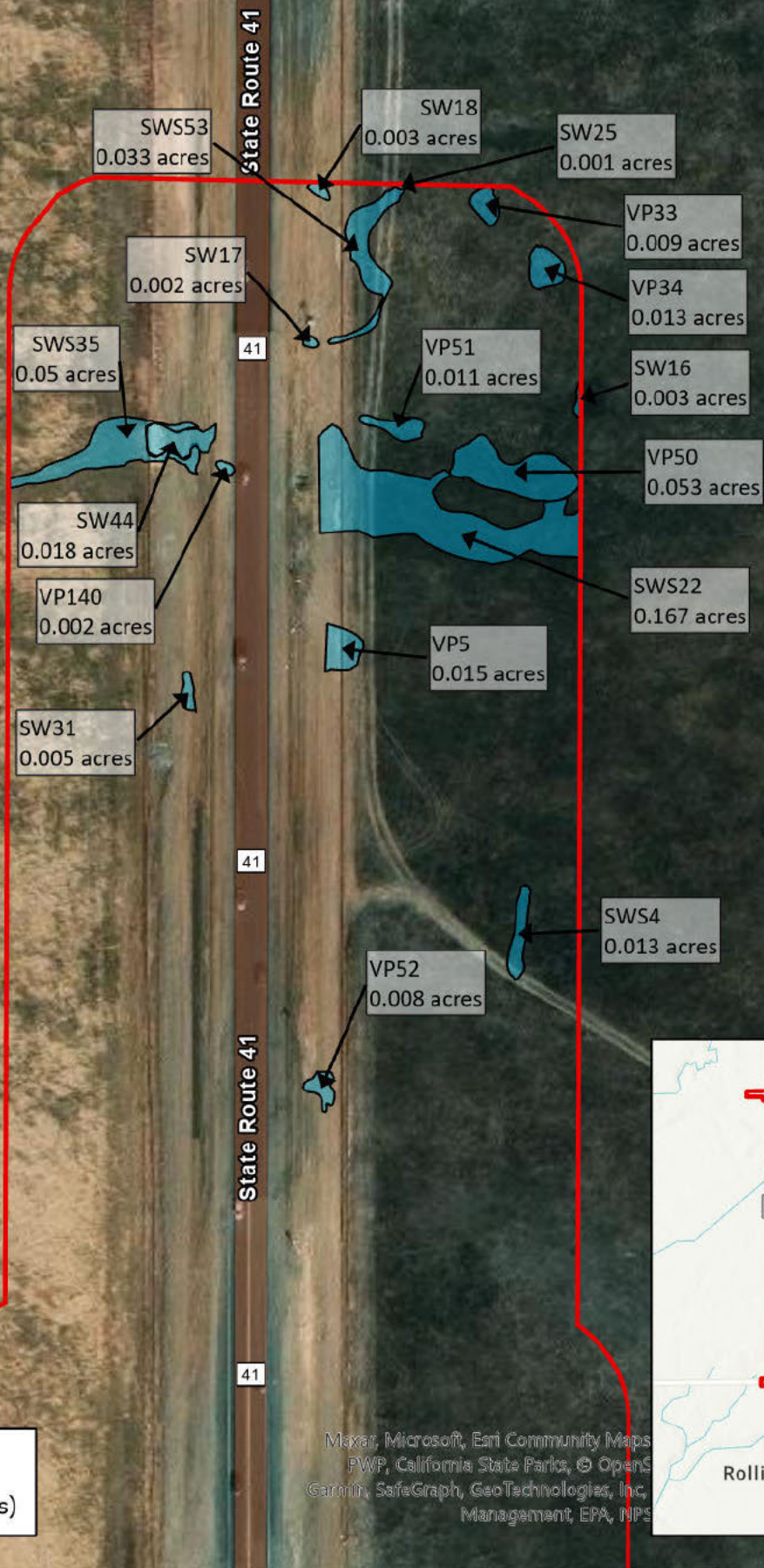


**Flowpath Map**  
**SPK-2020-00297**



**Coordinate System: GCS WGS 1984**  
**Datum: WGS 1984**





### Legend

 Review Area (303.36 acres)

Maxar, Microsoft, Esri Community Maps  
PWP, California State Parks, © OpenS  
Garmin, SafeGraph, GeoTechnologies, Inc,  
Management, EPA, NPS



**Aquatic Resources**  
**Sheet 1**  
**SPK-2020-00297**

0 65 130 260  
Feet

Map Center: 119.793872°W 36.97149°N

Coordinate System: GCS WGS 1984  
Datum: WGS 1984





SW33  
0.012 acres

VP133  
0.008 acres

VP99  
0.008 acres

VP3  
0.005 acres

VP4  
0.084 acres

DB-09  
0.063 acres

Avenue 15

Avenue 15

Avenue 15

Huntington Rd

### Legend

 Review Area (303.36 acres)

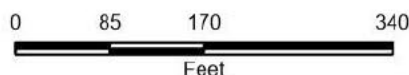
Maxar, Microsoft, Esri Community Maps  
PWP, California State Parks, © OpenS  
Garmin, SafeGraph, GeoTechnologies, Inc,  
Management, EPA, NPS



Fresno County  
Dept: PWP,  
California State  
Parks, Esri,  
TomTom, Garmin,



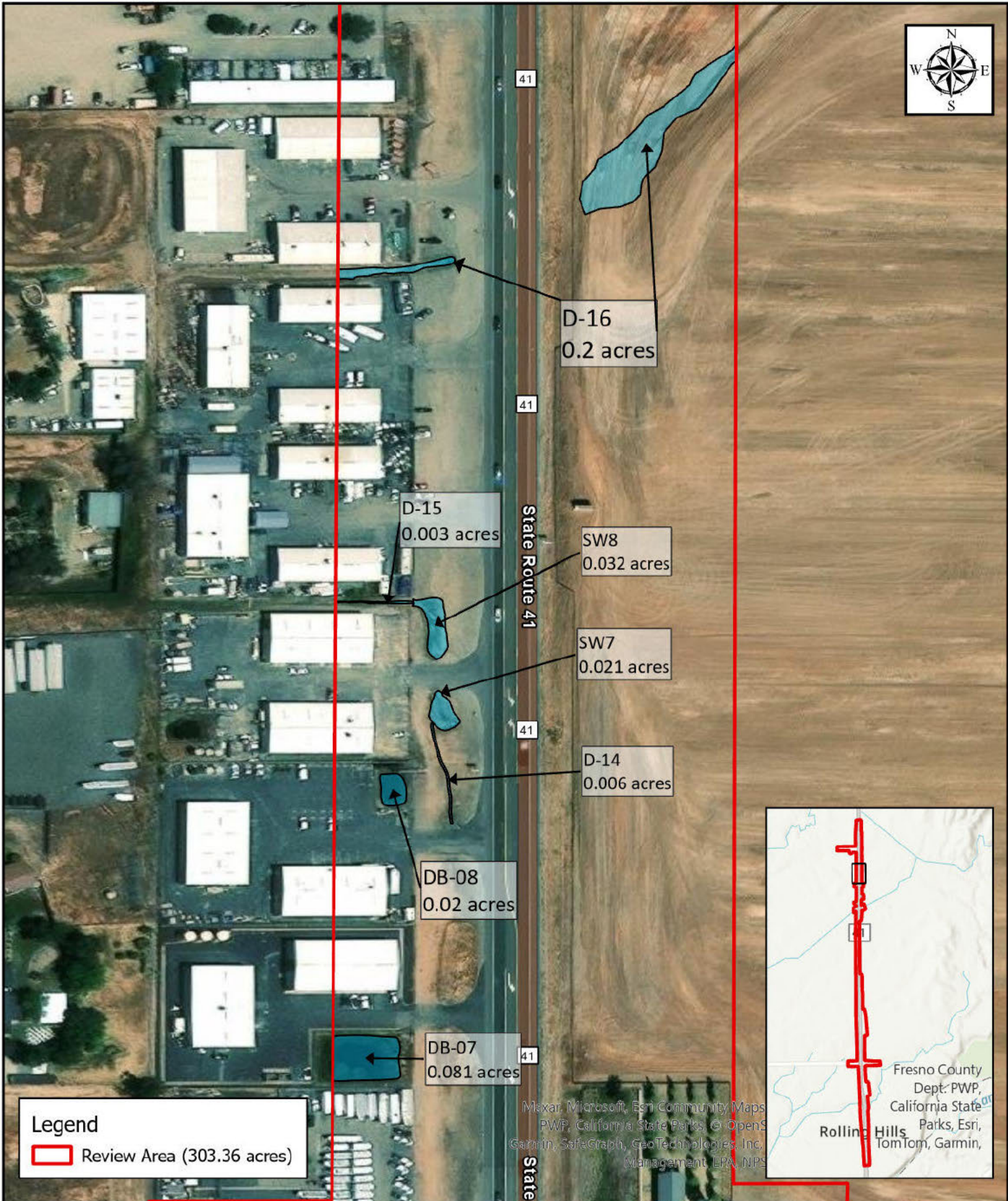
**Aquatic Resources**  
**Sheet 2**  
**SPK-2020-00297**



Map Center: 119.795986°W 36.966706°N

Coordinate System: GCS WGS 1984  
Datum: WGS 1984

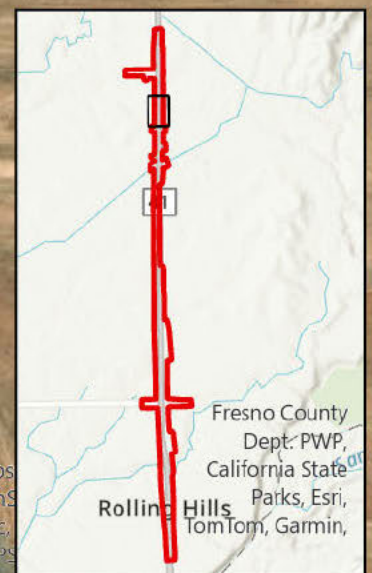




**Legend**

 Review Area (303.36 acres)

Maxar, Microsoft, Esri Community Maps  
PWP, California State Parks, © OpenS  
Garmin, SafeGraph, GeoTechnologies, Inc.,  
Management, EPA, NPS



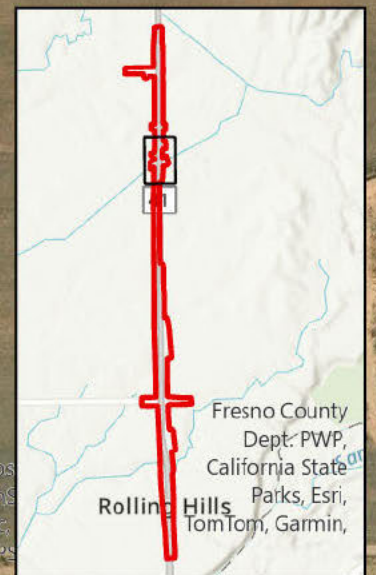
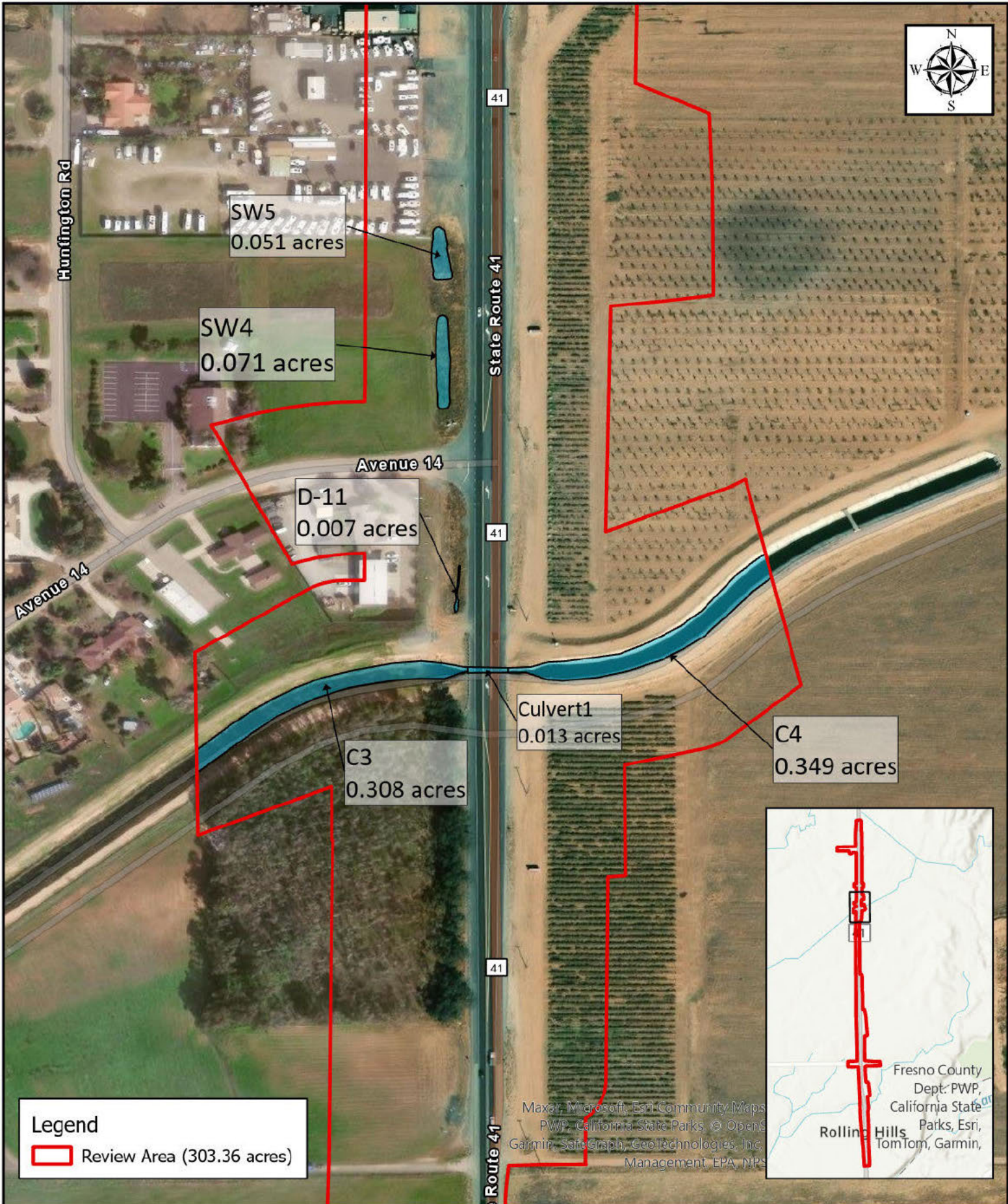
**Aquatic Resources  
Sheet 3  
SPK-2020-00297**

0 75 150 300  
Feet

Map Center: 119.794008°W 36.961835°N

Coordinate System: GCS WGS 1984  
Datum: WGS 1984





**Aquatic Resources**  
**Sheet 4**  
**SPK-2020-00297**

0 115 230 460  
Feet

Map Center: 119.793893°W 36.955012°N

Coordinate System: GCS WGS 1984  
Datum: WGS 1984





VP143  
0.302 acres

D-09  
0.001 acres

SW47  
0.024 acres

SW48  
0.009 acres

VP145  
0.252 acres

SW55  
0.009 acres

SW50  
0.008 acres

D-08  
0.004 acres

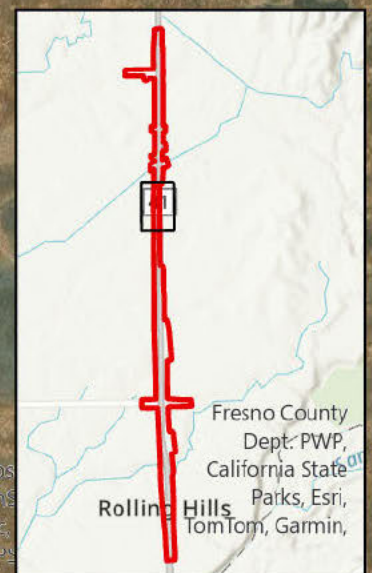
VP144  
0.04 acres

SW49  
0.16 acres

### Legend

 Review Area (303.36 acres)

Maxar, Microsoft, Esri Community Maps  
PWP, California State Parks, © OpenStreetMap  
Garmin, SafeGraph, GeoTechnologies, Inc.,  
Management, EPA, NPS



**Aquatic Resources**  
**Sheet 5**  
**SPK-2020-00297**

0 120 240 480  
Feet

Map Center: 119.794291°W 36.949182°N

Coordinate System: GCS WGS 1984  
Datum: WGS 1984









D-04  
0.022 acres

SWS83  
0.028 acres

DB-05  
1.903 acres

D-03  
0.003 acres

DB-04  
1.014 acres

SWS81  
0.044 acres

DB-03  
0.04 acres

SWS89  
0.676 acres

SWS82  
0.058 acres

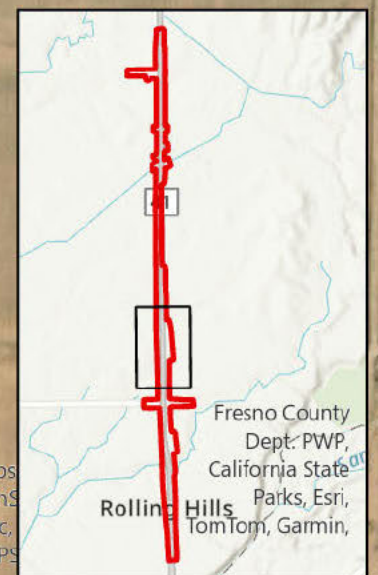
DB-02  
0.206 acres

### Legend

 Review Area (303.36 acres)

State Route 41

Maxar, Microsoft, Esri Community Maps  
PWP, California State Parks, © OpenS  
Garmin, SafeGraph, GeoTechnologies, Inc,  
Management, EPA, NPS



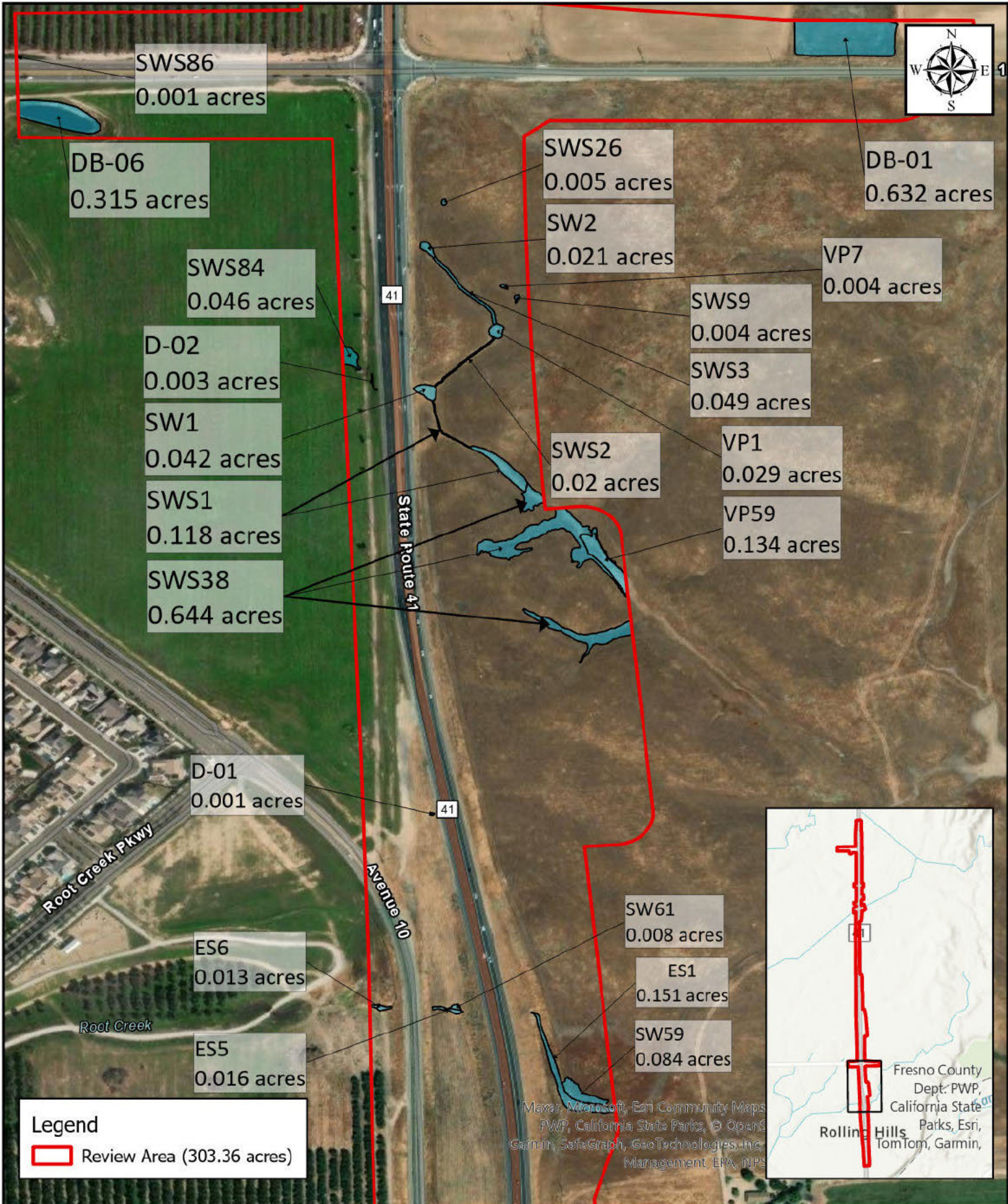
**Aquatic Resources**  
**Sheet 7**  
**SPK-2020-00297**

0 200 400 800  
Feet

Map Center: 119.793798°W 36.930622°N

Coordinate System: GCS WGS 1984  
Datum: WGS 1984





**Aquatic Resources**  
**Sheet 8**  
**SPK-2020-00297**

0 195 390 780  
 Feet

Map Center: 119.792971°W 36.918676°N

Coordinate System: GCS WGS 1984  
 Datum: WGS 1984