



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

CESPK-RDC-D

25 November 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),¹ [SPK-2025-00084]²

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.³ 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.⁴

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),⁵ the 2023 Rule as amended, as well as other applicable guidance, relevant case law, and longstanding practice in evaluating jurisdiction.

¹ 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.

² When documenting aquatic resources within the review area that are jurisdictional under the Clean Water Act (CWA), use an additional MFR and group the aquatic resources on each MFR based on the TNW, the territorial seas, or interstate water that they are connected to. Be sure to provide an identifier to indicate when there are multiple MFRs associated with a single AJD request (i.e., number them 1, 2, 3, etc.).

³ 33 CFR 331.2.

⁴ Regulatory Guidance Letter 05-02.

⁵ 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.

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).

Name of Aquatic Resource	JD or Non-JD	Section 404/Section 10	Size in Acres
D-1	Non-Jurisdictional	Section 404	0.101
P-1	Non-Jurisdictional	Section 404	0.526
SW-1	Non-Jurisdictional	Section 404	0.003
SW-2	Non-Jurisdictional	Section 404	0.743
SW-3	Non-Jurisdictional	Section 404	0.073
SW-4	Non-Jurisdictional	Section 404	0.113
SW-5	Non-Jurisdictional	Section 404	0.048
SW-6	Non-Jurisdictional	Section 404	0.235
SW-7	Non-Jurisdictional	Section 404	0.042
SW-8	Non-Jurisdictional	Section 404	0.199
SW-9	Non-Jurisdictional	Section 404	0.047
SW-10	Non-Jurisdictional	Section 404	0.005
SW-11	Non-Jurisdictional	Section 404	0.009
SW-12	Non-Jurisdictional	Section 404	0.089
SW-13	Non-Jurisdictional	Section 404	0.022
SW-14	Non-Jurisdictional	Section 404	0.598
SW-15	Non-Jurisdictional	Section 404	0.100
SW-16	Non-Jurisdictional	Section 404	0.082
SW-17	Non-Jurisdictional	Section 404	0.458
SW-18	Non-Jurisdictional	Section 404	1.336
SW-19	Non-Jurisdictional	Section 404	0.051

SW-20	Non-Jurisdictional	Section 404	0.802
SW-21	Non-Jurisdictional	Section 404	0.010
SW-22	Non-Jurisdictional	Section 404	0.257
SW-23	Non-Jurisdictional	Section 404	0.047
SW-24	Non-Jurisdictional	Section 404	0.119
SW-25	Non-Jurisdictional	Section 404	0.203
SW-26	Non-Jurisdictional	Section 404	0.052
SW-27	Non-Jurisdictional	Section 404	0.443
SW-28	Non-Jurisdictional	Section 404	0.093
SW-29	Non-Jurisdictional	Section 404	0.008
SW-30	Non-Jurisdictional	Section 404	0.007
SW-31	Non-Jurisdictional	Section 404	0.101
SW-32	Non-Jurisdictional	Section 404	0.526

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. __, 143 S. Ct. 1322 (2023)

3. REVIEW AREA. The approximately 102-acre review area is located south of Meadowview Road, Sacramento, Sacramento County, California, with the central coordinates Latitude 38.47129°, Longitude -121.47236° (Figure 2). There are no previous associated Jurisdictional Determinations within this review area. The parcels to the south and east received an AJD in 2006 and are part of the East and West Delta Shores project (SPK-2006-00311).



Figure 1. AJD Review Area

4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), THE TERRITORIAL SEAS, OR INTERSTATE WATER TO WHICH THE AQUATIC RESOURCE IS CONNECTED. The nearest TNW is the Sacramento River, which is located 1.5 miles to the west of the review area. This river has been and currently is used for the transportation of commerce.⁶ There is no direct surface connection from the review area to this TNW.

⁶ 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.

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

Resource Name	Flows Into	TNW
D-1	P-1	N/A
P-1	Features have no outlet, do not connect to downstream resources	
SW-1 through SW-32		

6. SECTION 10 JURISDICTIONAL WATERS⁷: 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 10.⁸ N/A

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): N/A

⁷ 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.

⁸ 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.

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).⁹ N/A

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).

The 32 seasonal wetlands (SW-1 through SW-32 totaling 6.921 acres) are palustrine emergent wetlands. None of the seasonal wetlands identified within the review area are jurisdictional because they lack a continuous surface connection to a water of the United States under the 2023 rule as amended. The review area has an access road around almost the entire review area and adjacent land to the north. SW 6,15, 23-26 & 32 are outside of the noted access road but are isolated, surrounded by uplands.

D-1 (0.243 acre) is a natural, man-altered, or man-made water body that does not flow directly or indirectly into a traditional navigable water (TNW). The feature drains into P-1 (3.311 acres) which is a man-made basin constructed in its current configuration in approximately 2007. P-1 is surrounded by berms and has no outlet. D-1 and P-1 are not jurisdictional because they lack connection to a water of the United States under the 2023 rule as amended.

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. Desktop evaluation conducted November 6, 2025.

b. Aquatic Resources Delineation Report, Meadowview 102 prepared by [REDACTED]
[REDACTED] dated September 2024.

⁹ 88 FR 3004 (January 18, 2023)

- c. EPA Waters GeoViewer 2.0, <https://www.epa.gov/waterdata/waters-geoviewer>, accessed November 6, 2025.
- d. NRCS Soil Survey, <https://websoilsurvey.nrcs.usda.gov/app/>, report generated and save to file on November 6, 2025.
- e. Historic Aerials, Historicaerials.com dated 1984, 2002, 2012, 2018; accessed November 6, 2025.
- f. Google Earth Pro Imagery, dated June 25, 2006; May 31, 2007; and February 11, 2008, accessed November 6, 2025.
- g. National Regulatory Review Layers accessed November 6, 2025
 - i. National Wetland Inventory
 - ii. National Hydrography Dataset
 - iii. 3DEP Digital Elevation Model (DEM)
 - iv. 3DEP Hill Shade
 - v. 3DEP Slope

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.



