



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
SOUTH PACIFIC DIVISION
450 GOLDEN GATE AVENUE
SAN FRANCISCO CALIFORNIA 94102-3661

CESPD-ZB

19 May 2021

MEMORANDUM FOR Commander, U.S. Army Corps of Engineers, Sacramento District
(CESPK-RD/Mr. Michael Jewell), 1325 J. Street, Sacramento, CA 95814-2928

SUBJECT: Carson River and its East Fork, Navigable Waters of the United States
Determination

1. Reference U.S. Army Corps of Engineers, Sacramento District, CESPD-RD memorandum, (Carson River and its East Fork, report on navigable status), 20 March 2021.
2. In accordance with the provisions of 33 CFR §329.14(b), enclosed is a copy of the Final Determination of the Division Engineer, South Pacific Division.
3. The determination is that the Carson River from river mile (RM) 32.5 at the Nevada Highway 117 bridge, upriver to and including the East Fork Carson River to the confluence with Silver King Creek (RM 177.5) in Alpine County, California, is a navigable water of the United States pursuant to the Rivers and Harbors Act and 33 CFR Part 329.

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Encl

TORREY A. DICIRO, P.E. PMP
COL, EN
Deputy Commander



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MEMORANDUM FOR RECORD

SUBJECT: Determination of Navigability, Carson River and its East Fork in California and Nevada.

1. On 20 March 2021 the Sacramento District submitted a report of findings and District Counsel opinion pursuant to 33 CFR §329.14. The Sacramento District found that the Carson River from river mile (RM) 32.5 at the Nevada Highway 117 bridge, upriver to and including the East Fork Carson River to the confluence with Silver King Creek (RM 177.5), Alpine County, California, was used in the past, or, in the case of the reach from Sutro, Nevada (RM 95.7) to the NV 117 bridge (RM 32.5), was susceptible for use, to transport interstate commerce. Based on these findings, the Sacramento District recommends that the South Pacific Division determine these portions of the Carson River and its East Fork to be navigable waters of the United States pursuant to the Rivers and Harbors Act and 33 CFR §329.4.
2. Navigable waters of the United States are those waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. A determination of navigability, once made, applies laterally over the entire surface of the waterbody and is not extinguished by later actions nor events which impede or destroy navigable capacity. (33 CFR §329.4).
3. From 1861 to 1900, during the Comstock mining era, the Carson River and the East Fork Carson River were used to transport fuel-wood, logs, and lumber from Alpine County, California to Empire City, Dayton, and Sutro, Nevada for use in the silver mines and ore reduction mills associated with the Comstock mines.
4. The reach from Sutro to the Nevada Highway 117 bridge above Fallon, Nevada (RM 32.5) was susceptible to this use by virtue of its physical similarity to the reach above Sutro and as demonstrated by its use by recreational boaters using equipment analogous to the boats used during the wood-driving era. It would, however, be inappropriate to extend this determination below RM 32.5. At this point, in its natural state during the wood-driving era, the Carson River was physically different since it began to split into a distributary delta of smaller channels.

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SUBJECT: Determination of Navigability, Carson River and its East Fork in California and Nevada.

5. Based on the historical documentation of past commercial use and susceptibility to that use, the South Pacific Division determines that the Carson River from RM 32.5, at the Nevada Highway 117 bridge, upriver to and including the East Fork Carson River to RM 177.5, at the confluence with Silver King Creek in California, is a navigable water of the United States pursuant to the Rivers and Harbors Act and 33 CFR Part 329.



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PAUL E. OWEN, P.E.
Brigadier General, USA
Commanding