

## JURISDICTIONAL DETERMINATION

U.S. Army Corps of Engineers  
Sacramento District

**File Number: SPK-2007-00451**

### PROJECT LOCATION INFORMATION:

State: California  
County: Placer  
Center Coordinates of Site: Latitude 38.805159° North, Longitude 121.222363° West  
Approximate size of area (parcel) reviewed, including uplands: 56 acres  
Name of nearest waterway: Antelope Creek  
Name of watershed: 18020111, Sacramento

### JURISDICTIONAL DETERMINATION

**Completed:** Desktop determination  Date: November 7, 2008 (revised study area)  
Site visit  Date: July 5, 2007

#### Jurisdictional Determination (JD):

Preliminary JD - Based on available information,  *there appear to be* (or)  *there appear to be no* "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).

Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331).

*There are* "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area.  
Approximate size of jurisdictional area:

*There are* "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area.  
Approximate size of jurisdictional area: 1.46 acres

*There are* "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.

Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

### BASIS OF JURISDICTIONAL DETERMINATION:

#### A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":

The presence of 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.

#### B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":

(1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.

(2) The presence of interstate waters including interstate wetlands<sup>1</sup>.

(3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):

(i) which are could be used by interstate or foreign travelers for recreational or other purposes.

(ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.

(iii) which are or could be used for industrial purposes by industries in interstate commerce.

(4) Impoundments of waters otherwise defined as waters of the U.S.

(5) The presence of a tributary to a water identified in (1) - (4) above.

(6) The presence of territorial seas.

(7) The presence of wetlands adjacent<sup>2</sup> to other waters of the U.S., except for those wetlands adjacent to other wetlands.

**Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above).** *If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination: Wetland Swale (WS) 1 leaves the site and discharges to Antelope Creek. WS 2 abuts WS 3 and enters a storm drain system offsite, which discharges to Antelope Creek (City of Rocklin, personal communication, November 7, 2008). Antelope Creek is tributary to Dry Creek, which is tributary to the East Main Drainage Canal, which is tributary to the Sacramento River, a navigable water of the United States.*

**Lateral Extent of Jurisdiction:** (Reference 33 CFR parts 328 and 329)

- Ordinary High Water Mark indicated by:
  - clear, natural line impressed on the bank
  - the presence of litter and debris
  - changes in the character of soil
  - destruction of terrestrial vegetation
  - shelving
  - other: drift lines
- High Tide Line indicated by:
  - oil or scum line along shore objects
  - fine shell or debris deposits (foreshore)
  - physical markings/characteristics
  - tidal gages
  - other:
- Mean High Water Mark indicated by:
  - survey to available datum;
  - physical markings;
  - vegetation lines/changes in vegetation types.
- Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by: North Fork Associates, June 26, 2008.

**Basis For Not Asserting Jurisdiction:**

- The reviewed area consists entirely of uplands.
- Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).
- Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).
- The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States: Seep 1 and Seep 2
  - Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.
  - Artificially irrigated areas, which would revert to upland if the irrigation ceased.
  - Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.
  - Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.
  - Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).
  - Isolated, intrastate wetland with no nexus to interstate commerce.
  - Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:
  - Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:
  - Other (explain):

**DATA REVIEWED FOR JURISDICTIONAL DETERMINATION (mark all that apply)**

- Maps, plans, plots or plat submitted by or on behalf of the applicant.
- Data sheets prepared/submitted by or on behalf of the applicant.
  - This office concurs with the delineation report
  - This office does not concur with the delineation report, dated March 16, 2007, prepared by North Fork Associates.
- Data sheets prepared by the Corps.
- Corps' navigable waters' studies:
  - U.S. Geological Survey Hydrologic Atlas: 18020111
  - U.S. Geological Survey 7.5 Minute Topographic maps: Rocklin, California Quadrangle
  - U.S. Geological Survey 7.5 Minute Historic quadrangles:
  - U.S. Geological Survey 15 Minute Historic quadrangles:
- USDA Natural Resources Conservation Service Soil Survey: Soil Survey of Placer County, California, Western Part, July 1980
- National wetlands inventory maps: Rocklin Quadrangle
- State/Local wetland inventory maps:
  - FEMA/FIRM maps (Map Name & Date):
  - 100-year Floodplain Elevation is: (NGVD)
- Aerial Photographs (Name & Date): provided by consultant, August 2005
- Other Photographs (Date): site photographs provided by consultant, January 16, 2007
- Advanced Identification Wetland maps:
  - Site visit/determination conducted on: July 5, 2007
  - Applicable/supporting case law:
- Other information (please specify): This office does concur with the Appendix C, Wetland Delineation Map, revised June 26, 2008, prepared by North Fork Associates.

<sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

<sup>2</sup>The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

**INFORMATION SHEET**

**DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE WATERS  
RESULTING FROM U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF  
NORTHERN COOK COUNTY vs. U.S. ARMY CORPS OF ENGINEERS**

DISTRICT OFFICE: U.S. Army Corps of Engineers, Sacramento District

FILE NUMBER: SPK-2007-00451

REGULATORY PROJECT MANAGER

PROJECT REVIEW/DETERMINATION COMPLETED: 11/6/08 In the Office  Yes  No At the project site  Yes  No

PROJECT LOCATION INFORMATION:

State: California County: Placer

Center coordinates of site by latitude & longitude coordinates: Latitude 38.805159° North, Longitude 121.222363° West

Approximate size of site/property (including uplands & in acres): 56 acres

Name of waterway: Antelope Creek

Watershed: 18020111, Sacramento

SITE CONDITIONS									
Type of aquatic resource <sup>1</sup>	0-1 ac	1-3 ac	3-5 ac	5-10 ac	10-25 ac	25-50 ac	> 50 ac	Linear Feet	Unknown
Lake									
River									
Stream									
Dry Wash									
Mudflat									
Sandflat									
Wetlands	X								
Slough									
Prairie pothole									
Wet meadow									
Playa lake									
Vernal pool									
Natural pond									
Other Water (identify type)									

<sup>1</sup>Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area.

Migratory Bird Rule Factors <sup>1</sup>	If Known		If Unknown (Use Best Professional Judgement)		
	Yes	No	Predicted to Occur	Not Expected to Occur	Not Able to Make Determination
Is or would be used as habitat for birds protected by Migratory Bird Treaties?				X	
Is or would be used as habitat by other migratory birds that cross state lines?				X	
Is or would be used as habitat for endangered species?		X			
Is used to irrigate crops sold in interstate commerce?		X			

<sup>1</sup>Check appropriate boxes that best describes potential for applicability of the Migratory Bird Rule to apply to onsite, non-jurisdictional, isolated, non-navigable, intra-state aquatic resource area.

TYPE OF DETERMINATION:  Preliminary  Approved

ADDITIONAL INFORMATION SUPPORTING NJD (e.g., paragraph 1 - site conditions; paragraphs 2-3 - rationale used to determine NJD, including information reviewed to assess potential navigation or interstate commerce connections; and paragraph 4 - site information on waters of the U.S. occurring onsite): Seasonal wetland located around an old well site, potential hydrology source is artesian flow. Seasonal wetland is on a slope and does not pond water, does not support navigation or interstate commerce. Topographically isolated from Antelope Creek and other seasonal wetlands occurring onsite.

The 0.12-acre seasonal wetland has no surface hydrology connection to other waters of the U.S. based on topographical constraints. It is therefore considered intrastate and isolated.