APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): October 5, 2009

B. DISTRICT OFFICE, FILE NAME, AND NUMBER:Sacramento District, Michigan Bar-Latrobe, SPK-2009-00787

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
State:California County/parish/borough: El Dorado City: Latrobe
Center coordinates of site (lat/long in degree decimal format): Lat. 38.5596424140917° **N**, Long. -120.98688989282° **W**.
Universal Transverse Mercator: 10 675402.2 4269832.65
Name of nearest waterbody: Clark Creek and Cosumnes River
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Cosumnes River
Name of watershed or Hydrologic Unit Code (HUC): Upper Consumnes. California, 18040013
☐ Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.
☐ Check if other sites (e.g., offsite mitigation sites, disposal sites, etc…) are associated with this action and are recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):
☐ Office (Desk) Determination. Date:
☒ Field Determination. Date(s): June 9, 2009

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There **Pick List** *"navigable waters of the U.S."* within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [*Required*]
☐ Waters subject to the ebb and flow of the tide.
☐ Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
Explain: .

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There **Are** "*waters of the U.S.*" within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [*Required*]

1. Waters of the U.S.
a. Indicate presence of waters of U.S. in review area (check all that apply): [1]
☐ TNWs, including territorial seas
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters[2] (RPWs) that flow directly or indirectly into TNWs
☒ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☒ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area:
Non-wetland waters: linear feet: width (ft) and/or acres.
Wetlands: 1.16 acres.

c. Limits (boundaries) of jurisdiction based on: **1987 Delineation Manual**
Elevation of established OHWM (if known): .

2. Non-regulated waters/wetlands (check if applicable):[3]
☐ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.
Explain: .

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

[1] Boxes checked below shall be supported by completing the appropriate sections in Section III below.
[2] For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).
[3] Supporting documentation is presented in Section III.F.

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

1. **TNW**
   Identify TNW: .

   Summarize rationale supporting determination: .

2. **Wetland adjacent to TNW**
   Summarize rationale supporting conclusion that wetland is "adjacent": .

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under *Rapanos* have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are "relatively permanent waters" (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody[4] is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

1. **Characteristics of non-TNWs that flow directly or indirectly into TNW**

   (i) General Area Conditions:
   Watershed size: Total watershed is unknown **acres**
   Drainage area: **acres**
   Average annual rainfall: 28.5 inches
   Average annual snowfall: inches

   (ii) Physical Characteristics:
   (a) Relationship with TNW:
   ☐ Tributary flows directly into TNW.
   ☒ Tributary flows through **2** tributaries before entering TNW.

   Project waters are **2-5** river miles from TNW.
   Project waters are **1 (or less)** river miles from RPW.
   Project waters are **2-5** aerial (straight) miles from TNW.
   Project waters are **5-10** aerial (straight) miles from RPW.
   Project waters cross or serve as state boundaries. Explain: .

   Identify flow route to TNW[5]: CH1 and CH2 are ephemeral drainags the converge south of the proect site to become a singel unnamed ephemeral channel tht is tributary to Clark Creek (RPW). Clark Creek is tributary to the Cosumnes River (TNW in-fact), which drains into the Mokelumne River.
   Tributary stream order, if known: CH1 and CH2 are stream order 1. Clark Creek is stream order 2. Cosumnes River is stream order 3.

   (b) General Tributary Characteristics (check all that apply):

[4] Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.
[5] Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

Tributary is: ☒ Natural
☒ Artificial (man-made). Explain: CH1 has been artifically channelized out owner's property boundaries. Please see photo P1010546.
☒ Manipulated (man-altered). Explain: CH1 occurs where seasonal wetlands have been directed into culverts to pass throught the adjacent properties and house. Please see P1010543 and P1010540.

Tributary properties with respect to top of bank (estimate):
Average width: 1.5 feet
Average depth: 0.5 feet
Average side slopes: **4:1 (or greater).**

Primary tributary substrate composition (check all that apply):

☐ Silts	☐ Sands	☐ Concrete
☐ Cobbles	☐ Gravel	☐ Muck
☐ Bedrock	☒ Vegetation. Type/% cover: CH1=100% CH2= 30%	
☒ Other. Explain: .		

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: .
Presence of run/riffle/pool complexes. Explain: None, Manipulated.
Tributary geometry: **Meandering**
Tributary gradient (approximate average slope): CH1 2% and CH2 5 %

(c) Flow:
Tributary provides for: **Ephemeral flow**
Estimate average number of flow events in review area/year: **2-5**
Describe flow regime: Ephemeral.
Other information on duration and volume: .

Surface flow is: **Overland sheetflow.** Characteristics: precipitation events including ponding.

Subsurface flow: **Unknown**. Explain findings: subsurface flow is no evidence; however, wetland vegetation persist at time of site visit and a drought year. Areas surrounding site has numerous wetland feed by seeps or springs.
☐ Dye (or other) test performed: .

Tributary has (check all that apply):
☒ Bed and banks
☒ OHWM[6] (check all indicators that apply):

☒ clear, natural line impressed on the bank	☐ the presence of litter and debris
☒ changes in the character of soil	☐ destruction of terrestrial vegetation
☐ shelving	☐ the presence of wrack line
☐ vegetation matted down, bent, or absent	☐ sediment sorting
☐ leaf litter disturbed or washed away	☒ scour
☐ sediment deposition	☐ multiple observed or predicted flow events
☐ water staining	☒ abrupt change in plant community
☐ other (list):	

☒ Discontinuous OHWM.[7] Explain:CH1 is an ephemeral drainage that lacks a continuous , defined bed and bank, but does erode three short, disjunct channels: CH1A, 62 feet long; CH1B, 38 feet long; and CH1C, 40 feet long. The three disjunct segments of CH1 occur within Seasonal wetlands (SW)1, SW2, and SW3 where the water from these seasonal wetlands is directed into a culvert through adjacent properties.

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):

☐ High Tide Line indicated by:	☐ Mean High Water Mark indicated by:
☐ oil or scum line along shore objects	☐ survey to available datum;
☐ fine shell or debris deposits (foreshore)	☐ physical markings;
☐ physical markings/characteristics	☐ vegetation lines/changes in vegetation types.
☐ tidal gauges	
☐ other (list):	

(iii) Chemical Characteristics:
Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).
Explain: Water was not observed in CH1 during field visits. Water quality may be affected by stormdrain from roadway, agriculture and nearby residential area. Water is relatively clear from Pond 1 observed durng the 2006 field survey.

[6]A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.
[7]Ibid.

Identify specific pollutants, if known: Unknown pollutants. There are potential agriculture pollutants, automobile pollutants from roadway, and nature occuring pollutant from erosions.

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian corridor. Characteristics (type, average width): None.

☒ Wetland fringe. Characteristics: SW1, SW2, and SW3 directly abut the segments of CH 1 and SW4 and SW5 direcly abut CH2. Vegetations in these SWs consists of tall, dense herbaceous grasses and obligate and facultative wetland species.

☒ Habitat for:

☒ Federally Listed species. Explain findings: None.

☒ Fish/spawn areas. Explain findings: Site tributaries flows down stream from Clark Creek to Consumnes River mile 0 within the Sacramento County and mile 62 within El Dorado County support Rainbow and brown trout. The lower portion of the Cosumnes River is within the Cosumnes Rier Natue Preserve and one of the most biologically rich fegions in California Central Valley, before merging with the Mokeumne River to flow into the Sacramento-San Joaquin Delta and eventuall the Pacific Ocean.

☒ Other environmentally-sensitive species. Explain findings: See above Fish/Spawn areas. The low and scattered shurbs found along CH2 provide potential babitat for California Horned lizard (Phrynosoma coronatum frontale) and the scattered shrubs along CH2 provide potential habitat for grasshopper sparow (ammodramus savaannarum) .

☒ Aquatic/wildlife diversity. Explain findings: CH2 provides limited habitat for a divesity of aquatic wildlife. Ch2 does not stay inundated long enough to support a diversity of aquatic wildlife. Nest burrows of nothern rought-winged swallows (stelgidopteryx serripennis) were observed in four-foot tall, east-facing banks of the ravine near the southwest corner of the project site. The majority of the wildlife species obsered on-site during sureys were common upland species.

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics:

Properties:

Wetland size: 1.113acres

Wetland type. Explain: Seasonal wetlands and ponds are within the wateshed of CH 1 and CH2, which are located at the top of the watershed. Hydrology is provided by direct precipitation and runoff from the surronding hillsides during the raining season. Inundation and saturation are present in the seaonsal wetlands and Pond 1 and 2. No hydrology was present during site visit.

Wetland quality. Explain: Fair. The seasonal wetlands are relative undisturbed. Pond 1 is an excavation of SW 1 that has stacked rock edges which may be the remains of a building foundation or a livestock watering pond. Pond 2 appears to be natural feature created by scour. Vegetation in the Seasonal wetlands consists of tall, dense herbaceous grasses and obligate and facultative wetland speies.

Project wetlands cross or serve as state boundaries. Explain: None.

(b) General Flow Relationship with Non-TNW:

Flow is: **Ephemeral flow**. Explain: Water flows during the raining season and potential spring feed wetland. Water is from top of watershed in CH1 and CH2 and then connected to Clark Creek. Pond 1 was inundated during the 2006 field surverys.

Surface flow is**: Overland sheetflow**

Characteristics: None observed.

Subsurface flow: **Unknown**. Explain findings: Not observed.

☐ Dye (or other) test performed: .

(c) Wetland Adjacency Determination with Non-TNW:

☒ Directly abutting

☐ Not directly abutting

☐ Discrete wetland hydrologic connection. Explain: .

☐ Ecological connection. Explain: .

☐ Separated by berm/barrier. Explain: .

(d) Proximity (Relationship) to TNW

Project wetlands are **2-5** river miles from TNW.

Project waters are **2-5** aerial (straight) miles from TNW.

Flow is from: **Wetland to navigable waters.**

Estimate approximate location of wetland as within the **100 - 500-year** floodplain.

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: Water was not observed in CH1 during field visits. Water quality may be affected by stormdrain from roadway, agriculture and nearby residential area. Water is relatively clear from Pond 1 observed durng the 2006 field survey.

Identify specific pollutants, if known: Unknown pollutants. There are potential agriculture pollutants, automobile pollutants from roadway, and nature occuring pollutant from erosions.

(iii) Biological Characteristics. Wetland supports (check all that apply):

☐ Riparian buffer. Characteristics (type, average width):none.

☒ Vegetation type/percent cover. Explain:Vegetations in these SWs consists of tall, dense herbaceous grasses and obligate and facultative wetland species, Vegetation cover in the seasonal wetlands is nearly 100%. Pond and 1 and 2 are primarily vegetated with short-stature wetland forbs. Vegetation cover in Pond 1 (which dry) is approximately 30% and vegetation cover in Pond2 is approximately 60%.

☒ Habitat for:

☒ Federally Listed species. Explain findings:None.

☒ Fish/spawn areas. Explain findings: Wetland flows down from Clark Creek to Consumnes River mile 0 within the Sacramento County and mile 62 within El Dorado County, which support rainbow and brown trout. The lower portion of the Consumnes River is within the Cosumnes River Nature Preserve and one of the most biologically rich regions in California Central Valley, before merging with the Mokeumne River to flow into the Sacramento-San Joaquin Delta and eventuall the Pacific Ocean.

☒ Other environmentally-sensitive species. Explain findings:See above Fish/Spawn areas. The low and scattered shurbs found along CH2 provide potential habitat for California Horned lizard (Phrynosoma coronatum frontale) and the scattered shrubs along CH2 provide potential habitat for grasshopper sparrow (ammodramus savaannarum). Areas of inundation in the seasonal wetlands and pond provide potential hbitat for Ricksecker's water scavenger beetle (hydrochara ricksecker) and California fairy shrimp (Linderiella occidentalis). Pond 1 provides potential breeding habitat for western spadefoot toad (Spea Hammondii); however, it is unlikely that this species would be found on the project site because there are no records of western spadefoot toad a from El Dorado County. The ponds provide marginal habitat for legenere (legenere limosa) and pincushion navaarretia site because the ephemeral pools on-site do not appear to be natural formations and the project site is miles away from the nearest vernal pool complexes. The seasonal wetlands provide marginal habitat for Stanford's arrowhead (Sagittaria sanfordii). It is unlikely that this species would be found on the project site because the wetlands on-site sare not marshes or swamps, which are the ideal habitat for this species. No sensitive species were observed on the project site during any of the field surverys.

☒ Aquatic/wildlife diversity. Explain findings: CH2 stay inundated during the raining season and may support some aquatic/wildlife diversity. Nest burrows of nothern rought-winged swallows (stelgidopteryx serripennis) were observed in four-foot tall, east-facing banks of the ravine near the southwest corner of the project site. Several bird species were observed on the project site, including turkey vulture (Cathartes aura), mourning dove (Zenaida macroura), American robin (Turdus migratorius), northern harrier (Circus cyanesus), western meadowlark (Sturnella neglecta), Brewer's blackbird (Euphagus cyanocephalus), white-crowned sparrow (Zonotrichia leucophrys) and savannah sparrow (Passerculus sandwichensis). Mammals observed on the project site include pocket gophers (Thomomys bottae), balack-tailed deer (Odocoileus hemionus), gray fox (Urocyon cinereoargenteus) and coyote (Canus latrans). No reptiles or amphibians were observed.

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in the cumulative analysis: **30 (or more)**

Approximately (>5) acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

	Directly abuts? (Y/N)	Size (in acres)	Directly abuts? (Y/N)	Size (in acres)
SW1	Yes	0.365		
SW2	Yes	0.311		
SW3	Yes	0.288		
SW4	Yes	0.101		
SW5	Yes	0.005		
Pond1	Yes	0.029		
Pond2	Yes	0.002		
Pond3	Yes	0.002		
Offsite CH1 Wetland		0.055		
Offsite CH2 Wetland		0.202		

Summarize overall biological, chemical and physical functions being performed: The two drainages and seasonal wetland on the site are conveyed to Clark Creek via surface flow and then flow into Consumnes River. The seasonal wetland areas act as a filter of Clark Creek, Cosumnes River and Mokelumne River. They have the capacity to carry pollutants (e.g., petroleum wastes, toxic wastes, sediment) or flood waters to TNW, or to reduce the amount of pollutants or flood waters that would otherwise enter traditional navigable waters. They also have the capacity to transfer nutrients and organic carbon vital to support downstream foodwebs (e.g., macroinvertebrates present in headwater streams convert carbon in leaf litter making it available to species downstream), habitat services such as providing spawning areas for recreationally or commercially important species in downstream waters, and the extent to which the tributary and adjacent wetlands perform functions related to maintenance of downstream water quality such as sediment trapping.

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C. SIGNIFICANT NEXUS DETERMINATION

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Draw connections between the features documented and the effects on the TNW, as identified in the *Rapanos* Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

Note: the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:

1. **Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D: .

2. **Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: CH1 and CH2 are non-RPWs on the project site. SW1, SW2, and SW3 directly abutting to CH1 and CH2. Pond1, Pond2 and Pond3 are adjacent CH1. Pond 3 may be man made; however, there is potential for Pond 3 to flow into CH1 and its seasonal wetlands. CH1 and CH2 flow indirectly to Clark Creek (RPW)and then to Cosumnes River, the closest TNW. CH1, CH2 and its abutting and adjacent seasonal wetlands have the capacity to carry and ability to reduce pollutants and flood waters and the ability to reduce to the nearest TNW. They provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW. They have capacity to transfer nutrients and organic carbon that support downstream foodwebs.

3. **Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: .

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):

1. **TNWs and Adjacent Wetlands.** Check all that apply and provide size estimates in review area:
   - ☐ TNWs: linear feet width (ft), Or, acres.
   - ☐ Wetlands adjacent to TNWs: acres.

2. **RPWs that flow directly or indirectly into TNWs.**
   - ☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial: .
   - ☐ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally: .

   Provide estimates for jurisdictional waters in the review area (check all that apply):
   - ☐ Tributary waters: linear feet width (ft).
   - ☐ Other non-wetland waters: acres.
     Identify type(s) of waters: .

3. **Non-RPWs[8] that flow directly or indirectly into TNWs.**
   ☒ Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.

   Provide estimates for jurisdictional waters within the review area (check all that apply):
   ☒ Tributary waters: **634** linear feet **1.5-4** width (ft).
   ☒ Other non-wetland waters: **0.050**acres.
   Identify type(s) of waters: **CH1 and CH2 - Ephemeral Drainage.**

4. **Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.**
   ☐ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.
   ☐ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: .

   ☐ Wetlands directly abutting an RPW where tributaries typically flow "seasonally." Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: .

   Provide acreage estimates for jurisdictional wetlands in the review area: acres.

5. **Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.**
   ☐ Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisidictional. Data supporting this conclusion is provided at Section III.C.

   Provide acreage estimates for jurisdictional wetlands in the review area: acres.

6. **Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.**
   ☒ Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

   Provide estimates for jurisdictional wetlands in the review area: **1.11**acres.

7. **Impoundments of jurisdictional waters.[9]**
   As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.
   ☐ Demonstrate that impoundment was created from "waters of the U.S.," or
   ☐ Demonstrate that water meets the criteria for one of the categories presented above (1-6), or
   ☐ Demonstrate that water is isolated with a nexus to commerce (see E below).

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):[10]
☐ which are or could be used by interstate or foreign travelers for recreational or other purposes.
☐ from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
☐ which are or could be used for industrial purposes by industries in interstate commerce.
☐ Interstate isolated waters. Explain: .
☐ Other factors. Explain: .

Identify water body and summarize rationale supporting determination: .

Provide estimates for jurisdictional waters in the review area (check all that apply):
☐ Tributary waters: linear feet width (ft).
☐ Other non-wetland waters: acres.
Identify type(s) of waters: .
☒ Wetlands: acres.

[8] See Footnote # 3.
[9] To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.
[10] Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA *Memorandum Regarding CWA Act Jurisdiction Following Rapanos.*

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):

- ☐ If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
- ☐ Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
  - ☐ Prior to the Jan 2001 Supreme Court decision in "*SWANCC*," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).
- ☐ Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain: .
- ☐ Other: (explain, if not covered above): .

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):

- ☐ Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
- ☐ Lakes/ponds: acres.
- ☐ Other non-wetland waters: acres. List type of aquatic resource: .
- ☐ Wetlands: acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):

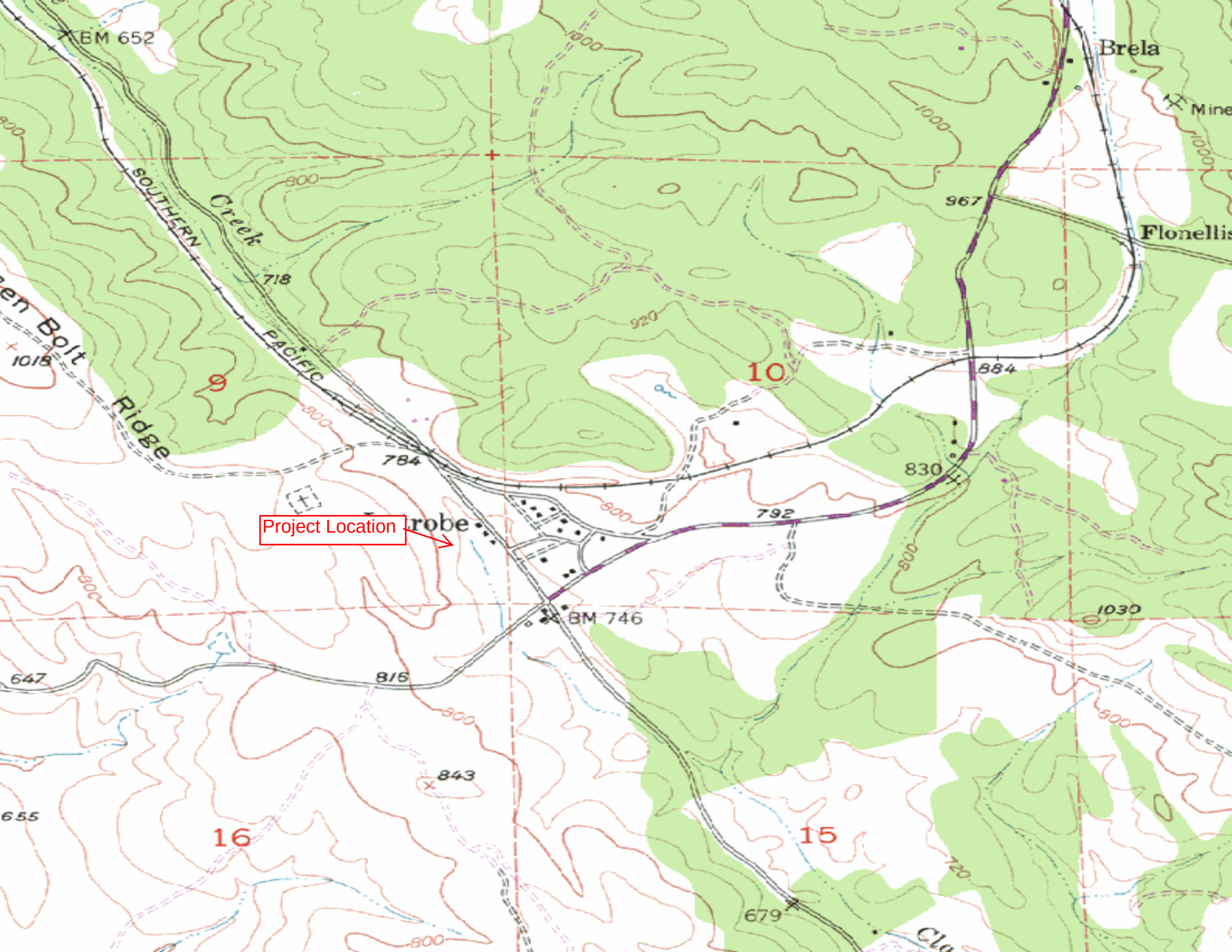
- ☐ Non-wetland waters (i.e., rivers, streams): linear feet, width (ft).
- ☐ Lakes/ponds: acres.
- ☐ Other non-wetland waters: acres. List type of aquatic resource: .
- ☐ Wetlands: acres.

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):

- ☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant:Figure 10. Potential Jurisdicational Features on the project site, revised June 2009. Delineator: Ruth Willson.
- ☒ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
  - ☒ Office concurs with data sheets/delineation report.
  - ☐ Office does not concur with data sheets/delineation report.
- ☐ Data sheets prepared by the Corps: .
- ☒ Corps navigable waters' study: TNW; Navigable In Fact Determination for the Cosumnes River from River Mile 0 to River Mile 62 (SPK-2009-00802).
- ☐ U.S. Geological Survey Hydrologic Atlas: .
  - ☐ USGS NHD data.
  - ☐ USGS 8 and 12 digit HUC maps.
- ☒ U.S. Geological Survey map(s). Cite scale & quad name:CA-LATROBE.
- ☐ USDA Natural Resources Conservation Service Soil Survey. Citation: 1998, Soil survey of El Dorado Area, CA.
- ☒ National wetlands inventory map(s). Cite name:Latrobe, CA.
- ☐ State/Local wetland inventory map(s): .
- ☐ FEMA/FIRM maps: .
- ☐ 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date):Google 2009.
  or ☐ Other (Name & Date): .
- ☐ Previous determination(s). File no. and date of response letter: .
- ☐ Applicable/supporting case law: .
- ☐ Applicable/supporting scientific literature: .
- ☒ Other information (please specify):Adjacent property ID 200600816 JD verification letter, dated October 2, 2007.

B. ADDITIONAL COMMENTS TO SUPPORT JD: USFWS, National Wetland Inventory, mapped CH1 as a creek as part of Clark Creek. CH1 and CH2 are non-RPWs on the project site. SW1, SW2, and SW3 directly abutting to CH1 and CH2. Pond1, Pond2 and Pond3 are adjacent CH1. Pond 3 may be man made; however, there is potential for Pond 3 to flow into CH1 and its seasonal wetlands. CH1 and CH2 flow indirectly to Clark Creek (RPW)and then to Cosumnes River, the closest TNW. Wetlands within the watershed of Clark Creek is estimated over > 50 acres. See III.C.2. See enclosed photos of the project site, NWI map, USGS Survey map and a copy of the wetland delineation map. Adjacent property verified, in October 2007, 200600816, that CH2 as waters of the U.S. and new delineation on the same project verified waters of the U.S. south of the Michigan Bar-Latrobe project as waters of the U.S. .


BM 652
Brela
Mine
SOUTHERN PACIFIC
Creek
Ridge
Bolt
1018
9
10
16
15
967
Flonellis
884
830
784
718
920
1000
900
800
792
Project Location
BM 746
1030
647
816
843
655
679
720

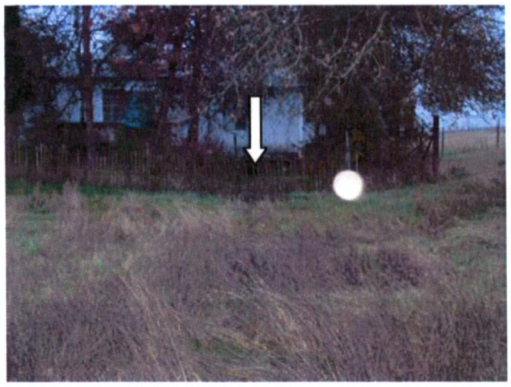


Photo 1. View of ephemeral CH 1A as it exits the project site near the fence line (arrow). No water was present in CH 1A during a December 2008 site visit.

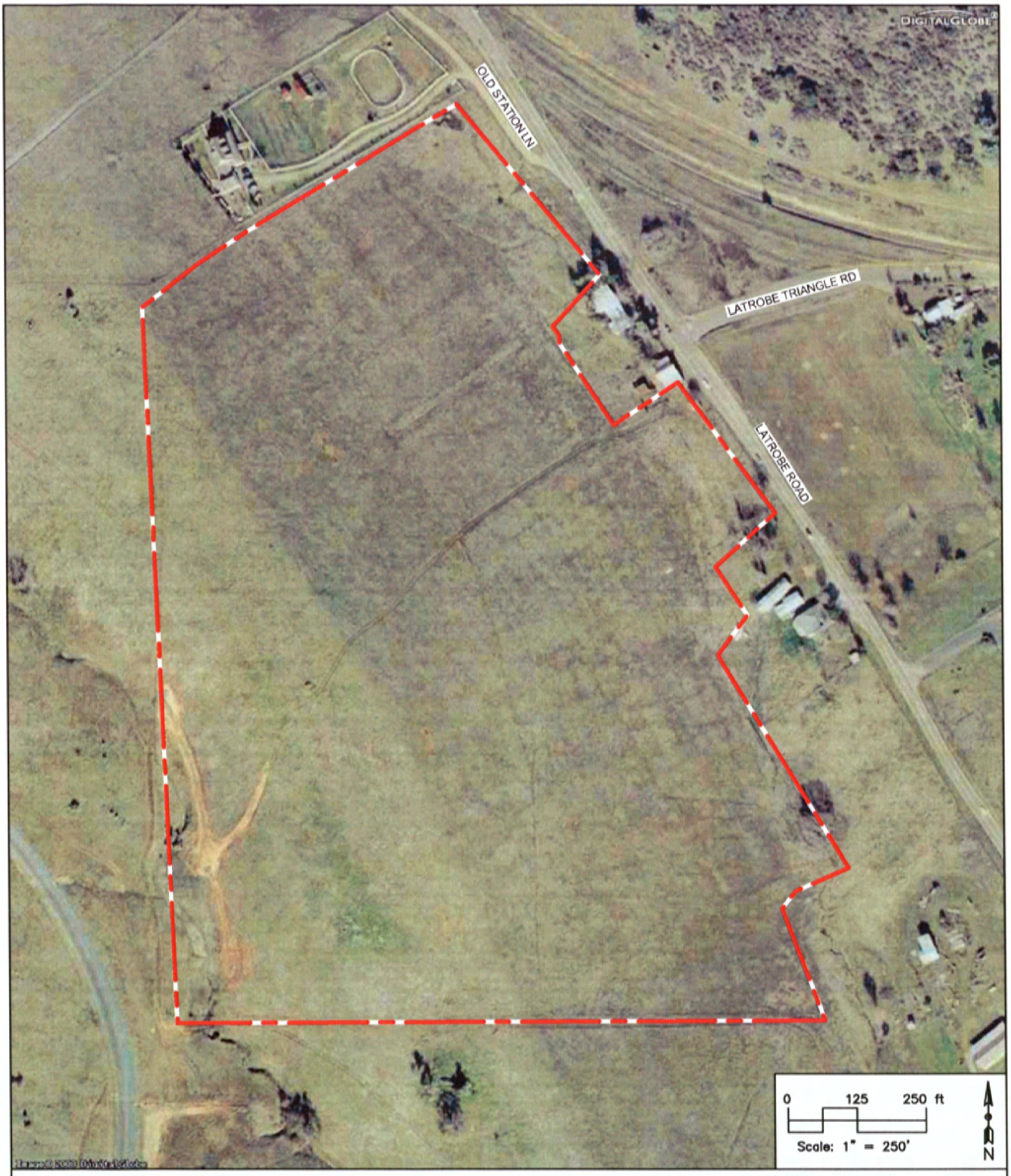
Photo 2. Close up of ephemeral CH 1A as it exits the project site (December 2008).

Photo 3. View of ephemeral CH 1A as it re-enters the project site (December 2008).

Photo 4. View of CH 1B as it exits the project site (arrow). No water was present in CH 1B during a December 2008 site visit.

Photo 5. View of CH 1C where it exits the project site. The channel is filled with herbaceous vegetation (June 2009).

Photo 6. Close up of CH 1C where it exits the project site. The channel bed has been excavated and put in a flume to direct water flow through the adjacent property (June 2009).



Michigan Bar Parcel Map
El Dorado County, CA
4 December 2008

Project Boundary

SYCAMORE
Environmental
Consultants, Inc.

Aerial Photograph

Basemap:
1 Jan 2007

08098MichiganBarParcelMap_CA83-nf.dwg

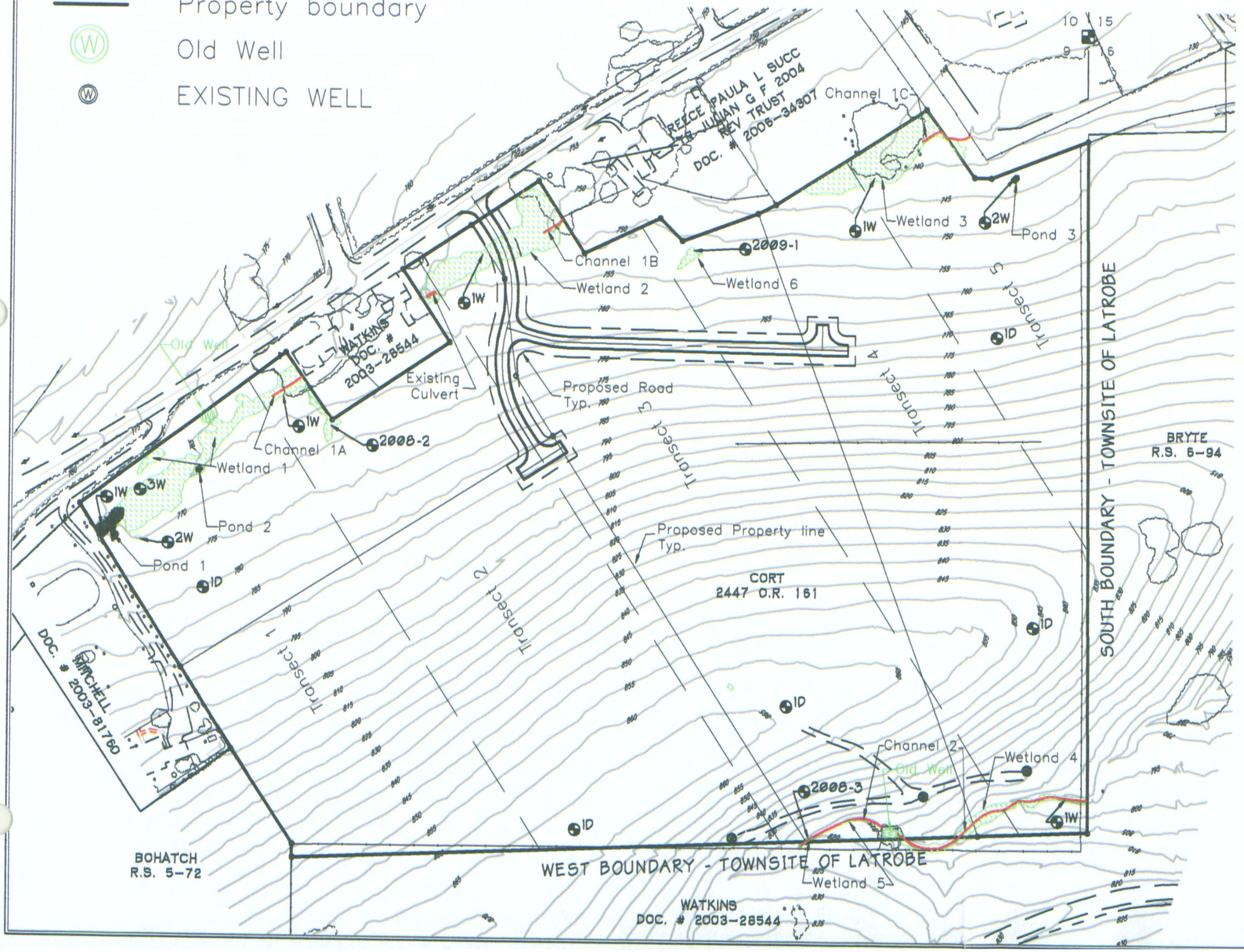
FIGURE 10. Potential jurisdictional features on the project site.

LEGEND

- Soil data point
- Seasonal Wetland
- Seasonal Pond
- Channel
- Property boundary
- Old Well
- EXISTING WELL

200 0 100 200 400

1 inch = 200 ft.



Wetlands and Waters

Feature	Hydrology	Length (ft.)	Average Width (ft.)	Area (ac.)
Seasonal Wetland 1	—	—	—	0.365
Seasonal Wetland 2	—	—	—	0.311
Seasonal Wetland 3	—	—	—	0.288
Seasonal Wetland 4	—	—	—	0.101
Seasonal Wetland 5	—	—	—	0.005
Seasonal Wetland 6	—	—	—	0.012
Subtotal Wetlands	—	—	—	1.08
Channel 1	Ephemeral	140	1.5	0.005
Channel 2	Ephemeral	494	4	0.045
Pond 1	—	—	—	0.029
Pond 2	—	—	—	0.002
Pond 3	—	—	—	0.002
Subtotal Waters	—	—	—	0.08
Total Wetlands and Waters	—	—	—	1.16

Delineation Map Prepared by:
Willson Biological Consulting

Date	Submittal	Delineator
Dec 2006	Original Map	Ruth Willson
Dec 2008	Revised Map	Ruth Willson
June 2009	Revised Map	Ruth Willson

Base Map prepared by Carlton Engineering, Inc