



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

I. ADMINISTRATIVE INFORMATION

Completion Date of Approved Jurisdictional Determination (AJD): [December 21, 2020](#).

ORM Number: [SPK-2020-00467](#).

Associated JDs: [N/A](#).

Review Area Location¹: State/Territory: [California](#). City: [Enter](#). County/Parish/Borough: [Fresno](#).

Center Coordinates of Review Area: Latitude [36.5707](#). Longitude [-120.5410](#).

II. FINDINGS

A. Summary: Check all that apply. At least one box from the following list **MUST** be selected. Complete the corresponding sections/tables and summarize data sources.

- The review area is comprised entirely of dry land (i.e., there are no waters or water features, including wetlands, of any kind in the entire review area). Rationale: .
- There are “navigable waters of the United States” within Rivers and Harbors Act jurisdiction within the review area (complete table in Section II.B).
- There are “waters of the United States” within Clean Water Act jurisdiction within the review area (complete appropriate tables in Section II.C).
- There are waters or water features excluded from Clean Water Act jurisdiction within the review area (complete table in Section II.D).

¹ Map(s)/figure(s) are attached to the AJD provided to the requestor.



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B. Rivers and Harbors Act of 1899 Section 10 (§ 10)²

§ 10 Name	§ 10 Size	§ 10 Criteria	Rationale for § 10 Determination
N/A.	N/A. acres	N/A.	N/A.

C. Clean Water Act Section 404

Territorial Seas and Traditional Navigable Waters ((a)(1) waters): ³			
(a)(1) Name	(a)(1) Size	(a)(1) Criteria	Rationale for (a)(1) Determination
N/A.	N/A. acres	N/A.	N/A.

Tributaries ((a)(2) waters):			
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
N/A.	N/A. acres	N/A.	N/A.

Lakes and ponds, and impoundments of jurisdictional waters ((a)(3) waters):			
(a)(3) Name	(a)(3) Size	(a)(3) Criteria	Rationale for (a)(3) Determination
N/A.	N/A. acres	N/A.	N/A.

Adjacent wetlands ((a)(4) waters):			
(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
N/A.	N/A. acres	N/A.	N/A.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
ED-01 ED-02 ED-03 ED-04 ED-05 ED-06 ED-07	118 118 739 116 147 113 112	Linear feet (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	All 29 drainages within the delineation study area are ephemeral based on review of the aerial and ground photos, confirmed by site visit, dominance of non-hydric or xerophytic shrubs along the drainages such as

² If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

³ A stand-alone TNW determination 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. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD Form.

⁴ Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

⁵ Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



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Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
ED-08	195		allscale saltbush, (<i>Atriplex polycarpa</i>), big saltbush (<i>Atriplex lentiformis</i>), prickly Russian thistle (<i>Salsola tragus</i>), and sacred datura (<i>Datura wrightii</i>) and lack of hydrophytic species more typical of intermittent streams such as willows, blackberry, and mule-fat, combined with low annual precipitation demonstrate the area drainages have insufficient water available to support intermittent streams. Delineation data sheets record only secondary hydrology indicators and the antecedent precipitation tool shows wetter than normal conditions present during the consultant’s field work, both indicating these drainages do not flow except in direct response to rainfall events. These features meet the criteria of (b)(3) ephemeral feature.
ED-09	26		
ED-10	68		
ED-11	15		
ED-12	10		
ED-13	5		
ED-14	151		
ED-15	153		
ED-16	286		
ED-17	43		
ED-18	162		
ED-19	50		
ED-20	37		
ED-21	50		
ED-22	32		
ED-23	70		
ED-24	24		
ED-25	17		
ED-26	10		
ED-27	57		
ED-28	20		
ED-29	7		

III. SUPPORTING INFORMATION

A. Select/enter all resources that were used to aid in this determination and attach data/maps to this document and/or references/citations in the administrative record, as appropriate.

Information submitted by, or on behalf of, the applicant/consultant: [Aquatic Resources Delineation Panoche CAPM Project, July 9, 2019.](#)

This information is sufficient for purposes of this AJD.

Rationale: [N/A.](#)

Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\).](#)

Photographs: [Aerial: Google Earth V 7.3.3.7692. \(2019 June 10, 22 August 4., 2006 December 3 and 2006 February 23\). Panoche Junction, CA. 36.578529 N, -120.551222 W, Eye alt 1864 feet. <http://www.earth.google.com>. Retrieved: October 20, 2020. Digital Globe V 2020 Q3 R2 2582. \(2019 December 15\)](#)

[Panoche Junction, CA. 36.578529 N, -120.551222 W, \[Ewwhs.digitalglobe.com\]\(http://Ewwhs.digitalglobe.com\). Retrieved: 12/3/2020](#)

[Ground Photos: taken by applicant staff June 10-12, 2019 and by Corps staff during site visit on August 4, 2020.](#)

Corps site visit(s) conducted on: [August 4, 2020.](#)



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- Previous Jurisdictional Determinations (AJDs or PJDs): [NA.](#)
- Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)
- USDA NRCS Soil Survey: [Relied on applicant's report for this information.](#)
- USFWS NWI maps: [NA .](#)
- USGS topographic maps: [Relied on applicant's report for this information.](#)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Issues	N/A.

B. Typical year assessment(s): Typical year assessment was conducted on multiple dates in order to compare conditions between the dates the field work was conducted, June 10, 2019, the date of the the Corps site visit, August 4, 2020, with aerial photos taken during non-drought, wet season, December - February. Based on the three assessments conducted during the non-drought, wet season, February 23, 2006, December 3, 2006 and December 23, 2019, we can determine that under normal conditions during the wet season, the streams contained no evidence of standing water, the expected condition of ephemeral streams in a dry environment. Intermittent streams would typically provide evidence of standing or flowing water during a non-drought, wet season. A multi-year drought only recently ended in early 2019. The typical year assessment for June 2019 indicates that several precipitation events occurred shortly before the field work was conducted but the data sheets state there was no water present nor any primary hydrology indicators at any of the sample points. Only secondary indicators were noted at sample points. The assessment demonstrates that even during a wetter than normal period and with recent rainfall, the streams remain dry. The delineation report states the average annual precipitation for the area is 6.79 inches and the 2018-2019 rain years recorded 9.61 inches.

C. Additional comments to support AJD: The project study area is located in the arid portion of the San Joaquin Valley with an average total annual precipitation of 6.79 inches. The typical year assessment for June 2019 indicated that even during a wetter than normal year the site exhibits very dry conditions. The delineation data sheets state there were no primary hydrology indicators nor any water or saturation present after recent rainfall events occurred. Vegetation within the streams is dominated by non-hydric species and there were no shrubs typically found on intermittent streams in the San Joaquin Valley. All 29 of the ephemeral streams flow from west to east out of the Ciervo Hills and terminate in the flat agricultural lands east of the Interstate 5 study area.