



DEPARTMENT OF THE ARMY
SAN FRANCISCO DISTRICT, U.S. ARMY CORPS OF ENGINEERS
1455 MARKET STREET, 16TH FLOOR
SAN FRANCISCO, CALIFORNIA 94103-1398

31 August 2017

SANITARY DISTRICT NO. 1
OF MARIN COUNTY

SEP 13 2017

RECEIVED

Regulatory Division

Subject: File Number 2004-292530

Mr. Mark Kalnins
WRA, Inc.
2169-G East Francisco Boulevard
San Rafael, California 94901

Dear Mr. Kalnins:

This correspondence is in response to your submittal of March 13, 2017, on behalf of the Sanitary District No. 1 of Marin County, requesting an approved jurisdictional determination of the extent of waters of the United States occurring on an approximately 10.5-acre site located northeast of the intersection of Sir Francis Drake Boulevard and Larkspur Landing Circle in Larkspur, Marin County, California (Lat: 37.946°N, Long: -122.505°W).

All proposed discharges of dredged or fill material occurring below the plane of ordinary high water in non-tidal waters of the United States; or below the high tide line in tidal waters of the United States; and within the lateral extent of wetlands adjacent to these waters, typically require Department of the Army authorization and the issuance of a permit under Section 404 of the Clean Water Act of 1972, as amended (33 U.S.C. § 1344 *et seq.*). Waters of the United States generally include the territorial seas; all traditional navigable waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including waters subject to the ebb and flow of the tide; wetlands adjacent to traditional navigable waters; non-navigable tributaries of traditional navigable waters that are relatively permanent, where the tributaries typically flow year-round or have continuous flow at least seasonally; and wetlands directly abutting such tributaries. Where a case-specific analysis determines the existence of a "significant nexus" effect with a traditional navigable water, waters of the United States may also include non-navigable tributaries that are not relatively permanent; wetlands adjacent to non-navigable tributaries that are not relatively permanent; wetlands adjacent to but not directly abutting a relatively permanent non-navigable tributary; and certain ephemeral streams in the arid West.

All proposed structures and work, including excavation, dredging, and discharges of dredged or fill material, occurring below the plane of mean high water in tidal waters of the United States; in former diked baylands currently below mean high water; outside the limits of mean high water but affecting the navigable capacity of tidal waters; or below the plane of ordinary high water in non-tidal waters designated as navigable waters of the United States, typically require Department of the Army authorization and the issuance of a permit under Section 10 of the Rivers and Harbors Act of 1899, as amended (33 U.S.C. § 403 *et seq.*). Navigable waters of the United States generally include all waters subject to the ebb and flow of

the tide; and/or all waters presently used, or have been used in the past, or may be susceptible for future use to transport interstate or foreign commerce.

The enclosed delineation map entitled, "Approved Jurisdictional Determination, pursuant to Section 404 Clean Water Act, 2000 Larkspur Landing Circle, Larkspur, Marin County, California," in one sheet, date certified August 21, 2017, accurately depicts the extent and location of wetlands and other waters of the United States within the project area of the site that are subject to U.S. Army Corps of Engineers' regulatory authority under Section 404 of the Clean Water Act. This approved jurisdictional determination is based on the current conditions of the site, as verified during a field investigation of April 6, 2017, a review of available digital photographic imagery, and a review of other data included in your submittal. This approved jurisdictional determination will expire in five years from the date of this letter, unless new information or a change in field conditions warrants a revision to the delineation map prior to the expiration date. The basis for this approved jurisdictional determination is further explained in the enclosed *Approved Jurisdictional Determination Form*. This approved jurisdictional determination is presumed to be consistent with the official interagency guidance of June 5, 2007, interpreting the Supreme Court decision, *Rapanos v. United States*, 126 S. Ct. 2208 (2006).

The enclosed delineation map further depicts the extent and location of non-tidal drainage ditches within the project area of the site that are **not** subject to U.S. Army Corps of Engineers' regulatory authority under Section 404 of the Clean Water Act. Waters of the United States do not generally include non-tidal drainage and irrigation ditches excavated on dry land; artificially irrigated areas which would revert to upland, if the irrigation ceased; artificial lakes or 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; and 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 a waters of the United States (51 Fed. Reg. 41,217; Nov. 13, 1986). Based on a case-by-case analysis, the U.S. Army Corps of Engineers may elect to not exert jurisdiction over these categories of water bodies. These delineated water bodies, however, may be considered as "waters of the State," and, therefore, subject to regulation by the California Regional Water Quality Control Board, San Francisco Bay Region, under the Porter-Cologne Water Quality Control Act, as amended (California Water Code § 1300 *et seq.*).

You are advised that the approved jurisdictional determination may be appealed through the U.S. Army Corps of Engineers' *Administrative Appeal Process*, as described in 33 C.F.R. Part 331 (65 Fed. Reg. 16,486; Mar. 28, 2000), and outlined in the enclosed flowchart and

Notification of Administrative Appeal Options, Process, and Request for Appeal (NAO-RFA) Form. If you do not intend to accept the approved jurisdictional determination, you may elect to provide new information to this office for reconsideration of this decision. If you do not provide new information to this office, you may elect to submit a completed NAO-RFA Form to the Division Engineer to initiate the appeal process; the completed NAO-RFA Form must be submitted directly to the Appeal Review Officer at the address specified on the NAO-RFA Form. You will relinquish all rights to a review or an appeal, unless this office or the Division Engineer receives new information or a completed NAO-RFA Form within 60 days of the date on the NAO-RFA Form. If you intend to accept the approved jurisdictional determination, you do not need to take any further action associated with the Administrative Appeal Process.

You may refer any questions on this matter to Bryan Matsumoto of my Regulatory staff by telephone at 415-503-6786 or by e-mail at Bryan.T.Matsumoto@usace.army.mil. All correspondence should be addressed to the Regulatory Division, North Branch, referencing the file number at the head of this letter.

The San Francisco District is committed to improving service to our customers. My Regulatory staff seeks to achieve the goals of the Regulatory Program in an efficient and cooperative manner, while preserving and protecting our nation's aquatic resources. If you would like to provide comments on our Regulatory Program, please complete the Customer Service Survey Form available on our website:
www.spn.usace.army.mil/Missions/Regulatory.aspx.

Sincerely,



Digitally signed by
COSTA.HOLLY.N.1249736780
DN: c=US, o=U.S. Government, ou=DoD,
ou=PKI, ou=USA,
cn=COSTA.HOLLY.N.1249736780
Date: 2017.08.31 17:05:04 -0700

Holly N. Costa
Regulatory North Branch Chief

Enclosures

Copies Furnished (w/ delineation map only):

CA RWQCB, Oakland, CA
Sanitary District No. 1 of Marin County, San Rafael, CA (Attn: Greg Norby)



U.S. Army
Corps of Engineers
San Francisco District
Regulatory Division

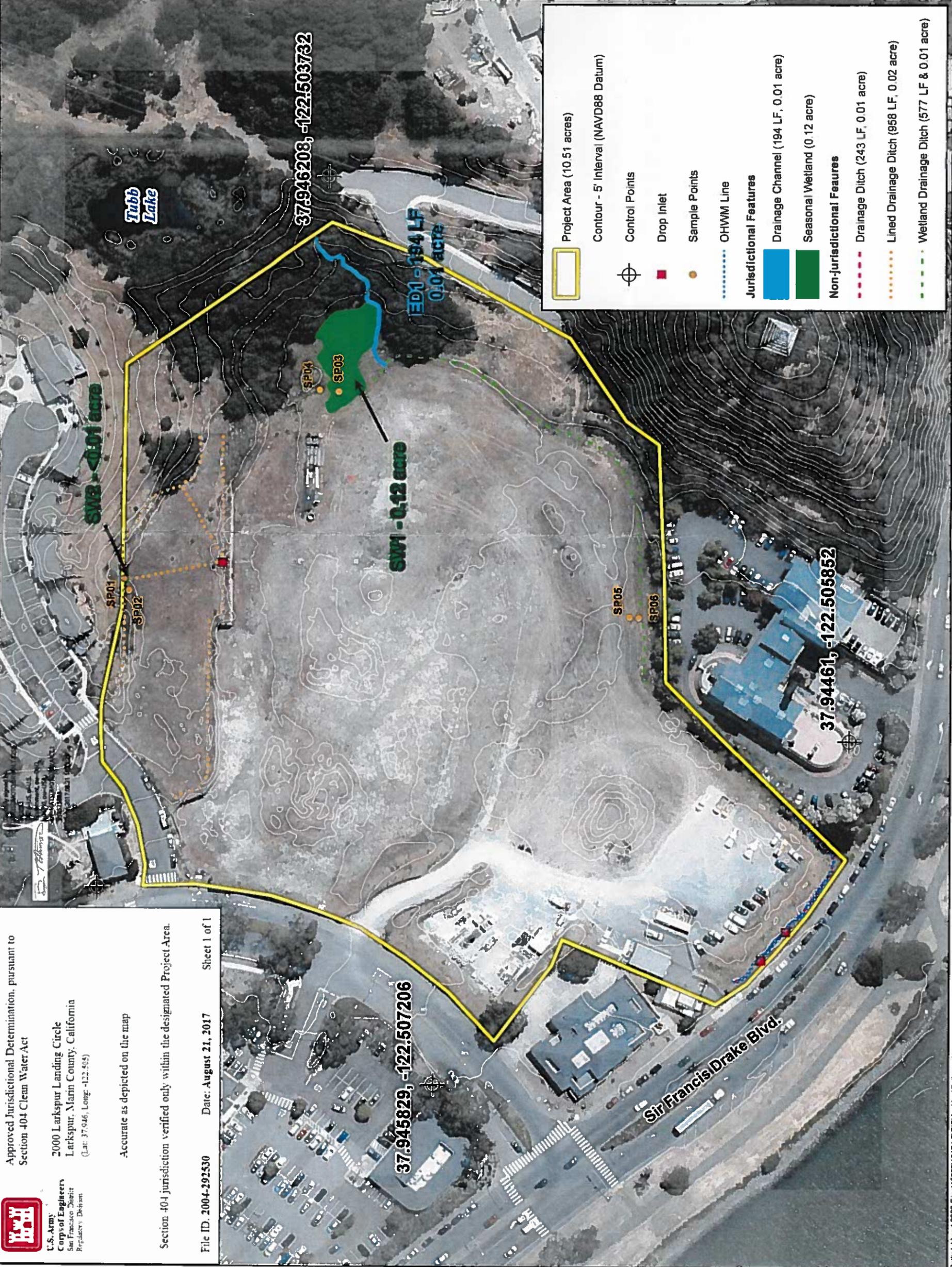
Approved Jurisdictional Determination, pursuant to
Section 404 Clean Water Act

2000 Larkspur Landing Circle
Larkspur, Marin County, California
(Lat: 37.946, Long: -122.505)

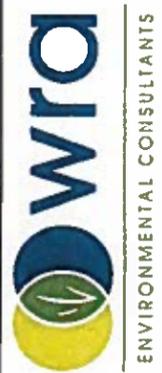
Accurate as depicted on the map

Section 404 jurisdiction verified only within the designated Project Area.

File ID: 2004-292530 Date: August 21, 2017 Sheet 1 of 1

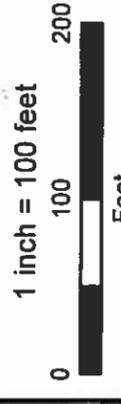


	Project Area (10.51 acres)
	Contour - 5' Interval (NAVD88 Datum)
	Control Points
	Drop Inlet
	Sample Points
	OHWM Line
Jurisdictional Features	
	Drainage Channel (194 LF, 0.01 acre)
	Seasonal Wetland (0.12 acre)
Non-jurisdictional Features	
	Drainage Ditch (243 LF, 0.01 acre)
	Lined Drainage Ditch (958 LF, 0.02 acre)
	Wetland Drainage Ditch (577 LF & 0.01 acre)



2000 Larkspur
Landing Circle
Larkspur, California

Appendix A.
Jurisdictional
Determination



Map Prepared Date: 8/20/17
Map Prepared By: mmchele
Base Source: March 2014 Aerial
Data Source(s): WRA
Topographic Data Source: 2010 Golden Gate LIDAR Project
Data collected prior to May 2012 grading activities
Datum: D_North_American_1983