



DEPARTMENT OF THE ARMY
SAN FRANCISCO DISTRICT, U.S. ARMY CORPS OF ENGINEERS
450 GOLDEN GATE AVENUE
SAN FRANCISCO, CALIFORNIA 94102

August 9, 2021

Regulatory Division

Subject: File No. 2019-00073N

Ms. Andrea Hilton
GHD Inc
718 Third Street
Eureka, CA 95501

Dear Ms. Hilton:

This correspondence is in reference to your submittal of July 6, 2021, on behalf of the City of Arcata, requesting a revised preliminary jurisdictional determination of the extent of navigable waters of the United States and waters of the United States occurring on a 1.25 mile linear project (study area 8.9 acres). The study area includes areas of Old Arcata Road, adjacent roadways through the community of Bayside, and extends between the intersection of Buttermilk Road to the north and Jacoby Creek Road to the south, with a center point at latitude 40.850893°N longitude -124.069409°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.*

The enclosed delineation map titled "Preliminary Jurisdictional Determination for the Old Arcata Road Improvement Project," in 5 sheets and date certified August 9, 2021, depicts the extent and location of wetlands within the boundary area of the site that **may be** subject to U.S. Army Corps of Engineers' regulatory authority under Section 404 of the Clean Water Act. This preliminary jurisdictional determination is based on the current conditions of the site, as verified during a review of other data included in your submittal. While this preliminary jurisdictional determination was conducted pursuant to Regulatory Guidance Letter No. 16-01, *Jurisdictional Determinations*, it may be subject to future revision if new information or a change in field conditions becomes subsequently apparent. The basis for this preliminary jurisdictional determination is fully explained in the enclosed *Preliminary Jurisdictional Determination Form*. You are requested to sign and date this form and return it to this office within two weeks of receipt.

You are advised that the preliminary jurisdictional determination may **not** be appealed through the U.S. Army Corps of Engineers' *Administrative Appeal Process*, as described in 33 C.F.R. pt. 331 (65 Fed. Reg. 16,486; Mar. 28, 2000). Under the provisions of 33 C.F.R. Section

331.5(b)(9), non-appealable actions include preliminary jurisdictional determinations since they are considered to be only advisory in nature and make no definitive conclusions on the jurisdictional status of the water bodies in question. However, you may request this office to provide an approved jurisdictional determination that precisely identifies the scope of jurisdictional waters on the site; an approved jurisdictional determination may be appealed through the *Administrative Appeal Process*. If you anticipate requesting an approved jurisdictional determination at some future date, you are advised not to engage in any on-site grading or other construction activity in the interim to avoid potential violations and penalties under Section 404 of the Clean Water Act. Finally, you may provide this office new information for further consideration and request a reevaluation of this preliminary jurisdictional determination.

You may refer any questions on this matter to me by telephone at 707-443-0855 or by e-mail at 1.k.sirkin@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. The 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:
<http://www.spn.usace.army.mil/Missions/Regulatory.aspx>.

Sincerely,



L. Kasey Sirkin
Lead Biologist, Eureka Field Office

Enclosures

Electronic Copy Furnished (w/ encls):

Mr. David Loya, City of Arcata dloya@cityofarcata.org









