



DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS
2151 ALESSANDRO DRIVE
VENTURA, CA 93001

September 24, 2015

John Madonna

OCT 05 2015

Construction Co. Inc.

John Madonna
John Madonna Construction, Inc.
P.O. Box 5310
San Luis Obispo, California 93405

SUBJECT: Preliminary Jurisdictional Determination regarding geographic jurisdiction

Dear Mr. Madonna:

I am responding to your request (File No. SPL-2015-00578) dated August 4, 2015 for a preliminary Department of the Army jurisdictional determination (JD) for the Froom Ranch Project site (Lat. 35.24509°N, Long. -120.68793) located within the city and county of San Luis Obispo, California.

The Corps' evaluation process for determining whether or not a Department of the Army permit is needed involves two tests. If both tests are met, a permit would likely be required. The first test determines whether or not the proposed project is located within the Corps' geographic jurisdiction (i.e., it is within a water of the United States). The second test determines whether or not the proposed project is a regulated activity under Section 10 of the Rivers and Harbors Act or Section 404 of the Clean Water Act. This evaluation pertains only to geographic jurisdiction.

Based on available information, I have preliminarily determined waters of the U.S. may be present on the Froom Ranch Project site in the approximate locations noted on the enclosed drawing, Figure 4: Wetland Delineation Overview. The basis for this finding can be found on the enclosed Preliminary Jurisdictional Determination (JD) form. Please be aware preliminary JDs are non-binding indications of the presence of waters of the U.S., including wetlands, on a parcel, are advisory in nature and may not be appealed. If you accept this determination, please sign and date this form and return to the issuing office within two weeks of receipt. However, you are hereby informed of your option to request an approved jurisdictional determination, which may be appealed. Note that for purposes of computation of impacts, compensatory mitigation requirements, and other resource protection measures, a permit decision made on the basis of a preliminary JD will treat all waters and wetlands that would be affected in any way by the permitted activity on the site as if they are jurisdictional waters of the U.S.

Preliminary and approved jurisdictional determinations are fully explained in the enclosed Regulatory Guidance Letter 08-02, dated June 26, 2008. Further, proffered individual permits (and all terms and conditions contained therein), individual permit denials, and any jurisdictional issues may also be appealed pursuant to 33 CFR Part 331.

This determination was conducted to identify the extent of the Corps' Clean Water Act jurisdiction on the Froom Ranch Project site identified in your request. This determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985. If you or your tenant are USDA program participants, or anticipate participation in USDA programs, you should request a certified wetland determination from the local office of the Natural Resources Conservation Service, prior to starting work.

Thank you for participating in the regulatory program. If you have any questions, please contact me at 805-585-2145 or via e-mail at Erin.M.Hanlon@usace.army.mil. Please also complete the customer survey form at http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey, which would help me to evaluate and improve the regulatory experience for others.

Sincerely,



Erin M. Hanlon
Regulatory Project Manager
North Coast Branch

Enclosures

Copy Furnished

Kevin B. Merk, Kevin Merk Associates, LLC, P.O. Box 318, San Luis Obispo, CA 93406
Paula C. Richter, Central Coast Regional Water Quality Control Board, 895 Aerovista Place,
Suite 101, San Luis Obispo, CA 93401

PRELIMINARY JURISDICTIONAL DETERMINATION FORM

This preliminary JD finds that there "may be" waters of the United States on the subject project site, and identifies all aquatic features on the site that could be affected by the proposed activity, based on the following information:

District Office	Los Angeles District	File/ORM #	SPL-2015-00578	PJD Date:	Sep 2, 2015	
State	CA	City/County	City and County of San Luis Obispo			
Nearest Waterbody:	Froom Creek					
Location: TRS, Lat/Long or UTM:	Lat. 35.2450°N, Long. -120.6879°W					
Name/Address of Person Requesting PJD	John Madonna John Madonna Construction, Inc P.O. Box 5310 San Luis Obispo, CA 93405					

Identify (Estimate) Amount of Waters in the Review Area:	Name of Any Water Bodies on the Site Identified as
Non-Wetland Waters: _____ Stream Flow: _____ <input type="checkbox"/> linear ft <input type="checkbox"/> width <input type="text" value="2.657"/> acres <input type="checkbox"/> Intermittent	Tidal: _____ Section 10 Waters: Non-Tidal: _____
Wetlands: <input type="text" value="7.245"/> acre(s) Cowardin Class: <input type="text" value="Palustrine, emergent"/>	<input type="checkbox"/> Office (Desk) Determination <input checked="" type="checkbox"/> Field Determination: Date of Field Trip: <input type="text" value="Sep 17, 2015"/>

SUPPORTING DATA: Data reviewed for preliminary JD (check all that apply - checked items should 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:
- 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: _____
- U.S. Geological Survey Hydrologic Atlas:
 - USGS NHD data.
 - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite quad name:
- USDA Natural Resources Conservation Service Soil Survey. Citation: _____
- National wetlands inventory map(s). Cite name: _____
- State/Local wetland inventory map(s): _____
- FEMA/FIRM maps: _____
- 100-year Floodplain Elevation is: _____
- Photographs:
 - Aerial (Name & Date):
 - Other (Name & Date): _____
- Previous determination(s). File no. and date of response letter: _____
- Other information (please specify): _____

IMPORTANT NOTE: The information recorded on this form has not necessarily been verified by the Corps and should not be relied upon for later jurisdictional determinations.

Erin M. Hanlon *September 24, 2015*
 Signature and Date of Regulatory Project Manager
 (REQUIRED)

 Signature and Date of Person Requesting Preliminary JD
 (REQUIRED, unless obtaining the signature is impracticable)

EXPLANATION OF PRELIMINARY AND APPROVED JURISDICTIONAL DETERMINATIONS:

1. The Corps of Engineers believes that there may be jurisdictional waters of the United States on the subject site, and the permit applicant or other affected party who requested this preliminary JD is hereby advised of his or her option to request and obtain an approved jurisdictional determination (JD) for that site. Nevertheless, the permit applicant or other person who requested this preliminary JD has declined to exercise the option to obtain an approved JD in this instance and at this time.

2. In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring "preconstruction notification" (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an approved JD for the activity, the permit applicant is hereby made aware of the following: (1) the permit applicant has elected to seek a permit authorization based on a preliminary JD, which does not make an official determination of jurisdictional waters; (2) that the applicant has the option to request an approved JD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an approved JD could possibly result in less compensatory mitigation being required or different special conditions; (3) that the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or other general permit authorization; (4) that the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the Corps has determined to be necessary; (5) that undertaking any activity in reliance upon the subject permit authorization without requesting an approved JD constitutes the applicant's acceptance of the use of the preliminary JD, but that either form of JD will be processed as soon as is practicable; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a preliminary JD constitutes agreement that all wetlands and other water bodies on the site affected in any way by that activity are jurisdictional waters of the United States, and precludes any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7) whether the applicant elects to use either an approved JD or a preliminary JD, that JD will be processed as soon as is practicable. Further, an approved JD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331, and that in any administrative appeal, jurisdictional issues can be raised (see 33 C.F.R. 331.5(a)(2)). If, during that administrative appeal, it becomes necessary to make an official determination whether CWA jurisdiction exists over a site, or to provide an official delineation of jurisdictional waters on the site, the Corps will provide an approved JD to accomplish that result, as soon as is practicable.

PRELIMINARY JURISDICTIONAL DETERMINATION FORM

This preliminary JD finds that there "may be" waters of the United States on the subject project site, and identifies all aquatic features on the site that could be affected by the proposed activity, based on the following information:

Appendix A - Sites




District Office File/ORM # PJD Date:
State City/County Person Requesting PJD

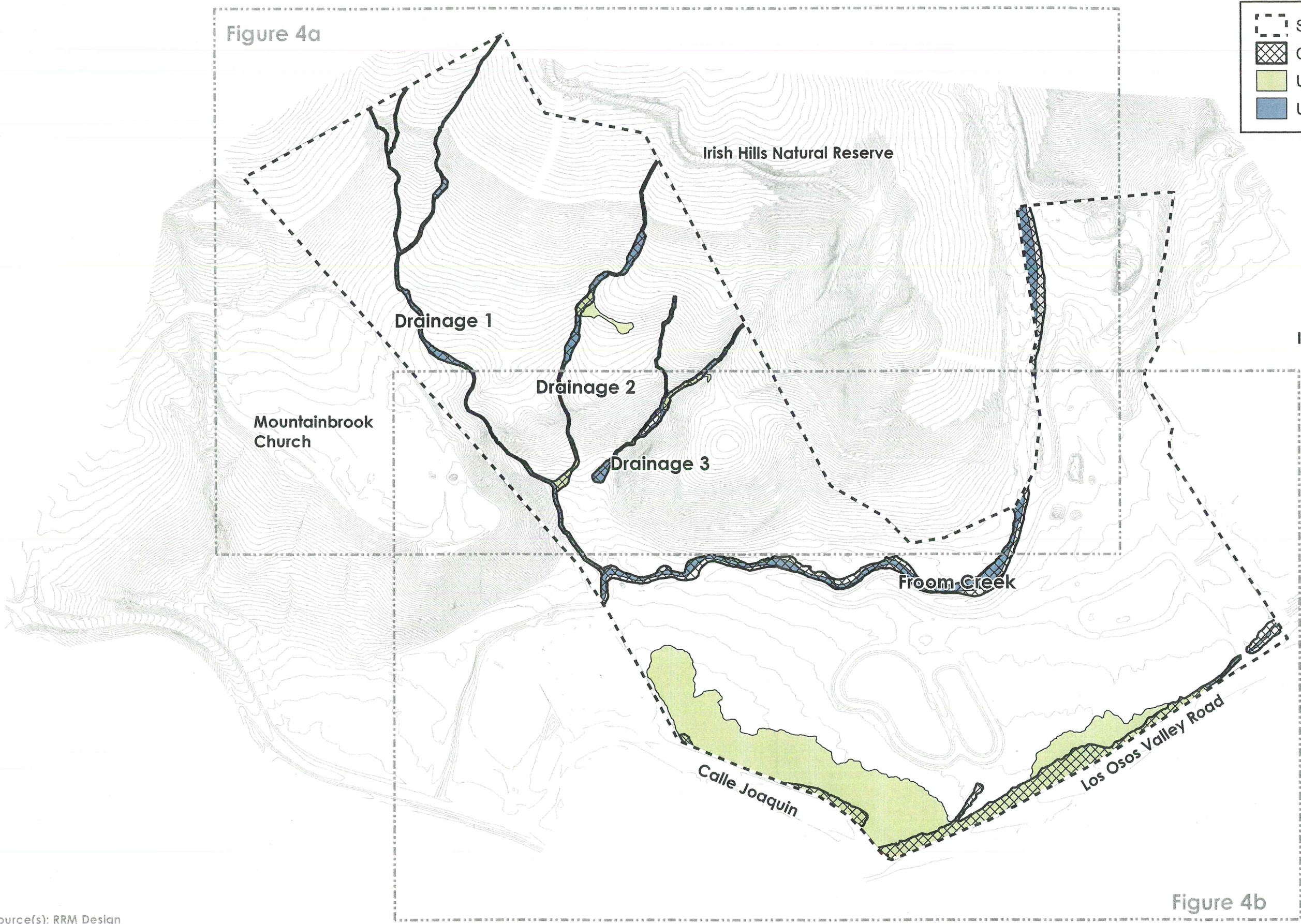
Site Number	Latitude	Longitude	Cowardin Class	Est. Amount of Aquatic Resource in Review Area	Class of Aquatic Resource
1	35.2467	-120.6865	Riverine	1.144 acre	Non-Section 10 non-wetland
2	35.2492	-120.6848	Riverine	1.361	Non-Section 10 non-wetland
3	35.2418	-120.6900	Riverine	0.681	Non-Section 10 non-wetland
4	35.2436	-120.6899	Riverine	1.002	Non-Section 10 non-wetland
5	35.2452	-120.6895	Riverine	0.454	Non-Section 10 non-wetland
6	35.2469	-120.6841	Palustrine, emergent	5.812	Non-Section 10 wetland

Notes:

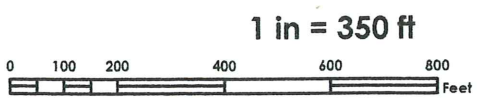
1 = Froom Creek
2 = LOVR Drainage
3 = Drainage 1
4 = Drainage 2
5 = Drainage 3
6 = Wet Meadow

Figure 4a

-  Study Area Boundary
-  CDFW Jurisdiction (5.41 acres)
-  USACE Wetlands (7.25 acres)
-  USACE Other Waters (2.66 acres)



Source(s): RRM Design



Froom Ranch
John Madonna Construction, Inc.

Figure 4
Wetland Delineation Overview