



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

December 22, 2021

Regulatory Division

Subject: File No. SPN-2021-00343

Mr. Charles Patterson
1806 Ivanhoe
Lafayette, CA 94549
cpwetguy@sbcglobal.net

Dear Mr. Patterson:

This correspondence is in reference to your submittal of February 25, 2021, on behalf of Pink Viking ORH LLC, requesting a preliminary jurisdictional determination of the extent of navigable waters of the United States and waters of the United States occurring at one edge of a 7.12-acre property located at 8841 Old Redwood Hwy in the City of Cotati, Sonoma County, California: APN:046-223-018-000, Latitude 38.3177°, Longitude -122.7008°.

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 pursuant to Section 404 Clean Water Act, "SPN-2021-00343, 8841 Old Redwood Hwy Map" in 1 sheet and date certified December 22nd, 2021, depicts the extent and location of an intermittent roadside ditch 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 available digital photographic imagery, and 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*, which has been signed and dated by this office. 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 Kendra Spicher by telephone at 415-503-6832 or by e-mail at Kendra.A.Spicher@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: <https://www.spn.usace.army.mil/Missions/Regulatory.aspx>.

Sincerely,

A handwritten signature in black ink, appearing to read "William Connor". The signature is fluid and cursive, with the first name "William" and last name "Connor" clearly distinguishable.

William Connor
North Branch Chief
Regulatory Division

Enclosures



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

Preliminary Jurisdictional Determination,
Pursuant to Section 404 Clean Water Act

8841 Old Redwood Highway
Cotati, Sonoma County, California
(APN: 046-223-018-000)

— Study Area Boundary

Accurate as depicted in legend

File ID: 2021-00343

Date: December 27, 2021

Sheet 1 of 1



Figure 3r. Site Detail (revised 12/27/21)

8841 Old Redwood Highway, Cotati, Calif.

NORTH



Source/Prepared by:
C. Patterson; Dec., 2021

Applicant: Pink Viking
ORH LLC, Santa Rosa, CA

Sonoma County
A. P. Number
046-223-018-000

Basemap: 2018 GoogleEarth air photo
No Scale

Approx. 7.12 ac

Request For JD/PJD

Appendix 2 - PRELIMINARY JURISDICTIONAL DETERMINATION (PJD) FORM

BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR PJD: 27-Dec-2021

B. NAME AND ADDRESS OF PERSON REQUESTING

PJD: Applicant:
 Pink Viking ORH LLC,
 8841 Old Redwood Hwy
 Cotati, Sonoma County, California
 Agent:
 Mr. Charles Patterson
 1806 Ivanhoe
 Lafayette, CA 94549
 cpwetguy@sbcglobal.net

C. DISTRICT OFFICE, FILE NAME, AND NUMBER:

San Francisco District, 8841 Old Redwood Hwy, SPN-2021-00343

D. PROJECT LOCATION(S) AND BACKGROUND INFORMATION:

(USE THE TABLE BELOW TO DOCUMENT MULTIPLE AQUATIC RESOURCES AND/OR AQUATIC RESOURCES AT DIFFERENT SITES)

State: California County/parish/borough: Sonoma County City: Cotati

Center coordinates of site (lat/long in degree decimal format):

Lat: 38.3177 ° Long: -122.7008 °

Universal Transverse Mercator: 10

Name of nearest waterbody:

C. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

Office (Desk) Determination. Date: December 6, 2021

Field Determination. Date(s):

TABLE OF AQUATIC RESOURCES IN REVIEW AREA WHICH "MAY BE" SUBJECT TO REGULATORY JURISDICTION.

Site number	Latitude (decimal degrees)	Longitude (decimal degrees)	Estimated amount of aquatic resource in review area (acreage and linear feet, if applicable)	Type of aquatic resource (i.e. wetland vs. non-wetland waters)	Geographic authority to which the aquatic resource "may be" subject (i.e. Section 404 or Section 10/404)
SPN-2021-00343 Intermittent Roadside Ditch	38.3177	-122.7008	0.02 acres	Wetland	404

- 1) The Corps of Engineers believes that there may be jurisdictional aquatic resources in the review area, and the requestor of this PJD is hereby advised of his or her option to request and obtain an approved JD (AJD) for that review area based on an informed decision after having discussed the various types of JDs and their characteristics and circumstances when they may be appropriate.
- 2) In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring "pre-construction notification" (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an AJD for the activity, the permit applicant is hereby made aware that: (1) the permit applicant has elected to seek a permit authorization based on a PJD, which does not make an official determination of jurisdictional aquatic resources; (2) the applicant has the option to request an AJD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an AJD could possibly result in less compensatory mitigation being required or different special conditions; (3) 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) 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) undertaking any activity in reliance upon the subject permit authorization without requesting an AJD constitutes the applicant's acceptance of the use of the PJD; (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 PJD constitutes agreement that all aquatic resources in the review area affected in any way by that activity will be treated as jurisdictional, and waives 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 AJD or a PJD, the JD will be processed as soon as practicable. Further, an AJD, 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. If, during an administrative appeal, it becomes appropriate to make an official determination whether geographic jurisdiction exists over aquatic resources in the review area, or to provide an official delineation of jurisdictional aquatic resources in the review area, the Corps will provide an AJD to accomplish that result, as soon as is practicable. This PJD finds that there "may be" waters of the U.S. and/or that there "may be" navigable waters of the U.S. on the subject review area, and identifies all aquatic features in the review area that could be affected by the proposed activity, based on the following information: