

# **APPENDIX E**

## **Preliminary Jurisdictional Delineation**



DEPARTMENT OF THE ARMY  
U.S. ARMY CORPS OF ENGINEERS, SACRAMENTO DISTRICT  
1325 J STREET  
SACRAMENTO CA 95814-2922

May 11, 2023

Regulatory Division (SPK-2021-00634)

Attn: Mr. Steve Gidaro  
Dixon Venture, LLC.  
6647 20th Street  
Rio Linda, California 95673  
[sgidaro@gidarogroup.com](mailto:sgidaro@gidarogroup.com)

Dear Mr. Gidaro:

We are responding to the April 26, 2023, request for a preliminary jurisdictional determination (JD) submitted by HELIX Environmental Planning, Inc. on your behalf for the *Dixon 257 site*. The approximately 260.45-acre project area and its accompanying 23.24-acre offsite project areas (survey area) are located near Interstate 80 along Pedrick Road in Sections 1 and 12, Township 7 North, Range 1 East, MDB&M, at Latitude 38.47441°, Longitude -121.80760°, City of Dixon, Solano County, California.

Based on available information, we concur with your aquatic resources delineation for the site as depicted on the following four enclosed figures, all of which were prepared by Bargas Environmental (*Enclosure 1*):

- *Figure 4 - Aquatic Resources Delineation Dixon 257* – created on June 28, 2021, and revised on May 18, 2022;
- *Figure 4 - Page 1 of 3 Aquatic Resources Delineation Map Dixon 257* – created on June 28, 2021, and revised on May 18, 2022;
- *Figure 4 - Page 2 of 3 Aquatic Resources Delineation Map Dixon 257* – created on June 28, 2021, and revised on May 18, 2022; and
- *Figure 4 - Page 3 of 3 Aquatic Resources Delineation Map Dixon 257* – created on June 28, 2021, and revised on May 18, 2022.

The approximately 0.14 acre of seasonal wetland swale, 0.21 acre of agricultural basin, and the 1.17 acres of ditches present within the survey area are potential jurisdictional aquatic resources (“waters of the United States”) regulated under Section 404 of the Clean Water Act.

This letter verifies that the location and boundaries of wetlands were delineated consistent with the wetland definition at 33 CFR §328.3(c)(16), the 1987 *Corps of Engineers Wetlands Delineation Manual* (Wetlands Research Program Technical Report Y-87-1) and the applicable regional supplements; and the location and boundaries of non-tidal waters conform with the ordinary high water mark definition at 33 CFR §328.3(c)(7), Regulatory Guidance Letter 05-05, and any applicable regional guide.

At your request, we have completed a preliminary JD for the site. Enclosed find a copy of the *Preliminary Jurisdictional Determination Form (Enclosure 2)*. Please sign and return the completed form to the address listed below within 30 days of the date of this letter.

If you do not return the signed form within 30 days, we will presume concurrence and finalize the preliminary jurisdictional determination.

We recommend you provide a copy of this letter and notice to all other affected parties, including any individual who has an identifiable and substantial legal interest in the property.

The delineation included herein has been conducted to identify the location and extent of the aquatic resource boundaries for the particular site identified in this request. This preliminary jurisdictional determination may not be valid for the Wetland Conservation Provisions of the Food Security Act of 1985, as amended. If you or your tenant are USDA program participants, or anticipate participation in USDA programs, you should discuss the applicability of a certified wetland determination with the local USDA service center, prior to starting work.

You may request an approved JD for this site at any time prior to starting work within waters, including after a permit decision is made. To request an approved JD for this site, complete the attached *Request for Aquatic Resources Delineation or Jurisdictional Determination Form (Enclosure 3)* and return it to this office at the address listed below. A *Notification of Appeal Process and Request for Appeal Form* is attached below to notify you of your options with this determination.

Please refer to identification number SPK-2021-00634 in any correspondence concerning this project. If you have any questions, please contact Matt Hirkala by email at [matthew.j.hirkala@usace.army.mil](mailto:matthew.j.hirkala@usace.army.mil) or by phone at (916) 557-5148. We appreciate feedback, especially about interactions with our staff and processes. For program information or to complete our Customer Survey, visit our website at [www.spk.usace.army.mil/missions/regulatory.aspx](http://www.spk.usace.army.mil/missions/regulatory.aspx).

Sincerely,

Mary Pakenham-Walsh  
Chief, CA Delta Section

Enclosures

cc:

Mr. Patrick Britton, HELIX Environmental Planning, Inc., [patrickb@helixepi.com](mailto:patrickb@helixepi.com)

## NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Dixon Venture LLC, Attn: Mr. Steve Gidaro	File No.: SPK-2021-00634	Date: May 11, 2023
Attached is:		See Section below
INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)		A
PROFFERED PERMIT (Standard Permit or Letter of permission)		B
PERMIT DENIAL		C
APPROVED JURISDICTIONAL DETERMINATION		D
→ PRELIMINARY JURISDICTIONAL DETERMINATION		E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at [http://www.usace.army.mil/cecw/pages/reg\\_materials.aspx](http://www.usace.army.mil/cecw/pages/reg_materials.aspx) or Corps regulations at 33 CFR Part 331.

**A: INITIAL PROFFERED PERMIT:** You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

**B: PROFFERED PERMIT:** You may accept or appeal the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer (address on reverse). This form must be received by the division engineer within 60 days of the date of this notice.

**C: PERMIT DENIAL:** You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer (address on reverse). This form must be received by the division engineer within 60 days of the date of this notice.

**D: APPROVED JURISDICTIONAL DETERMINATION:** You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer (address on reverse). This form must be received by the division engineer within 60 days of the date of this notice.

**E: PRELIMINARY JURISDICTIONAL DETERMINATION:** You do not need to respond to the Corps regarding the preliminary JD. The preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also, you may provide new information for further consideration by the Corps to reevaluate the JD.

**SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT**

**REASONS FOR APPEAL OR OBJECTIONS:** (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

**ADDITIONAL INFORMATION:** The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

**POINT OF CONTACT FOR QUESTIONS OR INFORMATION:**

If you have questions regarding this decision and/or the appeal process, you may contact:

Mr. Matt Hirkala  
Project Manager  
U.S. Army Corps of Engineers  
1325 J Street, Room 1350  
Sacramento, California 95814  
Phone: (916) 557-5148, FAX 916-557-7803  
Email: *matthew.j.hirkala@usace.army.mil*

If you only have questions regarding the appeal process, you may also contact:

Mr. Travis Morse  
Administrative Appeal Review Officer  
U.S. Army Corps of Engineers  
South Pacific Division  
Phillip Burton Federal Building, Post Office Box 36023  
450 Golden Gate Avenue  
San Francisco, California 94102  
Phone: 970-243-1199x1014, FAX: 971-241-2358  
Email: *w.travis.morse@usace.army.mil*

**RIGHT OF ENTRY:** Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15-day notice of any site investigation and will have the opportunity to participate in all site investigations.

\_\_\_\_\_  
Signature of appellant or agent.

Date: \_\_\_\_\_

Telephone number: \_\_\_\_\_