Appendix B Jurisdictional Determinations

This appendix contains the following Jurisdictional Determinations:

1. 1998 US Army Corps of Engineers Jurisdictional Determination for the Willits Bypass Study Alternatives.

2. 2005 Army Corps of Engineers Jurisdictional Determination for the Modified Alternative J1T.

DEPARTMENT OF THE ARMY
SAN FRANCISCO DISTRICT, CORPS OF ENGINEERS
333 MARKET STREET
SAN FRANCISCO, CALIFORNIA 94105-2197

APR 06 1996

REPLY TO
ATTENTION OF:

Regulatory Branch

SUBJECT: File Number 19474N

Ms. Deborah Harmon
State of California
Department of Transportation
P.O. Box 3700
Eureka, California 95502

Dear Ms. Harmon:

Thank you for your submittal of revised maps dated February 12, 1996, requesting confirmation of the extent of Corps of Engineers jurisdiction for the California Department of Transportation Highway 101/Willits Bypass Project including the K-2 Alternative.

Enclosed is a map showing the extent and location of Corps of Engineers jurisdiction titled, "Willits Bypass Proposed Alignments, Mendocino, Willits, California" on eight sheets dated April 15, 1996.

We have based this jurisdictional delineation on the current conditions of the site. A change in those conditions may also change the extent of our jurisdiction. This jurisdictional delineation will expire in five years from the date of this letter. However, if there has been a change in circumstances which effects the extent of Corps jurisdiction, a revision may be done before that date.

All proposed discharges of dredged or fill material into waters of the United States must be authorized by the Corps of Engineers pursuant to Section 404 of the Clean Water Act (CWA) (33 U.S.C. 1344). Waters of the United States generally include tidal waters, lakes, ponds, rivers, streams (including intermittent streams), and wetlands.

If you propose work within our jurisdiction, a permit may be required. Application for Corps authorization should be made to this office using the application form in the enclosed pamphlet. To avoid delays it is essential that you enter the file number at the top of this letter into Item No. 1. The application must include plans showing the location, extent and character of the proposed activity, prepared in accordance with the requirements contained in this pamphlet. You should note, in planning your work, that upon receipt of a properly completed application and plans, it may be necessary to advertise the proposed work by issuing a public notice for a period of 30 days.

If an individual permit is required, it will be necessary for you to demonstrate to the Corps that your proposed fill is necessary because there are no practicable alternatives, as outlined in the U.S. Environmental Protection Agency's Section 404(b)(1) Guidelines. A copy is enclosed to aid you in preparation of this alternative analysis.

If you have any questions, please call Jane Hicks of our Regulatory Branch at (415) 977-8440. Please address correspondence to the District Engineer, Attention: Regulatory Branch, and refer to the file number at the head of this letter.

Sincerely,

Edward A. Nyli

for Calvin C. Fong
Chief, Regulatory Branch

Enclosures

DEPARTMENT OF THE ARMY
SAN FRANCISCO DISTRICT, U.S. ARMY CORPS OF ENGINEERS
333 MARKET STREET
SAN FRANCISCO, CALIFORNIA 94105-2197

MAR 01 2005

REPLY TO

Regulatory Branch

Subject: File No. 194741N

Mr. Jeremy Ketchum
California Department of Transportation
District 3-Sacramento Office
Office of Environmental Management, S-1
2389 Gateway Oaks Drive, Suite 100
Sacramento, California 95833

Dear Mr. Ketchum:

This is in reference to your letters of February 11, 2004, and February 6, 2005, requesting confirmation of the extent of Corps of Engineers (Corps) jurisdiction occurring within the Modified J1T Alignment Study Area for the State Highway 101 Willits By-Pass Project, located in Little Lake Valley, Mendocino County, California.

The enclosed map entitled, "Potential Jurisdictional Wetlands and Waters of the United States Within Alternative Modified J1T," in five (5) sheets date certified February 23, 2005, accurately depicts the extent and location of Corps jurisdiction within the project alignment study area. The jurisdictional delineation is based on the current conditions of the site, as verified during field investigations of April 20-22, June 1-3, and July 13, 2004, and January 19, 2005, and other data included with your submittals. This jurisdictional determination will expire in five (5) 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.

Unless exempt by regulation, all proposed discharges of dredged or fill material occurring below the plane of ordinary high water in non-tidal waters of the United States and within the lateral extent of wetlands adjacent to these waters will require Department of the Army authorization and the issuance of a permit under Section 404 of the Clean Water Act (33 U.S.C. § 1344). Waters of the United States generally include the territorial seas, all navigable waters, including waters subject to the ebb and flow of the tide, non-tidal interstate and intrastate waters, and their tributary waters, including lakes, ponds, rivers, streams, intermittent streams, and adjacent wetlands, the use, degradation, or destruction of which could affect interstate or foreign commerce. Section 404 waters within the project alignment study area include both seasonal and perennial wetlands, and numerous intermittent and perennial drainages, including Haehl, Broaddus, Mill, and Upp Creeks, that are tributary waters to Outlet Creek and ultimately the Eel River. The wetland basins and swales are adjacent (neighboring or bordering) to these tributary waters, and their lateral extents are defined by the presence of hydrophytic vegetation,

hydrology, and hydric soils. The plane of ordinary high water of the tributary waters is defined by the presence of shelving, debris lines, and transitional vegetation on the banks.

You are advised that the Corps has established an Administrative Appeal Process, as described in 33 CFR 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 the District Engineer for reconsideration or submit a completed NAO-RFA Form to the Division Engineer to initiate the appeal process. You will relinquish all rights to appeal, unless the Corps receives new information or a completed NAO-RFA Form within sixty (60) days of the date of this letter.

You may refer any questions on this matter to Mr. Peter Straub of my staff by telephone at 415-977-8443 or by e-mail at peter.s.straub@spd02.usace.army.mil. All correspondence should be addressed to the Regulatory Branch, North Section, referencing the file number at the head of this letter.

Sincerely,

Jane M. Hicks

Jane M. Hicks
Acting Chief, Regulatory Branch

Enclosures

Copy Furnished:

US EPA, San Francisco, CA (w/o encls)