



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

November 13, 2024

Regulatory Division

Subject: File No. SPN-2024-00222

Mr. Robert Perrera
Huffman-Broadway Group, Inc
1101 5th Avenue, Suite 205
San Rafael, California 94901
rperrera@h-bgroup.com

Dear Mr. Perrera:

This correspondence is in reference to your submittal of June 18, 2024, on behalf of Yan Cui, requesting a preliminary jurisdictional determination of the extent of navigable waters of the United States and waters of the United States occurring on an 82-acre site located at 11925 Highway 1, in Point Reyes Station, Marin County, California; Latitude 38.078140° and Longitude -122.799437°.

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 of the Clean Water Act, PRS Vacant Lots Subdivision by Cui, Point Reyes Station, Marin County," in one sheet and certified on November 12, 2024, (enclosure 1) depicts the extent and location of wetlands, and other waters of the United States 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* (enclosure 2), which has been signed and dated by this office. 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* (enclosure 3). 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 (415) 503-2951 or by e-mail at zachary.m.simmons@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,



Zachary Simmons
Senior Project Manager
Regulatory Division

Enclosures

cc (w/ encls):

Yan Cui, yancuiw@gmail.com
San Francisco Bay RWQCB, rb2-401Application@waterboards.ca.gov

BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR PJD: 07-NOV-2024

B. NAME AND ADDRESS OF PERSON REQUESTING PJD:

Yan Cui
 PO Box 7273
 Rancho Santa Fe, CA 92067

C. DISTRICT OFFICE, FILE NAME, AND NUMBER:

SPN, PRS Vacant Lots Subdivision by Cui, SPN-2024-00222

**D. PROJECT LOCATION AND BACKGROUND INFORMATION:
 (USE THE TABLE BELOW TO DOCUMENT MULTIPLE AQUATIC RESOURCES AND/OR AQUATIC RESOURCES AT DIFFERENT SITES)**

State: CA County/Parish/Borough: Marin County City: Point Reyes Station
 Center coordinates of site (lat/long in degree decimal format):
 Lat.: 38.078140° Long.: -122.799437°
 Universal Transverse Mercator: 10
 Name of nearest waterbody: Lagunitas Creek

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

- Office (Desk) Determination. Date: November 7, 2024
- 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-2024-00222 R1	38.077554	-122.796631	0.183 acre	Non-wetland waters	Section 404
SPN-2024-00222 R2	38.076983	-122.797357	0.07 acre	Non-wetland waters	Section 404
SPN-2024-00222 R3	38.075794	-122.797839	0.008 acre	Non-wetland waters	Section 404
SPN-2024-00222 R4	38.075975	-122.79813	0.005 acre	Non-wetland waters	Section 404
SPN-2024-00222 R5	38.076003	-122.798882	0.009 acre	Non-wetland waters	Section 404
SPN-2024-00222 R6	38.07608	-122.799343	0.007 acre	Non-wetland waters	Section 404
SPN-2024-00222 R7	38.076593	-122.799326	0.013 acre	Non-wetland waters	Section 404
SPN-2024-00222 R8	38.074963	-122.798528	0.007 acre	Non-wetland waters	Section 404
SPN-2024-00222 R9	38.077885	-122.804179	0.016 acre	Non-wetland waters	Section 404
SPN-2024-00222 R10	38.07772	-122.804219	0.006 acre	Non-wetland waters	Section 404
SPN-2024-00222 R11	38.078752	-122.802769	0.028 acre	Non-wetland waters	Section 404
SPN-2024-00222 R12	38.078741	-122.802304	0.01 acre	Non-wetland waters	Section 404
SPN-2024-00222 R13	38.07893	-122.802261	0.008 acre	Non-wetland waters	Section 404
SPN-2024-00222 R14	38.079832	-122.799601	0.082 acre	Non-wetland waters	Section 404
SPN-2024-00222 R15	38.079564	-122.801194	0.015 acre	Non-wetland waters	Section 404
SPN-2024-00222 R16	38.07997	-122.800265	0.008 acre	Non-wetland waters	Section 404
SPN-2024-00222 R17	38.078875	-122.800375	0.016 acre	Non-wetland waters	Section 404
SPN-2024-00222 R18	38.080221	-122.798925	0.002 acre	Non-wetland waters	Section 404

¹ Districts may establish timeframes for requester to return signed PJD forms. If the requester does not respond within the established time frame, the district may presume concurrence and no additional follow up is necessary prior to finalizing an action.

Appendix 2 - PRELIMINARY JURISDICTIONAL DETERMINATION (PJD) FORM 30-JUN-2024

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-2024-00222 W1	38.075628	-122.797489	0.046 acre	Wetland	Section 404
SPN-2024-00222 W2	38.075853	-122.79811	0.013 acre	Wetland	Section 404
SPN-2024-00222 W3	38.0759	-122.798385	0.054 acre	Wetland	Section 404
SPN-2024-00222 W4	38.07496	-122.798805	0.01 acre	Wetland	Section 404
SPN-2024-00222 W5	38.07618	-122.799084	0.01 acre	Wetland	Section 404
SPN-2024-00222 W6	38.078079	-122.803642	0.824 acre	Wetland	Section 404
SPN-2024-00222 W7	38.078431	-122.803218	0.041 acre	Wetland	Section 404
SPN-2024-00222 W8	38.079003	-122.802072	0.039 acre	Wetland	Section 404
SPN-2024-00222 W9	38.07899	-122.801566	0.441 acre	Wetland	Section 404
SPN-2024-00222 W10	38.079099	-122.801034	0.102 acre	Wetland	Section 404
SPN-2024-00222 W11	38.080817	-122.798683	0.003 acre	Wetland	Section 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 or no JD whatsoever, which do 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 USACE 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 or reliance on no JD whatsoever; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of USACE permit authorization based on a PJD or no JD whatsoever 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 USACE 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

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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:

SUPPORTING DATA. Data reviewed for PJD (check all that apply)

Checked items should be included in subject file. Appropriately reference sources below where indicated for all checked items:

- Maps, plans, plots or plat submitted by or on behalf of the PJD requestor:
Map: “Figure “6. Aquatic Resource Delineation, PRS Vacant Lots Subdivision by Cui, Point Reyes Station, Marin County, California,” prepared by Huffman-Broadway Group Inc, dated March 7, 2024.
- Data sheets prepared/submitted by or on behalf of the PJD requestor.
 - Office concurs with data sheets/delineation report.
 - Office does not concur with data sheets/delineation report. Rationale: _____.
 - 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 scale & 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: _____ (National Geodetic Vertical Datum of 1929)
 - Photographs: Aerial (Name & Date): _____.
 - or 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 USACE and should not be relied upon for later jurisdictional determinations.

 11/16/2024

Signature and date of Regulatory Staff Member Completing PJD

Signature and date of Person Requesting PJD (REQUIRED, unless obtaining the signature is impracticable)¹

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NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Robert Perrera, Huffman-Broadway Group, Inc	File No.: SPN-2024-00222	Date: November 13, 2024
Attached is:		See Section below
<input type="checkbox"/>	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
<input type="checkbox"/>	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
<input type="checkbox"/>	PERMIT DENIAL	C
<input type="checkbox"/>	APPROVED JURISDICTIONAL DETERMINATION	D
<input checked="" type="checkbox"/>	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 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:

William M. Connor
North Branch Chief
Regulatory Division, San Francisco District
U.S. Army Corps of Engineers
450 Golden Gate Avenue, 4th Floor
San Francisco, CA 94102-3404
Phone: (415) 503-6631
Email: William.M.Connor@usace.army.mil

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

Travis Morse
Administrative Appeal Review Officer
South Pacific Division
U.S. Army Corps of Engineers
450 Golden Gate Avenue, 6th Floor
San Francisco, California 94102-3406
Phone: (213) 452-3146
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.

<hr/> Signature of appellant or agent.	Date:	Telephone number:
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