

DOCKETED

Docket Number:	08-AFC-08A
Project Title:	Hydrogen Energy Center Application for Certification Amendment
TN #:	201824
Document Title:	U.S. Army Corps of Engineers (USACE) Wetlands Concurrence Letter
Description:	N/A
Filer:	URS
Organization:	URS
Submitter Role:	Applicant Consultant
Submission Date:	3/3/2014 4:50:51 PM
Docketed Date:	3/3/2014



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

REPLY TO
ATTENTION OF

February 21, 2014

Regulatory Division (SPK-2013-00244)

Mr. James Croyle
Hydrogen Energy California, LLC
30 Monument Square, Suite 235
Concord, Massachusetts 01742

Dear Mr. Croyle:

We are responding to your consultant's March 8, 2013, request for an approved jurisdictional determination for the Hydrogen Energy California project. The approximately 1931-acre site is located near the Kern River Flood Control Channel, in Section 15, Township 30 South, Range 24 East, Mount Diablo Meridian, Latitude 35.329477°, Longitude -119.386668°, Kern County, California.

Based on available information, we concur with the estimate of waters of the United States, as depicted on the enclosed January 2014 *Mapped Wetlands and Other waters of the United States within the Study Area* drawing, prepared by URS Corporation Senior Biologist Jan Novak. Approximately 0.27 acre of the Kern River Flood Control Channel (WUS 54), which is a water of the United States, is present within the survey area. This water is regulated under Section 404 of the Clean Water Act, since it is a relatively permanent water that flows indirectly into traditionally navigable water.

The 78.52 acres of wetlands and other waters identified in the enclosed Table A, Table B, and on the above drawing are intrastate isolated waters with no apparent interstate or foreign commerce connection. As such, these waters are not currently regulated by the Corps of Engineers. This disclaimer of jurisdiction is only for Section 404 of the Federal Clean Water Act. Other federal, state, and local laws may apply to your activities. *In particular, you may need authorization from the California State Water Resources Control Board and/or the U.S. Fish and Wildlife Service.*

This verification is valid for five years from the date of this letter, unless new information warrants revision of the determination before the expiration date. This letter contains an approved jurisdictional determination for your site. If you object to this determination, you may request an administrative appeal under Corps regulations at 33 CFR Part 331.

A Notification of Appeal Process (NAP) and Request for Appeal (RFA) form is enclosed. If you request to appeal this determination you must submit a completed RFA form to the South Pacific Division Office at the following address: Administrative Appeal Review Officer, Army Corps of Engineers, South Pacific Division, CESPDPDO, 1455 Market Street, 2052B, San Francisco, California 94103-1399, Telephone: 415-503-6574, FAX: 415-503-6646.

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR Part 331.5, and that it has been received by the Division Office within 60 days of the NAP. Should you decide to submit an RFA form, it must be received at the above address by 60 days from the date of this letter. It is not necessary to submit an RFA form to the Division Office if you do not object to the determination in this letter.

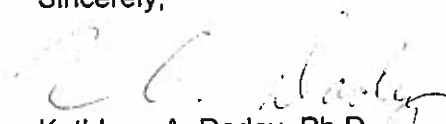
You should provide a copy of this letter and notice to all other affected parties, including any individual who has an identifiable and substantial legal interest in the property.

This determination has been conducted to identify the limits of Corps of Engineers' Clean Water Act jurisdiction for the particular site identified in this 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 U.S. Department of Agriculture (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.

We appreciate your feedback. At your earliest convenience, please tell us how we are doing by completing the customer survey on our website under *Customer Service Survey*.

Please refer to identification number SPK-2013-00244 in any correspondence concerning this project. If you have any questions, please contact Mr. Jason Deters at our California South Branch Office, 1325 J Street, Room 1350, Sacramento, California 95814-2922, by email at Jason.Deters@usace.army.mil, or telephone at 916-557-7152. For more information regarding our program, please visit our website at www.spk.usace.army.mil/Missions/Regulatory.aspx.

Sincerely,



Kathleen A. Dadey, Ph.D
Chief, California South Branch
Regulatory Division

Enclosures

cc: (w/o encls)

Mr. Jason Brush, Chief, U.S. Environmental Protection Agency, Region IX, Wetlands Regulatory Office (WTR-8), 75 Hawthorne Street, San Francisco, California 94105-3901
Ms. Elizabeth Lee, California Regional Water Quality Control Board, Central Valley Region, Fresno Branch Office, 1985 E Street, Suite 200, Fresno, California 93706
Mr. Dale Shileikis, URS Corporation, Post Montgomery Center, One Montgomery Street, Suite 900, San Francisco, California 94104-4538