



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
HELENA REGULATORY OFFICE
10 WEST 15TH STREET, SUITE 2200
HELENA, MONTANA 59626

October 19, 2020

Regulatory Branch
Montana State Program
Corps No. **NWO-2020-01388-MTH**

Subject: Meadowlark Ranch, Inc. – Approved Jurisdictional Determination - Hyalite West Overflow (Gallatin County)

Meadowlark Ranch, Inc.
ATTN: Landy Leep
175 N 27th St. Suite 900
Billings, Montana 59101

Dear Mr. Leep:

We are responding to your request for an approved jurisdictional determination regarding the above-referenced project. The approximate 80-acre project site is located near Thompson Creek, within Section 32, Township 1 N, Range 5 E, Principal Meridian, Latitude 45.793361°, Longitude -111.137872°, Gallatin County, Montana.

Based on available information, and site visit conducted by Tim McNew, Senior Regulatory Manager, on September 14, 2020, an approved jurisdictional determination has been completed for the areas identified in your request and is enclosed for your information. We concur with the estimate of waters of the United States, as depicted on the enclosed map, and reports dated December 5, 2005, entitled "Final Report Meadowlark Property Wetland and Watercourse Delineation", prepared by PBS&J and dated September 30, 2018, titled "Meadowlark Phase II Aquatic Resources Delineation Report" prepared by Restoration Engineering, LLC. Approximately 1.74 acres of palustrine emergent wetlands are present within the survey area.

Approximately 0.157 acre of waters of the United States, including wetlands, are present within the survey area. These waters, identified on the attached map as Wetland 5, are regulated under Section 404 of the Clean Water Act, as they are directly abutting Thompson Creek [(a)(4) wetland that abuts an (a)(1)-(a)(3) water]. An authorization from the Corps would be necessary for work in Wetland 5.

The 1.58-acres of additional waters identified on the attached map as Wetland 1 (0.126 acre), Wetland 2 (0.012 acre), Wetland 3 (0.089 acre), Wetland 4 (0.095 acre) and Wetland 6 (1.26 acre) do not meet the definition of waters of United States as they are non-adjacent wetlands [excluded (b)(1) waters] and 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.

This letter contains an approved jurisdictional determination for your subject 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 Northwestern Division Office at the following address:

Regulatory Appeals Review Officer
US Army Corps of Engineers
Northwestern Division
Post Office Box 2870
Portland, Oregon 97208-2870.

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 C.F.R. part 331.5, and that it has been received by the Division Office within **60 days** of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by **December 19, 2020**. It is not necessary to submit an RFA form to the Division Office if you do not object to the determination in this letter.

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.

This determination is valid for five (5) years from the date of this letter, unless new information warrants revision of the determination before the expiration date.

Please refer to identification number NWO-2020-01388-MTH in any correspondence concerning this project. If you have any questions, please contact Timothy McNew at Helena Regulatory Office 10 West 15 Street, Suite 2200 Helena, Montana 59626, by email at Timothy.M.McNew@usace.army.mil, or by telephone at (406) 441-1375.

Sincerely,

Sage L. Joyce
Montana Program Manager

Enclosures:
NAP/RFA
Delineation Map