



MEMORANDUM TO DECLINE JURISDICTION FOR POA-2000-1109

Subject: Declination of Jurisdiction for Jurisdictional Determination POA-2000-1109

The U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers are declining jurisdiction over 80 acres of wetlands for JD # POA-2000-1109. Through this memorandum, we are retracting the previous joint memorandum to assert jurisdiction for POA-2000-1109, issued January 28, 2008.

This determination is based on new information indicating the wetlands are not adjacent to a traditional navigable water (TNW). On February 29, 2008, Corps Headquarters and the Alaska District conducted a site visit to Little Memory Lake to reassess the Lake's status as a TNW, at the request of the Alaska District. Based on the site visit, some of the factors used to support the original determination (e.g., regarding the physical characteristics and public access) are no longer apparent.¹ Based on our review of this new information, at this time we jointly conclude that the information used to support the Lake's designation as a TNW is not sufficient.

Since the wetlands are not adjacent to any other water of the U.S., and they do not otherwise support links to interstate commerce, the wetlands for POA-2000-1109 are non-jurisdictional. This determination is consistent with the Clean Water Act (CWA), the agencies' regulations (including 33 C.F.R. Parts 328.3 and 329), relevant case law, and existing guidance, including the *JD Form Instructional Guidebook*² and *Appendix D Regarding Waters that Qualify as Waters of the US Under Section (a)(1) of the Agencies' Regulations ("Appendix D")*.

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Date: 28 MAR 2008

Date: 2 Apr 2008

¹The memorandum summarizes the evidence considered by the agencies in reaching this conclusion. Additional information regarding the determination is contained in the administrative record for this action.

²U.S. Army Corps of Engineers Jurisdictional Determination Form Instructional Guidebook (June 5, 2007).