

CALIFORNIA HIGH-SPEED TRAIN

Project Environmental Impact Report /
Environmental Impact Statement

Fresno to Bakersfield

U.S. Army Corps of Engineers Preliminary Jurisdictional Determination

February 2013



Fresno to Bakersfield

**U.S. Army Corps of Engineers
Preliminary Jurisdictional
Determination**

Prepared by:

URS/HMM/Arup Joint Venture

February 2013



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 5, 2013

Regulatory Division (SPK-2009-01482)

Mr. Lupe Jimenez
California High Speed Rail Authority
770 L Street, Suite 800
Sacramento, California 95814-3359

Dear Mr. Jimenez:

We are responding to your January 18, 2013, request for a preliminary jurisdictional determination (JD), in accordance with our Regulatory Guidance Letter (RGL) 08-02, for the Fresno to Bakersfield Section of the California High-Speed Rail project site. The approximately 26, 955-acre review area starts within the City of Fresno, at Latitude 36.73947°, Longitude -119.80214°, and continues southeast along multiple corridor options, terminating in the City of Bakersfield, at Latitude 35.36655°, Longitude -118.94925°, within Fresno, Kings, Tulare, and Kern Counties, California.

Based on available information, **we concur with the amount and location of wetlands and other water bodies within the review area as depicted on the January, 2013, California High-Speed Train Project EIR/EIS Fresno to Bakersfield Section, Appendix B: Jurisdictional Waters Delineation Results, prepared by URS.** The approximately 148.240 acres of wetlands and 537.364 acres of other water bodies present within the survey area are potential waters of the United States regulated under Section 404 of the Clean Water Act.

A copy of our RGL 08-02 Preliminary Jurisdictional Determination Form for this site is enclosed. Please sign and return a copy of the completed form to this office. Once we receive a copy of the form with your signature we can accept and process a Pre-Construction Notification or permit application for your proposed project.

You should not start any work in potentially jurisdictional waters of the United States unless you have Department of the Army permit authorization for the activity. You may request an approved JD for this site at any time prior to starting work within waters. In certain circumstances, as described in RGL 08-02, an approved JD may later be necessary.

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 preliminary determination has been conducted to identify the potential limits of wetlands and other water bodies which may be subject to Corps of Engineers' jurisdiction for the

particular site identified in this request. A Notification of Appeal Process and Request for Appeal form is enclosed to notify you of your options with this determination. This determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985. If you or your tenant are 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-2009-01482 in any correspondence concerning this project. If you have any questions, please contact Zachary Simmons in our California South Regulatory Branch, email *Zachary.M.Simmons@usace.army.mil*, or telephone 916.557.6746. For more information regarding our program, please visit our website at *www.spk.usace.army.mil/regulatory.html*.

Sincerely,



Paul Maniccia
Chief, California South Branch

Enclosures

Copy Furnished with enclosures

Mr. Jason Brush, Chief, U.S. Environmental Protection Agency, Region IX, Wetlands
Regulatory Office (WTR-8), 75 Hawthorne Street, San Francisco, California 94105-3901

Copy Furnished without enclosures

Ms. Melissa DuMond, Federal Railroad Administration, 1200 New Jersey Avenue, SE,
Washington, DC 20590-0001

Mr. Thomas Leeman, San Joaquin Valley Branch, Endangered Species Division, U.S. Fish and
Wildlife Service, 2800 Cottage Way, Suite W2605, Sacramento, California 95825-1888

Mr. Matthew Scroggins, Storm Water and Water Quality Certification Unit, Central Valley
Regional Water Quality Control Board, 1685 E Street, Fresno, California 93706-2020

Ms. Maria Rea, National Marine Fisheries Service, 650 Capitol Mall, Suite 5-100, Sacramento,
California 95814-4706

PRELIMINARY JURISDICTIONAL DETERMINATION FORM

Sacramento District

This preliminary JD finds that there "may be" waters of the United States on the subject project site, and identifies all aquatic features on the site that could be affected by the proposed activity, based on the following information:

Regulatory Branch: **California South** File/ORM #: **SPK-2009-01482** PJD Date: **February 5, 2013**

State: CA City/County: Fresno, Kings, Tulare, and Kern Nearest Waterbody: Location (Lat/Long): from 36.73947, -119.80214 to 35.36655, -118.94925 Size of Review Area: 26,955 acres	Name/Address Lupe Jimenez Of Property California High Speed Rail Authority Owner/ 770 L Street, Suite 800 Potential Sacramento, California 95814-3359 Applicant
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Identify (Estimate) Amount of Waters in the Review Area Non-Wetland Waters: linear feet ft wide 537.364 acre(s) Stream Flow: N/A Wetlands: 148.240 acre(s) Cowardin Palustrine, emergent Class:	Name of any Water Bodies Tidal: on the site identified as Section 10 Waters: Non-Tidal: <input type="checkbox"/> Office (Desk) Determination <input checked="" type="checkbox"/> Field Determination: Date(s) of Site Visit(s): 4/18/11 - 4/21/11
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SUPPORTING DATA: Data reviewed for preliminary JD (check all that apply – checked items should be included in case file and, where checked and requested, appropriately reference sources below)

- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: **California High-Speed Train Project EIR/EIS Fresno to Bakersfield Section, Appendix B: Jurisdictional Waters Delineation Results, Dated January 2013, prepared by URS**
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
- Data sheets prepared by the Corps.
- Corps navigable waters' study.
- U.S. Geological Survey Hydrologic Atlas:
 - USGS NHD data.
 - USGS HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name:
- USDA Natural Resources Conservation Service Soil Survey.
- National wetlands inventory map(s).
- State/Local wetland inventory map(s).
- FEMA/FIRM maps.
- 100-year Floodplain Elevation (if known):
- Photographs: Aerial
 Other
- Previous determination(s). File no. and date of response letter:
- Other information (please specify): **Data is composed of results from field work, agency site visits, remote sensing data provided by the consultant, and publically available satellite imagery viewed on Google Maps and Bing Maps.**

IMPORTANT NOTE: The information recorded on this form has not necessarily been verified by the Corps and should not be relied upon for later jurisdictional determinations.

Signature and Date of Regulatory Project Manager (REQUIRED)	Signature and Date of Person Requesting Preliminary JD (REQUIRED, unless obtaining the signature is impracticable)
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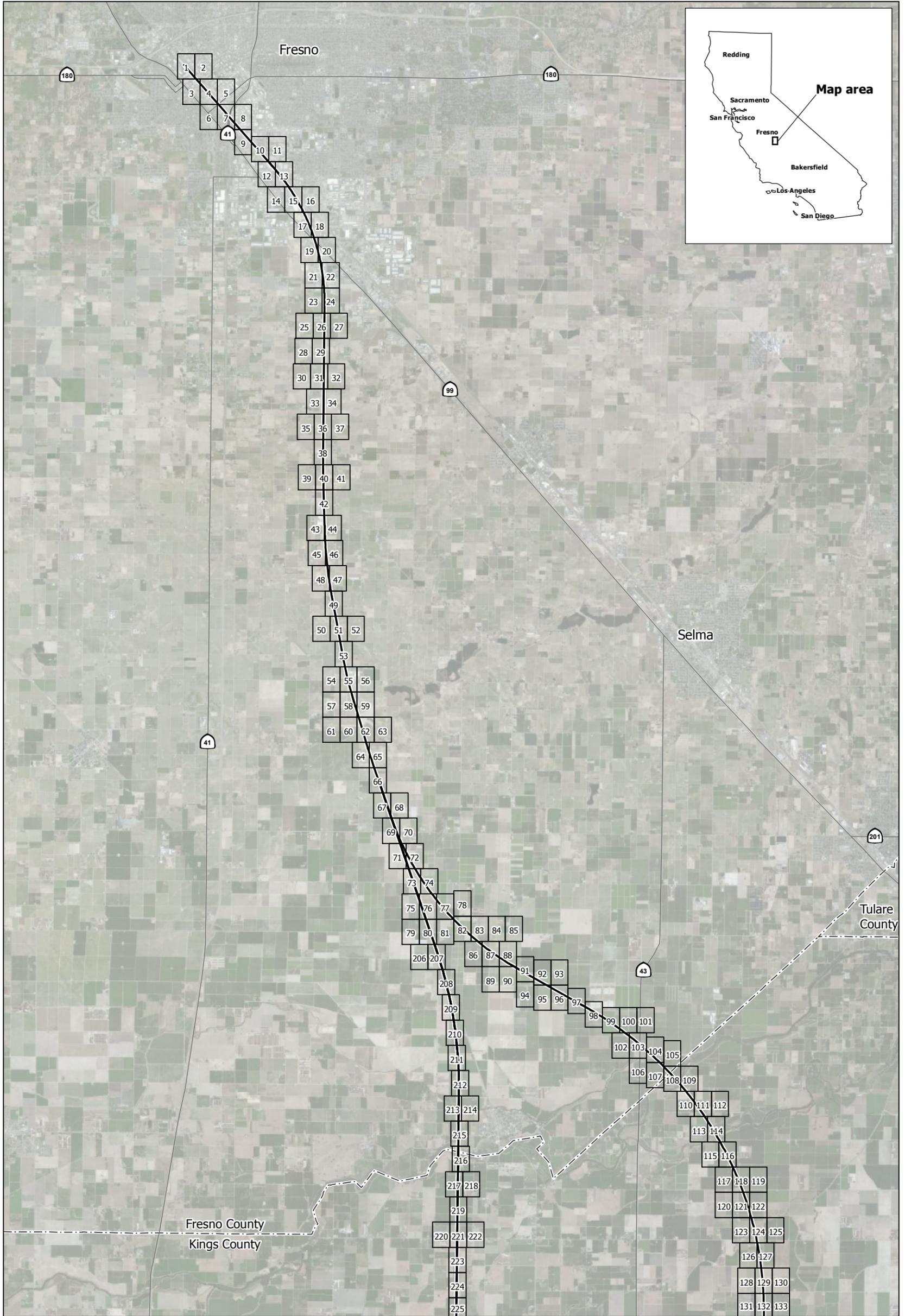
EXPLANATION OF PRELIMINARY AND APPROVED JURISDICTIONAL DETERMINATIONS:

- The Corps of Engineers believes that there may be jurisdictional waters of the United States on the subject site, and the permit applicant or other affected party who requested this preliminary JD is hereby advised of his or her option to request and obtain an approved jurisdictional determination (JD) for that site. Nevertheless, the permit applicant or other person who requested this preliminary JD has declined to exercise the option to obtain an approved JD in this instance and at this time.
- In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring "preconstruction notification" (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an approved JD for the activity, the permit applicant is hereby made aware of the following: (1) the permit applicant has elected to seek a permit authorization based on a preliminary JD, which does not make an official determination of jurisdictional waters; (2) that the applicant has the option to request an approved JD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an approved JD could possibly result in less compensatory mitigation being required or different special conditions; (3) that 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) that 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 Corps has determined to be necessary; (5) that undertaking any activity in reliance upon the subject permit authorization without requesting an approved JD constitutes the applicant's acceptance of the use of the preliminary JD, but that either form of JD will be processed as soon as is practicable; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a preliminary JD constitutes agreement that all wetlands and other water bodies on the site affected in any way by that activity are jurisdictional waters of the United States, and precludes 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 approved JD or a preliminary JD, that JD will be processed as soon as is practicable. Further, an approved JD, 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, and that in any administrative appeal, jurisdictional issues can be raised (see 33 C.F.R. 331.5(a)(2)). If, during that administrative appeal, it becomes necessary to make an official determination whether CWA jurisdiction exists over a site, or to provide an official delineation of jurisdictional waters on the site, the Corps will provide an approved JD to accomplish that result, as soon as is practicable.

Appendix B

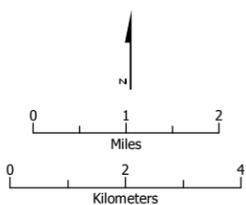
Jurisdictional Waters Delineation Results Map

January 2013



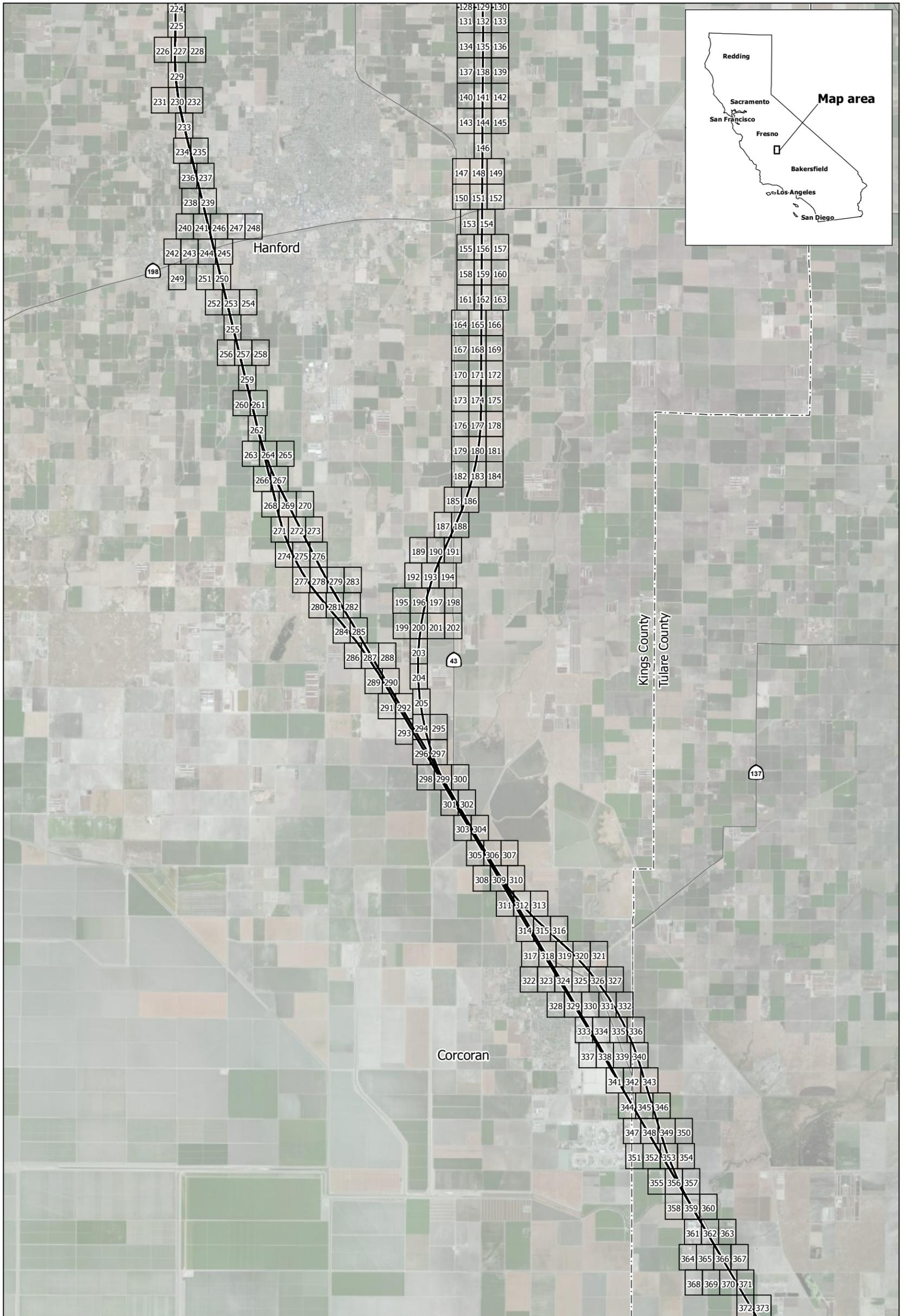
PRELIMINARY DRAFT/SUBJECT TO CHANGE - HST ALIGNMENT IS NOT DETERMINED
 Data source: URS, 2012
 Imagery source: Microsoft Bing Maps

January 31, 2013



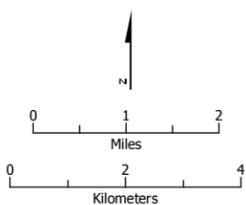
- 1 Sheet extent
- Alternative alignments
- Highway
- County boundary

Appendix B
Index sheet A
 Jurisdictional waters delineation results index

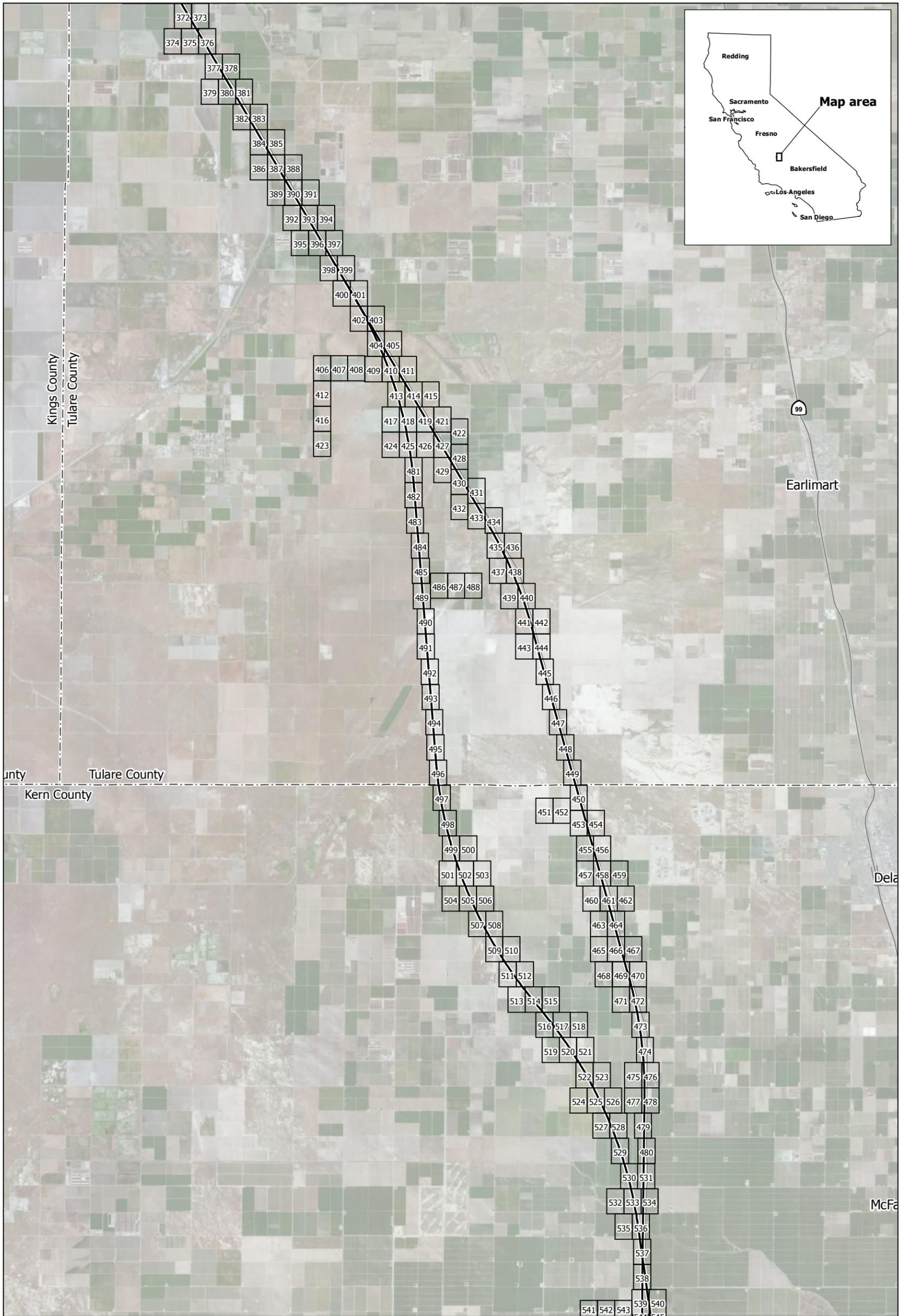


PRELIMINARY DRAFT/SUBJECT TO CHANGE - HST ALIGNMENT IS NOT DETERMINED
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 Imagery source: Microsoft Bing Maps

January 31, 2013

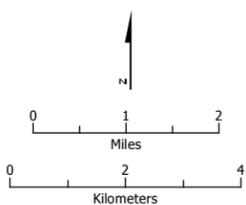


- 1 Sheet extent
- Alternative alignments
- Highway
- County boundary



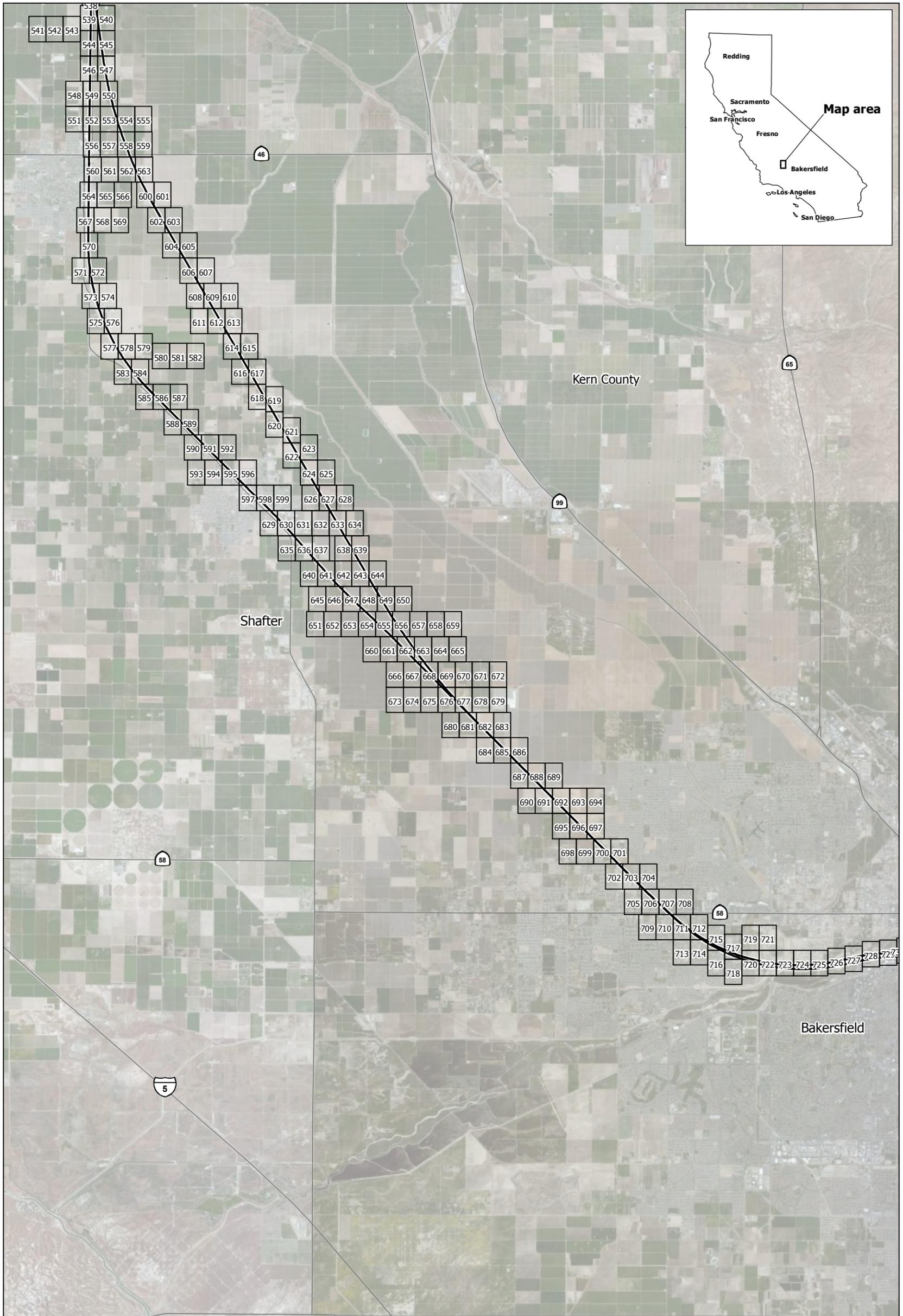
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 Data source: URS, 2012
 Imagery source: Microsoft Bing Maps

January 31, 2013



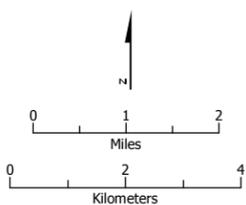
- 1 Sheet extent
- Alternative alignments
- Highway
- County boundary

Appendix B
Index sheet C
 Jurisdictional waters delineation results index



PRELIMINARY DRAFT/SUBJECT TO CHANGE - HST ALIGNMENT IS NOT DETERMINED
 Data source: URS, 2012
 Imagery source: Microsoft Bing Maps

January 31, 2013



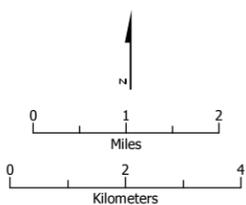
- 1 Sheet extent
- Alternative alignments
- Highway
- County boundary

Appendix B
Index sheet D
 Jurisdictional waters delineation results index



PRELIMINARY DRAFT/SUBJECT TO CHANGE - HST ALIGNMENT IS NOT DETERMINED
 Data source: URS, 2012
 Imagery source: Microsoft Bing Maps

January 31, 2013



- 1 Sheet extent
- Alternative alignments
- Highway
- County boundary

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