

# Impact News

December 8, 2008

Vol. 1, Issue 4

## **Successfully Implementing Procedures to Navigate the Revised Rapanos Guidance:**

Impact Sciences obtains a Determination that includes Stream Reaches with both Significant and No Significant Nexus to Navigable Water Designations, as well as Non-jurisdiction due to Isolated Conditions Consistent with Recently Revised Federal Guidelines

On October 1, 2008, Impact Sciences received a Jurisdictional Determination from the USACE for a 28,000 acre project in Southern Kern County. Of significance is that the guidance was consistent with our approval. Impact Sciences biologists working with the USACE and the EPA, determined that 123 stream reaches have a significant nexus to Castac Lake, itself being determined to be a Traditional Navigable Water (TNW). Forty-one stream reaches, also connected to Castac Lake, lacked sufficient evidence of having a significant physical, chemical, or biological nexus to the TNW and were deemed non-jurisdictional. Nineteen drainage systems, not connected to Castac Lake were found to be isolated with no connection to interstate commerce and therefore are non-jurisdictional in accordance with the Supreme Court's earlier Solid Waste Authority of Northern Clark County (Illinois) (SWANCC) decision.

Recent guidance issued by the Environmental Protection Agency (EPA) and the Army Corps of Engineers (USACE) following the Supreme Court's Rapanos Decision retains federal jurisdiction over traditionally navigable waters (TNW), relatively permanent waters, adjacent wetlands, and non-navigable waters in which there is sufficient evidence of a significant nexus to a TNW. To determine a significant nexus, Impact Sciences developed a method that was essentially similar to the one contained in the more recent December 2 revised guidance from the EPA and the USACE. This method incorporates a combination of hydrologic characteristics and ecological functions. The stream reaches were ranked according to their calculated 100-year flow rates and combined to the highest functional index. This combined "score" resulted in a value that could then be compared to all the other stream reaches within the study area.

In coordination and cooperation with the two federal agencies, a threshold value was determined, and streams that exceeded this value were considered to have a significant nexus. While development of the methodology and the agency coordination were extensive, the results proved successful.

For more information on understanding the revised guidance and how it may apply to your property, call Larry Lodwick, Associate Principal at 805-437-1900

**Tony Locacciato, Principal of Environmental Services for Southern California, (805) 437-1900**  
**Anne Doehne, Associate Principal, Manager of the Los Angeles Metro Region, (626) 564-1500**  
**Susan Tebo, Associate Principal, Manager of the Northern Los Angeles County Region, (805) 437-1900**  
**Daryl Koutnik, Ph.D., Principal of Biological Services, (805) 377-8207**  
**Shabnam Barati, Ph.D., Principal of Environmental Services for Northern California, (510) 267-0494**