

Senate Committee on Environment and Public Works Subcommittee on Fisheries, Water, and Wildlife oversight hearing entitled, “Erosion of Exemptions and Expansion of Federal Control –Implementation of the Definition of Waters of the United States.” May 24, 2016

Request for Additional Information: Case Study 2 and Supporting Documents

Case Study 2

1. Project Summary
SPK#2002-00641
The total project area is approximately 50.9 acres is size.
2. Issue:
 - a. Corps required the inclusion of puddles that form after rain events in a gravel parking lot in the wetland delineation report.
 - b. Corps required data sheets to support a false assertion by the Corps, or risk not obtaining a jurisdictional determination.
3. Supporting Information:
Exhibit A – Portion of original delineation of WOTUS
Exhibit B – Case Study Area
Exhibit C – 2007 Final Delineation WOTUS (small focus area is depicted demonstrating the Corps jurisdiction of puddles in parking lot) (verified¹)
Exhibit D – Site photos including chronological photos of WF 21
4. Details – The original wetland delineation was revised under the direction of the Corps to include wetland feature 21, a manmade puddle in a gravel parking lot. This revision resulted in an additional 0.079 acres of Seasonal Wetland being labeled as jurisdictional. As observed in Exhibit A, the delineator did not map the puddle in the parking lot as WOTUS. Supporting evidence was provided that the puddle was not jurisdictional. In Exhibit D the delineator provided a series of historical photos that show no connection (isolated) or ponding in the parking lot. However, the Corps later instructed the delineator to map the puddles as WOTUS and suggested language for a data sheet. .Despite arguments from the delineator that the feature is not WOTUS, the Corps asserted jurisdiction and would not verify the delineation map without including the feature. The final map (Exhibit C) shows the puddle in the parking lot. The data sheet (Exhibit E) indicates that no vegetation is present therefore it does not meet the criteria as a wetland. The Corps required Ms. Gallaway to change the data contained in her data sheet and map a feature that did not meet the wetland criteria as a wetland feature as a condition of obtaining a permit. The Corps frequently takes jurisdiction over similar features therefore this situation repeats frequently throughout the region.
5. Status: Project completed

¹ Verified means that the US Corps of Engineers has conducted a field review and performed a verification or jurisdictional determination, concurring with the extent, location, and type of WOTUS within the project area.

Exhibit A

Exhibit B



Map Detail 01.

Exhibit C



- Project Site (74.5 Acres)
- Matchline
- Soil Sample Sites**
- Upland - U#
- Wet - W#
- Other Waters of the U.S. - OW#**
- Perennial
- Intermittent
- Ephemeral
- Canal
- Ephemeral Ditch
- Culvert - C#
- Wetland Features - WF#**
- Jurisdictional Riparian
- Fresh Emergent Wetland
- Seasonal Wetland
- Previously Delineated Wetland Features - PDWF#**
- Fresh Emergent Wetland
- Seasonal Wet Meadow



Delineated Features					
ID#	Type	Average Width (ft.)	Length (ft.)	Area (ft ²)	Acre
C01	Culvert	3	22.0	66.0	0.001
C02	Culvert	3	18.0	54.0	0.001
C03	Culvert	3	18.0	54.0	0.001
OW01	Canal	4	885.4	3541.7	0.081
OW02	Canal	6	138.4	830.4	0.019
OW02.1	Canal	6	584.8	4788.2	0.109
OW03	Canal	10	185.9	1859.0	0.042
OW04	Ephemeral	5	141.1	705.5	0.016
OW05	Canal	4	21.0	84.0	0.002
OW06	Intermittent	5	201.2	1006.0	0.023
OW07	Intermittent	23	93.3	2144.2	0.050
OW08	Canal	27	27.9	2636.2	0.061
OW09	Ephemeral Ditch	2	48.9	97.7	0.002
OW10	Ephemeral Ditch	5	44.1	220.5	0.005
OW11	Ephemeral Ditch	5	28.2	141.0	0.003
OW12	Ephemeral Ditch	3	77.9	233.7	0.005
OW13	Ephemeral Ditch	3	28.7	86.1	0.002
OW14	Perennial	14	308.6	4320.6	0.099
Perennial Total =				394.6	0.084
Ephemeral Total =				141.1	0.016
Canal Total =				1369.1	0.285
Ephemeral Ditch Total =				278.0	0.006
Culvert Total =				34.2	0.001
Total of All OW#s =				2822.3	0.621
WF01	Jurisdictional Riparian	n/a	n/a	22681.1	0.517
WF02	Jurisdictional Riparian	n/a	n/a	37754.8	0.862
WF03	Jurisdictional Riparian	n/a	n/a	46770.9	1.074
WF04	Jurisdictional Riparian	n/a	n/a	17077.4	0.382
WF05	Jurisdictional Riparian	n/a	n/a	127053.9	2.928
WF07	Seasonal Wetland	n/a	n/a	36236.2	0.832
WF08	Seasonal Wetland	n/a	n/a	4119.2	0.094
WF09	Seasonal Wetland	n/a	n/a	11361.1	0.257
WF10	Seasonal Wetland	n/a	n/a	4531.3	0.104
WF11	Seasonal Wetland	n/a	n/a	892.2	0.020
WF12	Seasonal Wetland	n/a	n/a	2933.6	0.067
WF14	Fresh Emergent Wetland	n/a	n/a	6382.6	0.144
WF15	Seasonal Wetland	n/a	n/a	526.1	0.012
WF16	Seasonal Wetland	n/a	n/a	222.0	0.005
WF17	Seasonal Wetland	n/a	n/a	642.3	0.015
WF18	Seasonal Wetland	n/a	n/a	56.2	0.001
WF19	Seasonal Wetland	n/a	n/a	97.3	0.002
WF20	Jurisdictional Riparian	n/a	n/a	821.2	0.019
WF21	Seasonal Wetland	n/a	n/a	282.6	0.006
WF22	Seasonal Wetland	n/a	n/a	1311.9	0.030
Jurisdictional Riparian Total =				297095.8	6.824
Fresh Emergent Wetland Total =				6382.6	0.144
Seasonal Wetland Total =				52912.1	1.212
Total of All Wetland Features =				358770.4	8.190
Previously Delineated Features					
PDWF01	Fresh Emergent Wetland	n/a	n/a	6669.6	0.16
PDWF02	Seasonal Wet Meadow	n/a	n/a	671.2	0.02
PDWF03	Seasonal Wet Meadow	n/a	n/a	2178.0	0.05
PDWF04	Seasonal Wet Meadow	n/a	n/a	3830.4	0.088
Fresh Emergent Total =				6669.6	0.160
Seasonal Wet Meadow Total =				3830.4	0.088
Total of All Previously Delineated Features =				10890.0	0.250
Total of All Features =				398341.5	8.961

The information contained in this figure shall be considered preliminary and without verification by the USACE. Project boundaries, site plan and 2-D contours provided by SDS Engineering. DWDTDS outside of project boundary included in delineation due to inability access the project boundary project extent. Date of Aerial Photo: 2004. Map date April 20 2005/Revised July 4, 2006, July 18, 2006, & Aug. 3, 2006

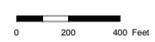


Exhibit D

Wetland Feature 21 Pictures



WF 21 looking south



WF 21 looking north



5/1/2006



4/1/2004



6/30/2005



9/10/98

* Aerial imagery showing the absence of wetland feature 21

Exhibit E

DATA FORM
 ROUTINE WETLAND DETERMINATION
 (1987 COE Wetlands Delineation Manual)

Project/Site:	Anderson Sewer	Date:	11/18/04
Application/Owner:	Sandy Sanderson	County:	Shasta
Investigator:	B. Taylor and S. Innecken	State:	CA
Do Normal Circumstances exist on the site?	yes	Community ID:	Seasonal Wetland
Is the site significantly disturbed (Atypical Situation)?	yes	Transect ID:	WF 21
Is the area a potential Problem Area?	no	Plot ID:	W21

VEGETATION

	Dominant Plant Species	Stratum	Indicator		Dominant Plant Species	Stratum	Indicator
1.	No vegetation present			9.			
2.				10.			
3.				11.			
4.				12.			
5.				13.			
6.				14.			
7.				15.			
8.				16.			
Percent of Dominant Species that are OBL, FACW or FAC (excluding FAC -). n/a							
Remarks: Feature is highly disturbed due to off-road vehicle traffic. No vegetation was present.							

HYDROLOGY

x Recorded Data (Describe in Remarks): Stream, Lake or Tide Gauge x Aerial Photographs Other (Soil Survey) No Recorded Data Available	Wetland Hydrology Indicators: Primary Indicators: _____ Inundated (nearby) <u> X </u> Saturated in Upper 12 inches _____ Water Marks _____ Drift Lines _____ Sediment Deposits _____ Drainage Patterns in Wetlands Secondary Indicators (2 or more required): <u> X </u> Oxidized Root Channels in Upper 12 inches _____ Water-Stained Leaves _____ Local Soil Survey Data _____ FAC-Neutral Test _____ Other (Explain in Remarks)
Field Observations: Depth of Water Surface: ___ (in.) Depth of Free Water in Pit: ___ (in.) Depth to Saturated Soil: _5_ (in.)	
Remarks: none	

SOILS

Map Unit Name (Series and Phase):	Perkins Gravelly Loam, 0-3% slopes		
Drainage class:	well-drained and moderately well-drained		
Taxonomy (Subgroup):	Mollic Haploxeralfs	Field Observations	
		Confirm Mapped Type	x Yes __No

Profile Description:					
Depth (inches)	Horizon	Matrix Color (Munsell Moist)	Mottle Colors (Munsell Moist)	Mottle Abundance/Contrast	Texture, Concretions Structures, etc.
0-9 "	A1	10YR 3/3	10YR 6/8	many/small/prominent	Sandy loam
9-18"	A2	10YR 4/3	7.5YR 4/4	few/small/prominent	Sandy loam

Hydric Soil Indicators:

<input type="checkbox"/> Histosol	<input checked="" type="checkbox"/> Concretions
<input type="checkbox"/> Histic Epipedon	<input type="checkbox"/> High Organic Content in Surface layer in Sandy Soils
<input type="checkbox"/> Sulfidic Odor	<input type="checkbox"/> Organic Streaking in Sandy Soils
<input type="checkbox"/> Aquic Moisture Regime	<input checked="" type="checkbox"/> Listed on Local Hydric Soils List
<input checked="" type="checkbox"/> Reducing Conditions	<input checked="" type="checkbox"/> Listed on National Hydric Soils List
<input type="checkbox"/> Gleyed or Low-Chroma Colors	<input type="checkbox"/> Other (Explain in Remarks)

Remarks:

Wetland Determination

Hydrophytic Vegetation Present	x Yes	No	Is this Sampling Point Within a Wetland?		
Wetland Hydrology Present	x Yes	No			
Hydric Soils Present	x Yes	No			x Yes

Remarks: Wetland devoid of vegetation due to vehicle disturbance.