

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**

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*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) (verified<sup>i</sup>)  
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

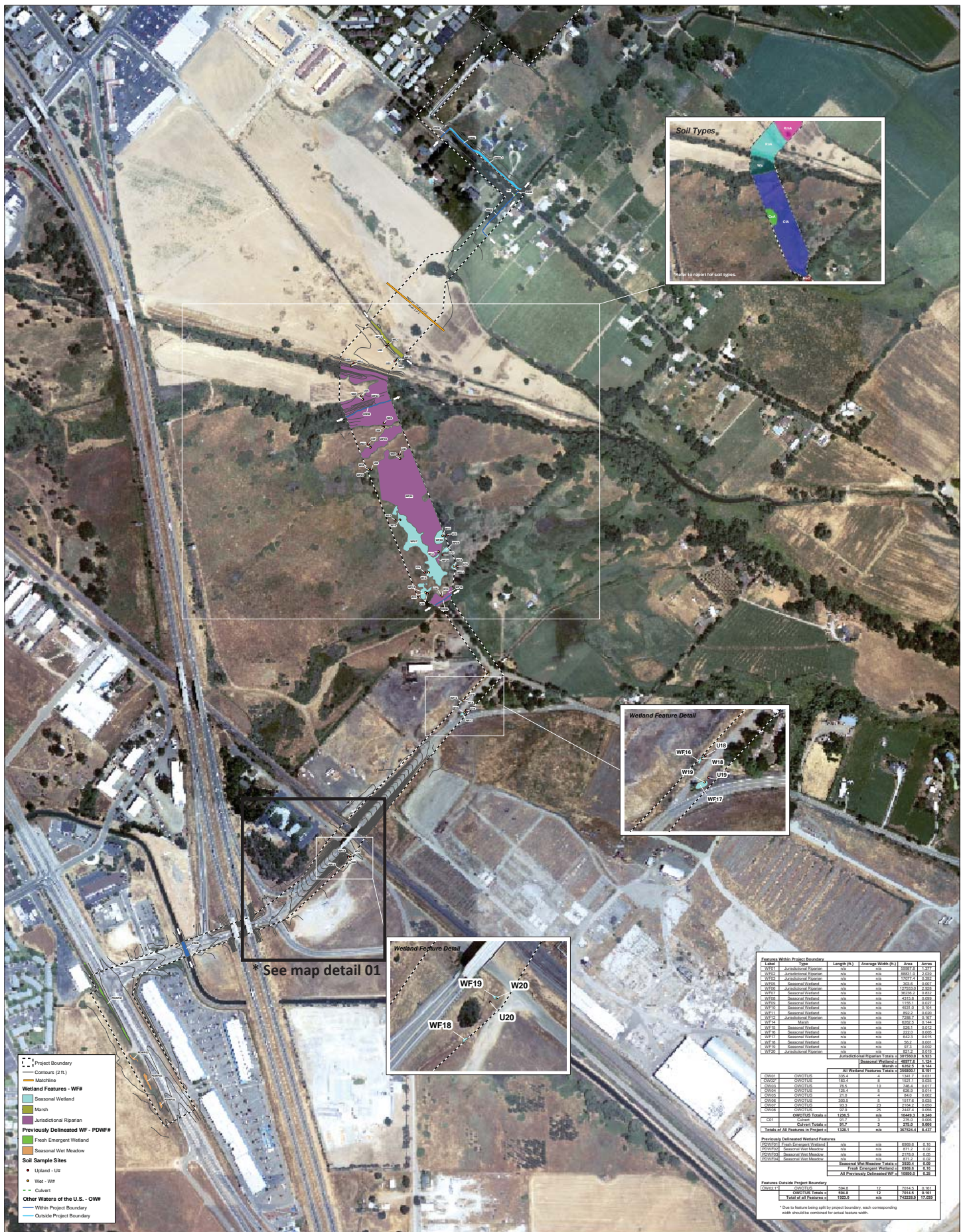
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<sup>i</sup> Verified means that the US Corps of Engineers has conducted a field review and performed a verification or jurisdictional determination, concurring with the extent, location, and type of WOTUS within the project area.

# Exhibit A

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## Exhibit B

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Map Detail 01.

## Exhibit C

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The information contained in this figure shall be considered preliminary until written verification by the USACE.  
 Project Number: 15-100 and 15-101 Contract provided by SDS Engineering  
 DWT/US: outside of project boundary included in delineation  
 Date of field work: Aug. 2014  
 Map date: April 20 2020/Revised July 4, 2006, July 18, 2006, & Aug. 3, 2006

0 200 400 Feet

## Exhibit D

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## 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

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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: <u>  5  </u> (in.)	
Remarks: none	



## SOILS

Map Unit Name (Series and Phase): <u>Perkins Gravelly Loam, 0-3% slopes</u>					
Drainage class: <u>well-drained and moderately well-drained</u>					
Taxonomy (Subgroup): <u>Mollic Haploxeralfs</u>		Field Observations			
Confirm Mapped Type <span style="float: right;">x Yes    __No</span>					
<b>Profile Description:</b>					
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:**

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

## Wetland Determination

Hydrophytic Vegetation			Is this Sampling Point Within a Wetland? <span style="float: right;">x Yes    No</span>
Present	x Yes	No	
Wetland Hydrology Present	x Yes	No	
Hydric Soils Present	x Yes	No	
Remarks: Wetland devoid of vegetation due to vehicle disturbance.			