

From: Clay, Lisa H SPK
Sent: Thursday, March 29, 2007 1:32 PM
To: 'B. Demar Hooper'
Cc: 'Bert Garland'; 'Albert J. Beck'; Vierria, Brian E SPK; Cavanaugh, Thomas J SPK
Subject: RE: Linkside Estates, City of Oroville, Butte County, California;
Corps ID No. 200200475 (UNCLASSIFIED)

Demar: The Corps has determined that we have 404 jurisdiction on the Linkside site. We confirmed this determination in a letter to Mr. Garland dated January 11, 2007. Because jurisdiction has been resolved, at this point the only issue that stands in the way of completing this verification is the delineation map. Our January 11, 2007 letter requested that Mr. Garland provide a revised map, but as of today we have not received a response. Our request is not an attempt to "start over", rather it is an attempt finish this action and move on.

We cannot verify the wetland delineation map provided by Dr. Beck because it does not accurately represent the extent of jurisdictional waters on the site. After your November 16, 2006 letter, our project manager, Mr. Brian Vierria visited the site with Dr. Beck on November 28, 2006. Mr. Vierria noted several unmapped wetland swales and vernal pools. As soon as we receive the revised delineation map as requested, we will be able to issue a verification letter along with the notice of appeal options. At that time your client can decide whether to accept the verified delineation or appeal it.

As we advised Mr. Garland in our letter dated February 26, 2007, the Corps will take no further action on this matter until we receive the revised delineation map.

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From: B. Demar Hooper [<mailto:demar@bdhooperlaw.com>]
Sent: Tuesday, March 13, 2007 4:24 PM
To: Cavanaugh, Thomas J SPK
Cc: Bert Garland; Albert J. Beck; Clay, Lisa H SPK; Vierria, Brian E SPK; Roukey, Kevin J SPK
Subject: Linkside Estates, City of Oroville, Butte County, California; Corps ID No. 200200475
Importance: High

Hello Tom,

It has now been over 2 years since the applicant submitted a request for reconsideration of the jurisdictional determination based on new information. Since that time, the Corps has rescinded the jurisdictional determination, requested additional site specific information, received additional site-specific information, and conducted at least two field visits. It has yet, however, to respond to the request for reconsideration based on the new information. Dr. Beck of Eco-Analysts advises me that the most recent request for information is essentially a request to 'start over' with the site-specific jurisdictional information.

You will probably recall that we went through a similar exercise at an aggregate company site in Truckee. At that time, Corps HQ directed the Sacramento District to first determine whether it had any jurisdiction before going through the expensive and time-consuming process of determining the geographic extent of jurisdiction. I believe there has been no change in direction from Corps HQ. By letter dated November 16, 2006, Linkside provided requested information to reinstate the delineation verification process, allowing consideration of the information submitted February 23, 2005. Linkside therefore renews its request to know the basis for the Corps asserting jurisdiction over the site's wetlands that are either isolated or are outside jurisdiction because they are adjacent only to waters that are themselves wetlands. Such a determination does not depend on post-Rapanos guidance. After more than 2 years of waiting, Linkside's patience is exhausted!

Please respond at your earliest opportunity.

Demar

ps: Please note my new street address below and update the Corps database.

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Classification: UNCLASSIFIED

Caveats: NONE