Jurisdictional Determinations

James Robb
Wetland Specialist
Sacramento District Regulatory Program Workshop
22 February 2016
What’s New?

- Stayed
What’s New

- Minimum Standards for the Acceptance of Aquatic Resources Delineation Reports, update effective January 2016
  ▶ [http://1.usa.gov/1V68IYa](http://1.usa.gov/1V68IYa)
What’s New

- Connectivity literature review published January 2015
What’s New?

- Guide to OHWM Delineation for Non-Perennial Streams in the Western Mountains Valleys and Coast
What’s New?

- Proposed annual update to the National Wetland Plant List September 2015
What’s New?

- SPD Irrigated Wetlands Delineation Procedures (12510-SPD)
- Formerly irrigated lands hydrology study, in progress
Common Pitfalls

- Vague or incomplete data sheets
- Sample point placement
- Antecedent precipitation and drought
### SOIL

**Profile Descriptions**

<table>
<thead>
<tr>
<th>Depth</th>
<th>Matrix</th>
<th>Color (in)</th>
<th>%</th>
<th>Type</th>
<th>Soil Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>D-5</td>
<td></td>
<td>1018 4/8</td>
<td>95</td>
<td>S/C</td>
<td>Sandy Clay</td>
</tr>
</tbody>
</table>

**Type of Sampling Method**

- [ ] Core Sample
- [ ] Hollow Tube
- [ ] Diamond Drill

**Hydraulic Soil Indications**

- [ ] High Water Table
- [ ] Surface Water
- [ ] Saturation
- [ ] Drainage
- [ ] Rapid Acidification
- [ ] Rapid Efflorescence
- [ ] Solution Pits
- [ ] Dasman Cascade
- [ ] Presence of Reduced Iron

**Secondary Indicators**

- [ ] Water Stains
- [ ] Meltwater
- [ ] Deep Efflorescence
- [ ] Drainage Mounds
- [ ] Dry-Seasonal Water Table
- [ ] Climax Hummock
- [ ] Subsurface Water on Aerial Imaging
- [ ] Thin Mud Surface
- [ ] Other

**Field Observations**

- [ ] Water Table Present? Yes / No
- [ ] Surface Water Present? Yes / No
- [ ] Saturation Present? Yes / No

**Remarks**

1. **Hydraulic Soil Present?** Yes / No
2. **Indicators for Problematic Hydraulic Soil**
   - 1 cm Muck (S10)
   - 2 cm Muck (S12)
   - Reduced Muck (S15)
   - Red Parent Material (S20)
   - Other (Specify in Remarks)

3. **Indications of hydrophytic vegetation and wetland hydric soil must be present,**
   **unless disturbed or problematic.**
### Soil Profile Description

Describe to the depth needed to document the indicator or confirm the absence of indicators.

<table>
<thead>
<tr>
<th>Depth (inches)</th>
<th>Matrix</th>
<th>Redox Features</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Color (moist)</td>
<td>%</td>
</tr>
<tr>
<td>0-5</td>
<td>10YR 4/8</td>
<td>95</td>
</tr>
</tbody>
</table>

**Type:** C=Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains.

**Texture:**

**Remarks:**

### Hydric Soil Indicators

(Applicable to all LRRs, unless otherwise noted.)

- Histosol (A1)
- Histic Epipedon (A2)
- Black Histic (A3)
- Hydrogen Sulfide (A4)
- Stratified Layers (A5) (LRR C)
- 1 cm Muck (A9) (LRR D)
- Depleted Below Dark Surface (A11)
- Thick Dark Surface (A12)
- Sandy Mucky Mineral (S1)
- Sandy Gleyed Matrix (S4)

- Sandy Redox (S5)
- Stripped Matrix (S6)
- Loamy Mucky Mineral (F1)
- Loamy Gleyed Matrix (F2)
- Depleted Matrix (F3)
- Redox Dark Surface (F6)
- Depleted Dark Surface (F7)
- Redox Depressions (F8)
- Vernal Pools (F9)

### Indicators for Problematic Hydric Soils

- 1 cm Muck (A9) (LRR C)
- 2 cm Muck (A10) (LRR B)
- Reduced Vertic (F18)
- Red Parent Material (TF2)
- Other (Explain in Remarks)

**Restrictive Layer (if present):**

<table>
<thead>
<tr>
<th>Type:</th>
<th>Depth (inches):</th>
</tr>
</thead>
</table>

**Hydric Soil Present?** Yes _ ☑_ No _ ☒_

**Remarks:**
### HYDROLOGY

**Wetland Hydrology Indicators:**

<table>
<thead>
<tr>
<th>Primary Indicators (minimum of one required; check all that apply)</th>
<th>Secondary Indicators (2 or more required)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Surface Water (A1)</td>
<td>Water Marks (B1) (Riverine)</td>
</tr>
<tr>
<td>High Water Table (A2)</td>
<td>Sediment Deposits (B2) (Riverine)</td>
</tr>
<tr>
<td>Saturation (A3)</td>
<td>Drift Deposits (B3) (Riverine)</td>
</tr>
<tr>
<td>Water Marks (B1) (Nonriverine)</td>
<td>Drainage Patterns (B10)</td>
</tr>
<tr>
<td>Sediment Deposits (B2) (Nonriverine)</td>
<td>Dry-Season Water Table (C2)</td>
</tr>
<tr>
<td>Drift Deposits (B3) (Nonriverine)</td>
<td>Crayfish Burrows (C8)</td>
</tr>
<tr>
<td>Surface Soil Cracks (B6)</td>
<td>Saturation Visible on Aerial Imagery (C9)</td>
</tr>
<tr>
<td>Inundation Visible on Aerial Imagery (B7)</td>
<td>Shallow Aquitard (D3)</td>
</tr>
<tr>
<td>Water-Stained Leaves (B9)</td>
<td>FAC-Neutral Test (D5)</td>
</tr>
</tbody>
</table>

**Field Observations:**

- Surface Water Present? Yes ☑️ No ❌ Depth (inches): __________
- Water Table Present? Yes ☑️ No ❌ Depth (inches): __________
- Saturation Present? (includes capillary fringe) Yes ☑️ No ❌ Depth (inches): __________

**Wetland Hydrology Present?** Yes ☑️ No ❌

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

**Remarks:**
### Soil Analysis Report

**Profile Description:** (Describe to the depth needed to document the indicator or confirm the absence of indicators.)

<table>
<thead>
<tr>
<th>Depth (inches)</th>
<th>Matrix</th>
<th>Redox Features</th>
<th>Texture</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 - 5</td>
<td>LO YR 4/8</td>
<td>10 YR 4/6</td>
<td>Silty Clay</td>
</tr>
</tbody>
</table>

**Hydric Soil Indicators:** (Applicable to all LRRs, unless otherwise noted.)

- Histosol (A1)
- Histic Epipedon (A2)
- Black Histic (A3)
- Hydrogen Sulfide (A4)
- Stratified Layers (A5) (LRR C)
- 1 cm Muck (A9) (LRR D)
- Depleted Below Dark Surface (A11)
- Thick Dark Surface (A12)
- Sandy Mucky Mineral (S1)
- Sandy Gleyed Matrix (S4)

- Sandy Redox (S5)
- Stripped Matrix (S6)
- Loamy Mucky Mineral (F1)
- Loamy Gleyed Matrix (F2)
- Depleted Matrix (F3)
- Redox Dark Surface (F6)
- Depleted Dark Surface (F7)
- Redox Depressions (F8)
- Vernal Pools (F9)

**Restrictive Layer (if present):**

- Type: 
- Depth (inches): 

**Hydric Soil Present?** Yes [ ] No [x]

**Indicators for Problematic Hydric Soils:***

- 1 cm Muck (A9) (LRR C)
- 2 cm Muck (A10) (LRR B)
- Reduced Vertic (F18)
- Red Parent Material (TF2)
- Other (Explain in Remarks)

*Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

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**Sampling Point:** U33
## HYDROLOGY

### Wetland Hydrology Indicators:

**Primary Indicators (minimum of one required; check all that apply):**
- Surface Water (A1)
- High Water Table (A2)
- Saturation (A3)
- Water Marks (B1) (Nonriverine)
- Sediment Deposits (B2) (Nonriverine)
- Drift Deposits (B3) (Nonriverine)
- Surface Soil Cracks (B6)
- Inundation Visible on Aerial Imagery (B7)
- Water-Stained Leaves (B9)

**Secondary Indicators (2 or more required):**
- Water Marks (B1) (Riverine)
- Sediment Deposits (B2) (Riverine)
- Drift Deposits (B3) (Riverine)
- Drainage Patterns (B10)
- Dry-Season Water Table (C2)
- Crayfish Burrows (C8)
- Saturation Visible on Aerial Imagery (C9)
- Shallow Aquitard (D3)
- FAC-Neutral Test (D5)

### Field Observations:

- **Surface Water Present?** Yes [ ] No [x] Depth (inches): __________
- **Water Table Present?** Yes [ ] No [x] Depth (inches): __________
- **Saturation Present?** Yes [ ] No [x] Depth (inches): __________
  (includes capillary fringe)

**Wetland Hydrology Present?** Yes [ ] No [x]

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

**Remarks:**
### SOIL

#### Profile Description:
(Describe to the depth needed to document the indicator or confirm the absence of indicators.)

<table>
<thead>
<tr>
<th>Depth (inches)</th>
<th>Matrix</th>
<th>Redox Features</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-5</td>
<td>10YR 4/8</td>
<td>10YR 4/6</td>
</tr>
</tbody>
</table>

#### Redox Features
- **Color (moist):**
  - 10YR 4/8
  - 10YR 4/6
- **%:**
  - 95

#### Texture
- Silty Clay

#### Remarks

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### Hydric Soil Indicators:
(Applicable to all LRRs, unless otherwise noted.)

- Histosol (A1)
- Histic Epipedon (A2)
- Black Histic (A3)
- Hydrogen Sulfide (A4)
- Stratified Layers (A5) (LRR C)
- 1 cm Muck (A9) (LRR D)
- Depleted Below Dark Surface (A11)
- Thick Dark Surface (A12)
- Sandy Mucky Mineral (S1)
- Sandy Gleyed Matrix (S4)

- Sandy Redox (S5)
- Stripped Matrix (S6)
- Loamy Mucky Mineral (F1)
- Loamy Gleyed Matrix (F2)
- Depleted Matrix (F3)
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- Vernal Pools (F9)

### Indicators for Problematic Hydric Soils

- 1 cm Muck (A9) (LRR C)
- 2 cm Muck (A10) (LRR B)
- Reduced Vertic (F18)
- Red Parent Material (TF2)
- Other (Explain in Remarks)

---

### Restrictive Layer (if present):

- **Type:**
- **Depth (inches):**

#### Hydric Soil Present?
- Yes [ ]
- No [X]

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BUILDING STRONG®
WETLAND DETERMINATION DATA FORM – Arid West Region

Project/Site: Sama Ranch  City/County: Tehama  State: CA  Sampling Date: __________
Applicant/Owner: Bruce Banner  Sampling Point: U33
Investigator(s): Jack McGee  Section, Township, Range: __________
Landform (hillslope, terrace, etc.): __________________________ Local relief (concave, convex, none): __________ Slope (%): __________
Subregion (LRR): ____________________ Lat: ____________________ Long: ____________________ Datum: ____________________
Soil Map Unit Name: Corng - Redding gravelly loams  NWI classification: __________

Are climatic / hydrologic conditions on the site typical for this time of year? Yes ☑ No _____ (If no, explain in Remarks.)
Are Vegetation _____, Soil _____, or Hydrology _____ significantly disturbed? Are “Normal Circumstances” present? Yes ☑ No _____
Are Vegetation _____, Soil _____, or Hydrology _____ naturally problematic? (If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

<table>
<thead>
<tr>
<th>Hydrophytic Vegetation Present?</th>
<th>Yes ☑ No ______</th>
<th>Is the Sampled Area within a Wetland?</th>
<th>Yes ☑ No ______</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hydric Soil Present?</td>
<td>Yes ☑ No ______</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wetland Hydrology Present?</td>
<td>Yes ☑ No ______</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Remarks:
Evaluating Normal Rain Fall

WETS tables

- USDA National Water and Climate Center (http://www.wcc.nrcs.usda.gov/climate/navigate_wets.html)
- Analyze monthly precipitation data from >8,000 National Weather Service stations
- Based on a standard 30 years of rainfall data
- Provide monthly and annual thresholds for:
  - Below normal rainfall (lowest 3 years in 10)
  - Above normal rainfall (highest 3 years in 10)
Accessing and Using Meteorological Data to Evaluate Wetland Hydrology

Steven W. Sprecher and Andrew G. Warne

April 2000
Modesto City Co AP Daily Precip
(with any missing measurements substituted from Turlock #2)
## Antecedent Precip by Event Date

<table>
<thead>
<tr>
<th>DATE</th>
<th>DESCRIPTION</th>
<th>EVENT</th>
<th>Condition (1st Prior 30 Days)</th>
<th>Condition (2nd Prior 30 Days)</th>
<th>Condition (3rd Prior 30 Days)</th>
<th>Antecedent Precip</th>
<th>Season</th>
</tr>
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<tbody>
<tr>
<td>12/11/1940</td>
<td>USGS Aerial Photo</td>
<td>19401211_USGS</td>
<td>Dry</td>
<td>Normal</td>
<td>Normal</td>
<td>Dry</td>
<td>Wet</td>
</tr>
<tr>
<td>4/22/1982</td>
<td>USGS Aerial Photo</td>
<td>19820422_USGS</td>
<td>Wet</td>
<td>Normal</td>
<td>Normal</td>
<td>Wet</td>
<td>Wet</td>
</tr>
<tr>
<td>8/15/1998</td>
<td>Digital Ortho Quad</td>
<td>19980815_DOQ</td>
<td>Normal</td>
<td>Wet</td>
<td>Normal</td>
<td>Normal</td>
<td>Dry</td>
</tr>
<tr>
<td>2/24/2006</td>
<td>Quick Bird satellite image</td>
<td>20060224_Q802</td>
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<td>Dry</td>
<td>Normal</td>
<td>Normal</td>
<td>Wet</td>
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<td>12/4/2006</td>
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<td>Normal</td>
<td>Wet</td>
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<td>Normal</td>
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<tr>
<td>11/4/2013</td>
<td>World View satellite image</td>
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<td>Normal</td>
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<td>Wet</td>
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<td>6/18/2014</td>
<td>World View satellite image</td>
<td>20140618_WV02</td>
<td>Normal</td>
<td>Dry</td>
<td>Normal</td>
<td>Normal</td>
<td>Wet</td>
</tr>
<tr>
<td>3/15/2015</td>
<td>World View satellite image</td>
<td>20150315_WV01</td>
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<td>Normal</td>
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<td>Wet</td>
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<tr>
<td>3/27/2015</td>
<td>World View satellite image</td>
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<td>Normal</td>
<td>Normal</td>
<td>Normal</td>
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<td>Wet</td>
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<td>6/15/2015</td>
<td>sample point range 6/15-6/15-201</td>
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<td>Normal</td>
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<td>Wet</td>
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<tr>
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<td>sample point range 6/15-6/15-02</td>
<td>20150617_Sample</td>
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<td>Normal</td>
<td>Normal</td>
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<tr>
<td>6/18/2015</td>
<td>sample point range 6/15-6/15-03</td>
<td>20150618_Sample</td>
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<td>Normal</td>
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<td>Wet</td>
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<tr>
<td>6/19/2015</td>
<td>sample point range 6/15-6/15-04</td>
<td>20150619_Sample</td>
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<td>Normal</td>
<td>Normal</td>
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<td>Wet</td>
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<tr>
<td>6/20/2015</td>
<td>sample point range 6/15-6/15-05</td>
<td>20150620_Sample</td>
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<td>Normal</td>
<td>Normal</td>
<td>Normal</td>
<td>Wet</td>
</tr>
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<td>7/3/2015</td>
<td>World View satellite image</td>
<td>20150703_WV02</td>
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</tr>
<tr>
<td>9/22/2015</td>
<td>World View satellite image</td>
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<td>Normal</td>
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<td>Year/Month</td>
<td>Palmer Drought Severity Index</td>
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<td>2014/01</td>
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</tr>
</tbody>
</table>
WETLAND DETERMINATION DATA FORM – Arid West Region

Project/Site: Gamma Ranch  
Extended Name:  
City/County: Tehama  
State: CA  
Sampling Point: U83  
Applicant/Owner: Bruce Banner  
Investigator(s): Jack McGee

Landform (hillslope, terrace, etc.):  
Local relief (concave, convex, none):  
Slope (%):  
Subregion (LRR):  
Lat:  
Long:  
Datum:  
Soil Map Unit Name: Corng- Redding gravelly loams  
NWI classification:  

Are climatic / hydrologic conditions on the site typical for this time of year? Yes ☑  No  (If no, explain in Remarks.)

Are Vegetation _____, Soil _____, or Hydrology _____ significantly disturbed?  
Are "Normal Circumstances" present? Yes ☑ No

Are Vegetation _____, Soil _____, or Hydrology _____ naturally problematic?  
(If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

<table>
<thead>
<tr>
<th>Hydrophytic Vegetation Present?</th>
<th>Yes ☑</th>
<th>No</th>
<th></th>
<th>Is the Sampled Area within a Wetland?</th>
<th>Yes ☑</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hydric Soil Present?</td>
<td>Yes</td>
<td>No ☑</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wetland Hydrology Present?</td>
<td>Yes</td>
<td>No ☑</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Remarks:
# PJD vs. AJD

<table>
<thead>
<tr>
<th>Preliminary Jurisdictional Determination</th>
<th>Approved Jurisdictional Determination</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not appealable (instead request an AJD)</td>
<td>Appealable</td>
</tr>
<tr>
<td>No set expiration date</td>
<td>Expires after 5 years</td>
</tr>
<tr>
<td>Cannot use to disclaim jurisdiction over an aquatic resource</td>
<td>Required to disclaim jurisdiction over an aquatic resource</td>
</tr>
<tr>
<td>Not posted on the web</td>
<td>Posted on the web</td>
</tr>
<tr>
<td>Sufficient for permitting</td>
<td>Sufficient for permitting</td>
</tr>
</tbody>
</table>
AJD/PJD FAQs

I have a non-tidal irrigation ditch excavated on dry land in my study area. Can I just leave it off the map and do a PJD?

No, if it’s an aquatic resource it needs to be on the map. If it’s a preamble excluded water then the Corps will need to do an AJD to disclaim jurisdiction.
AJD/PJD FAQs

Does the Corps have to coordinate all Approved JDs with EPA?

No, the Corps is only required to coordinate isolated & significant nexus calls with EPA. Other non-jurisdictional findings (i.e., preamble excluded waters) do not required EPA coordination but do require an AJD.
AJD/PJD FAQs

What about puddles? The stayed rule talks about these in the same context as the 1986 preamble excluded waters. Do I have to map those?
No, puddles are not aquatic resources since they do not have an OHWM nor are they wet long enough to meet the definition of wetland.
AJD/PJD FAQs

How long is EPA’s review of an Approved JD?

15 days for a significant nexus determination, 21 days for isolated
AJD/PJD FAQs

Can the Corps issue an Approved JD when I asked for a Preliminary JD?

Yes, when jurisdiction is contested or when the Corps determines that it does not have jurisdiction over an aquatic resource (Regulatory Guidance Letter 08-02)
Where can I find jurisdictional determinations on the web?