

Mike Bramlett

From: Daniel Maynard <dmaynard@bristleconeecology.com>
Sent: Wednesday, February 24, 2021 11:09 AM
To: Mike Bramlett
Subject: Re: FW: Powers and Galley

Mike,

We completed the site visit on Solace on Monday, and I wanted to give you an update before moving ahead with an opinion letter. While there are no wetlands on the site, the tributary to Sand Creek on the east side of the site is jurisdictional. Any impacts to that stream would require a 404 permit, and given the length of the channel we would certainly be looking at an IP. I would hope that the scenario we are running into on Sterling Ranch with the SQT could be avoided but I'm not certain it could, and we could potentially end up in a similar situation with the County pushing one way and the Corps pushing the other. The big difference is that this "stream" is in much worse shape than Sand Creek on Sterling Ranch, so given the right design we could argue that the result is improving the condition of the stream. My thoughts at this point are:

1. Would the County be willing to consider an alternate approach with less disturbance to the stream? Perhaps not a fully naturalized channel, but something that at least doesn't go as far as paving the whole reach? We would still have to bite the bullet and do an SQT assessment, but if we are improving the stream we would at least avoid many of the issues Rich and I have brought up on Sterling Ranch.
2. If not, is there any way to get under 1,000 linear feet of impacts? We might be able to use Regional General Permit 37 (RGP 37) if we can get under 1,000 LF, but if the County is requiring paving the whole thing it looks like it would be over 1,350 LF.
3. If neither of those work, we could try to argue for some kind of waiver from the Corps based on the fact that the channel above and below is already paved, but I think that is a long shot.
4. I can also simply prepare the letter and request a site visit with the Corps to try and get them to agree that the stream is non-jurisdictional. It doesn't hurt to get their opinion, but I suspect they are going to call it jurisdictional.

Let me know if you want to discuss. I think we are going to start running into these types of situations more and more between the County and the Corps and it would be good to have a process for dealing with them when they come up.

Thanks Mike