



DEPARTMENT OF THE ARMY

P.O. Box 532711
Los Angeles, CA 90017-3401

February 3, 2012

REPLY TO
ATTENTION OF

Regulatory Division

Andrew Mack
Chief Operating Officer
DesertXpress Enterprises, LLC.
6750 Via Austi Parkway, Suite 250
Las Vegas, Nevada 89119

SUBJECT: Approved Jurisdictional Determination regarding presence/absence of geographic jurisdiction

Dear Mr. Mack:

Reference is made to your request (File No. SPL-2006-01958-VCC), dated July 27, 2010, for an approved Department of the Army jurisdictional determination (JD) for the DesertXpress High-Speed Rail Project (Victorville, San Bernardino County, CA to Las Vegas, NV) project site (-115.411184°, 35.60764°) located near the city of Primm Valley, San Bernardino County, California.

As you may know, the Corps' evaluation process for determining whether or not a Department of the Army permit is needed involves two tests. If both tests are met, then a permit is required. The first test determines whether or not the proposed project is located in a water of the United States (i.e., it is within the Corps' geographic jurisdiction). The second test determines whether or not the proposed project is a regulated activity under section 10 of the River and Harbor Act or section 404 of the Clean Water Act. As part of the evaluation process, pertaining to the first test only, we have made the jurisdictional determination below.

Based on available information, we have determined there are waters of the United States on the project site at the following 64 features, in the locations depicted on the enclosed drawing (interstate waters).

Ivanpah Lake

- | | | |
|-----------|-----------|-----------|
| • D-30-1 | • D-30-12 | • D-30-15 |
| • D-30-10 | • D-30-13 | • D-30-16 |
| • D-30-11 | • D-30-14 | • D-30-17 |

- | | | |
|-----------|----------|----------|
| • D-30-18 | • D-30-3 | • D-30-7 |
| • D-30-19 | • D-30-4 | • D-30-8 |
| • D-30-2 | • D-30-5 | • D-30-9 |
| • D-30-20 | • D-30-6 | |

Whisky Spring-Frontal Ivanpah Lake

- | | | |
|------------|------------|------------|
| • D-31-369 | • D-31-388 | • D-31-405 |
| • D-31-370 | • D-31-389 | • D-31-406 |
| • D-31-371 | • D-31-390 | • D-31-407 |
| • D-31-375 | • D-31-391 | • D-31-408 |
| • D-31-376 | • D-31-392 | • D-31-409 |
| • D-31-378 | • D-31-393 | • D-31-373 |
| • D-31-379 | • D-31-394 | • D-31-410 |
| • D-31-380 | • D-31-395 | • D-31-411 |
| • D-31-381 | • D-31-396 | • D-31-412 |
| • D-31-382 | • D-31-399 | • D-31-413 |
| • D-31-383 | • D-31-400 | • D-31-439 |
| • D-31-384 | • D-31-401 | • D-31-440 |
| • D-31-385 | • D-31-402 | • D-31-441 |
| • D-31-386 | • D-31-403 | • D-31-442 |
| • D-31-387 | • D-31-404 | |

Based on available information, we have determined there are no waters of the United States on the project site at the following 258 features, in the locations depicted on the enclosed drawing.

Ivanpah Lake

- | | | |
|-----------|-----------|-----------|
| • D-30-19 | • D-30-49 | • D-30-54 |
| • D-30-45 | • D-30-50 | • D-30-55 |
| • D-30-46 | • D-30-51 | • D-30-56 |
| • D-30-47 | • D-30-52 | • D-30-57 |
| • D-30-48 | • D-30-53 | |

Wheaton Wash-Frontal Ivanpah Lake

- | | | |
|-----------|-----------|-----------|
| • D-28-3 | • D-28-12 | • D-28-27 |
| • D-28-4 | • D-28-13 | • D-28-34 |
| • D-28-5 | • D-28-17 | • D-28-35 |
| • D-28-6 | • D-28-19 | • D-28-36 |
| • D-28-7 | • D-28-21 | • D-28-37 |
| • D-28-8 | • D-28-23 | • D-28-38 |
| • D-28-9 | • D-28-24 | • D-28-42 |
| • D-28-10 | • D-28-25 | • D-28-43 |
| • D-28-11 | • D-28-26 | • D-28-44 |

• D-28-46	• D-28-76	• D-28-105
• D-28-47	• D-28-77	• D-28-106
• D-28-48	• D-28-78	• D-28-107
• D-28-49	• D-28-79	• D-28-108
• D-28-50	• D-28-81	• D-28-109
• D-28-56	• D-28-83	• D-28-110
• D-28-57	• D-28-86	• D-28-111
• D-28-58	• D-28-87	• D-28-112
• D-28-59	• D-28-88	• D-28-113
• D-28-60	• D-28-89	• D-28-114
• D-28-61	• D-28-91	• D-28-115
• D-28-62	• D-28-92	• D-28-116
• D-28-63	• D-28-93	• D-28-117
• D-28-64	• D-28-94	• D-28-118
• D-28-65	• D-28-95	• D-28-119
• D-28-66	• D-28-96	• D-28-120
• D-28-67	• D-28-97	• D-28-121
• D-28-68	• D-28-98	• D-28-122
• D-28-69	• D-28-99	• D-28-123
• D-28-70	• D-28-100	• D-28-124
• D-28-71	• D-28-101	• D-28-125
• D-28-72	• D-28-102	• D-28-126
• D-28-73	• D-28-103	• D-28-127
• D-28-74	• D-28-104	• D-28-135
• D-28-75		

Whisky Spring-Frontal Ivanpah Lake

• D-31-1	• D-31-21	• D-31-44
• D-31-2	• D-31-22	• D-31-45
• D-31-3	• D-31-23	• D-31-48
• D-31-4	• D-31-24	• D-31-49
• D-31-7	• D-31-25	• D-31-50
• D-31-8	• D-31-26	• D-31-60
• D-31-9	• D-31-28	• D-31-63
• D-31-10	• D-31-29	• D-31-64
• D-31-11	• D-31-30	• D-31-65
• D-31-12	• D-31-35	• D-31-75
• D-31-13	• D-31-37	• D-31-86
• D-31-14	• D-31-38	• D-31-94
• D-31-18	• D-31-39	• D-31-99
• D-31-19	• D-31-42	• D-31-100
• D-31-20	• D-31-43	• D-31-108

• D-31-117	• D-31-193	• D-31-424
• D-31-119	• D-31-196	• D-31-426
• D-31-121	• D-31-200	• D-31-427
• D-31-122	• D-31-201	• D-31-428
• D-31-124	• D-31-202	• D-31-429
• D-31-125	• D-31-206	• D-31-430
• D-31-126	• D-31-214	• D-31-431
• D-31-127	• D-31-217	• D-31-433
• D-31-128	• D-31-219	• D-31-434
• D-31-129	• D-31-232	• D-31-435
• D-31-131	• D-31-241	• D-31-436
• D-31-132	• D-31-244	• D-31-437
• D-31-133	• D-31-250	• D-31-438
• D-31-134	• D-31-312	• D-31-443
• D-31-135	• D-31-313	• D-31-444
• D-31-138	• D-31-314	• D-31-445
• D-31-140	• D-31-315	• D-31-446
• D-31-141	• D-31-321	• D-31-447
• D-31-142	• D-31-325	• D-31-448
• D-31-143	• D-31-333	• D-31-449
• D-31-144	• D-31-347	• D-31-450
• D-31-148	• D-31-350	• D-31-451
• D-31-150	• D-31-359	• D-31-452
• D-31-152	• D-31-363	• D-31-453
• D-31-153	• D-31-365	• D-31-454
• D-31-154	• D-31-373	• D-31-455
• D-31-155	• D-31-414	• D-31-456
• D-31-156	• D-31-415	• D-31-457
• D-31-157	• D-31-416	• D-31-458
• D-31-171	• D-31-417	• D-31-459
• D-31-178	• D-31-419	• D-31-460
• D-31-186	• D-31-421	• D-31-461
• D-31-191	• D-31-422	• D-31-462

The basis for our determination can be found in the enclosed JD form.

This letter contains an approved jurisdictional determination for the DesertXpress High-Speed Rail Project (Victorville, San Bernardino County, CA to Las Vegas, Clark County, NV) project site. If you object to this decision, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. Enclosed you will find a Notification of Appeal Process (NAP) fact sheet (Appendix A) and Request for Appeal (RFA) form. If you request to appeal

this decision you must submit a completed RFA form to the Corps South Pacific Division Office at the following address:

Tom Cavanaugh
Administrative Appeal Review Officer,
U.S. Army Corps of Engineers
South Pacific Division, CESPDPDS-O, 2042B
1455 Market Street, San Francisco, California 94103-1399

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 C.F.R. Part 331.5, and that it has been received by the Division Office within 60 days of the date on the NAP. Should you decide to submit an RFA form, it must be received at the above address by **April 4, 2012**. It is not necessary to submit an RFA form to the Division office if you do not object to the decision in this letter.

This verification is valid for five years from the date of this letter, unless new information warrants revision of the determination before the expiration date. If you wish to submit new information regarding the approved jurisdictional determination for this site, please submit this information to Ms. Veronica Chan at the letterhead address by **April 4, 2012**. The Corps will consider any new information so submitted and respond within 60 days by either revising the prior determination, if appropriate, or reissuing the prior determination. A revised or reissued jurisdictional determination can be appealed as described above.

This determination has been conducted to identify the extent of the Corps' Clean Water Act jurisdiction on the particular project site identified in your request. This determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985. If you or your tenant are USDA program participants, or anticipate participation in USDA programs, you should request a certified wetland determination from the local office of the Natural Resources Conservation Service, prior to starting work.

If you have any questions, please contact Ms. Chan at 213-452-3292 or via e-mail at Veronica.C.Chan@usace.army.mil.

Please be advised that you can now comment on your experience with Regulatory Division by accessing the Corps web-based customer survey form at:
<http://per2.nwp.usace.army.mil/survey.html>.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark D. Cohen". The signature is fluid and cursive, with the first name "Mark" and last name "Cohen" clearly distinguishable.

Mark D. Cohen
Deputy Chief, Regulatory Division

Enclosures

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Andrew Mack, DesertXpress		File Number: SPL-2006-01958-VCC	Date: 02/03/2012
Attached is:			See Section below
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A	
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B	
	PERMIT DENIAL	C	
X	APPROVED JURISDICTIONAL DETERMINATION	D	
	PRELIMINARY JURISDICTIONAL DETERMINATION	E	

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://usace.army.mil/inet/functions/cw/cecwo/reg> or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- OBJECT: If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit.

- ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- APPEAL: If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- ACCEPT: You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- APPEAL: If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:

DISTRICT ENGINEER
Los Angeles District, Corps of Engineers
ATTN: Chief, Regulatory Division
P.O. Box 532711
Los Angeles, CA 90053-2325
Tel. (213) 452-3425

If you only have questions regarding the appeal process you may also contact:

DIVISION ENGINEER
South Pacific Division, Corps of Engineers
Attn: Tom Cavanaugh
Administrative Appeal Review Officer
South Pacific Division, CESPD-PDS-O, 2052B
1455 Market Street, San Francisco, California 94103-1399
Phone: (415) 503-6574 Fax: (415) 503-6646
Email: thomas.j.cavanaugh@usace.army.mil

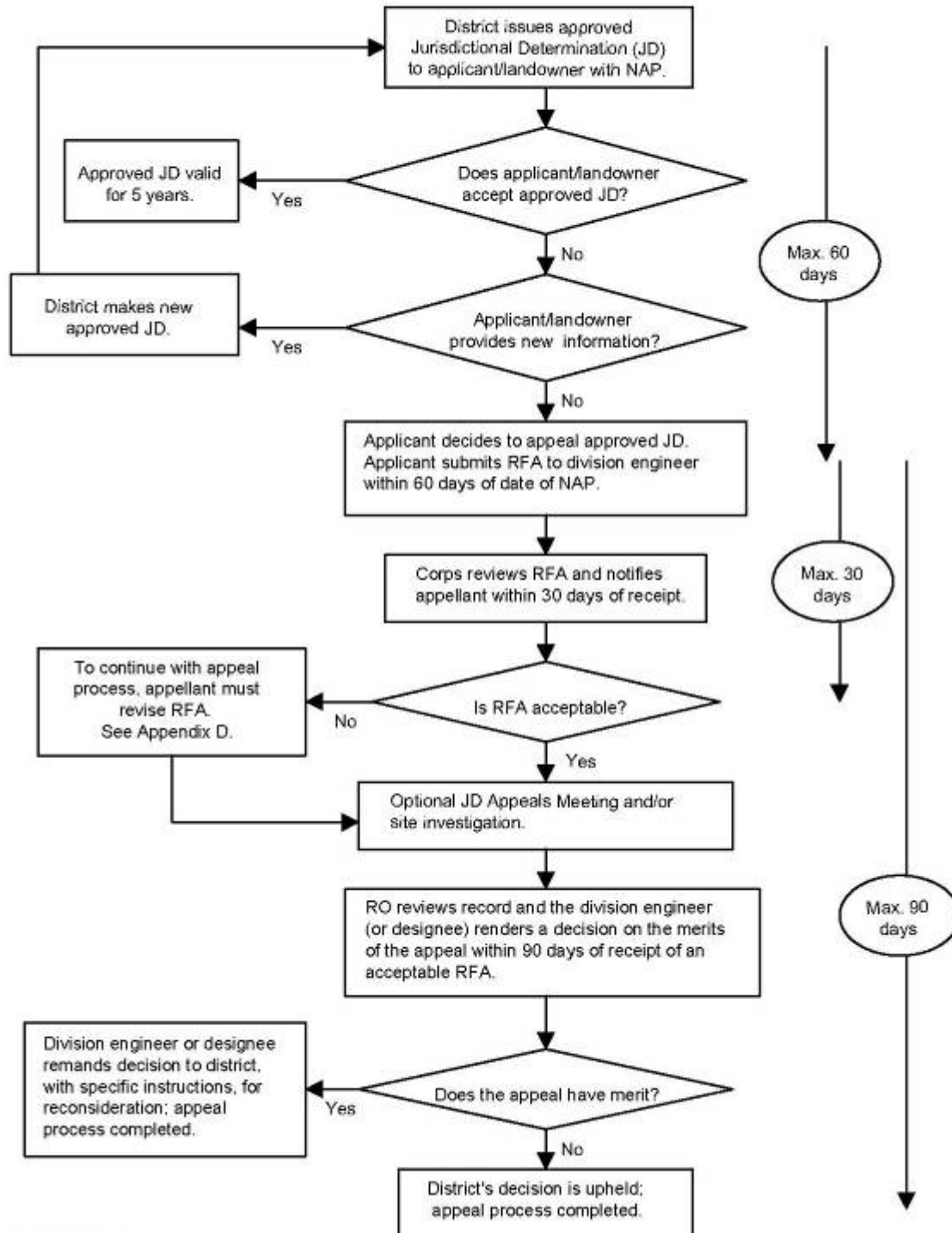
RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.

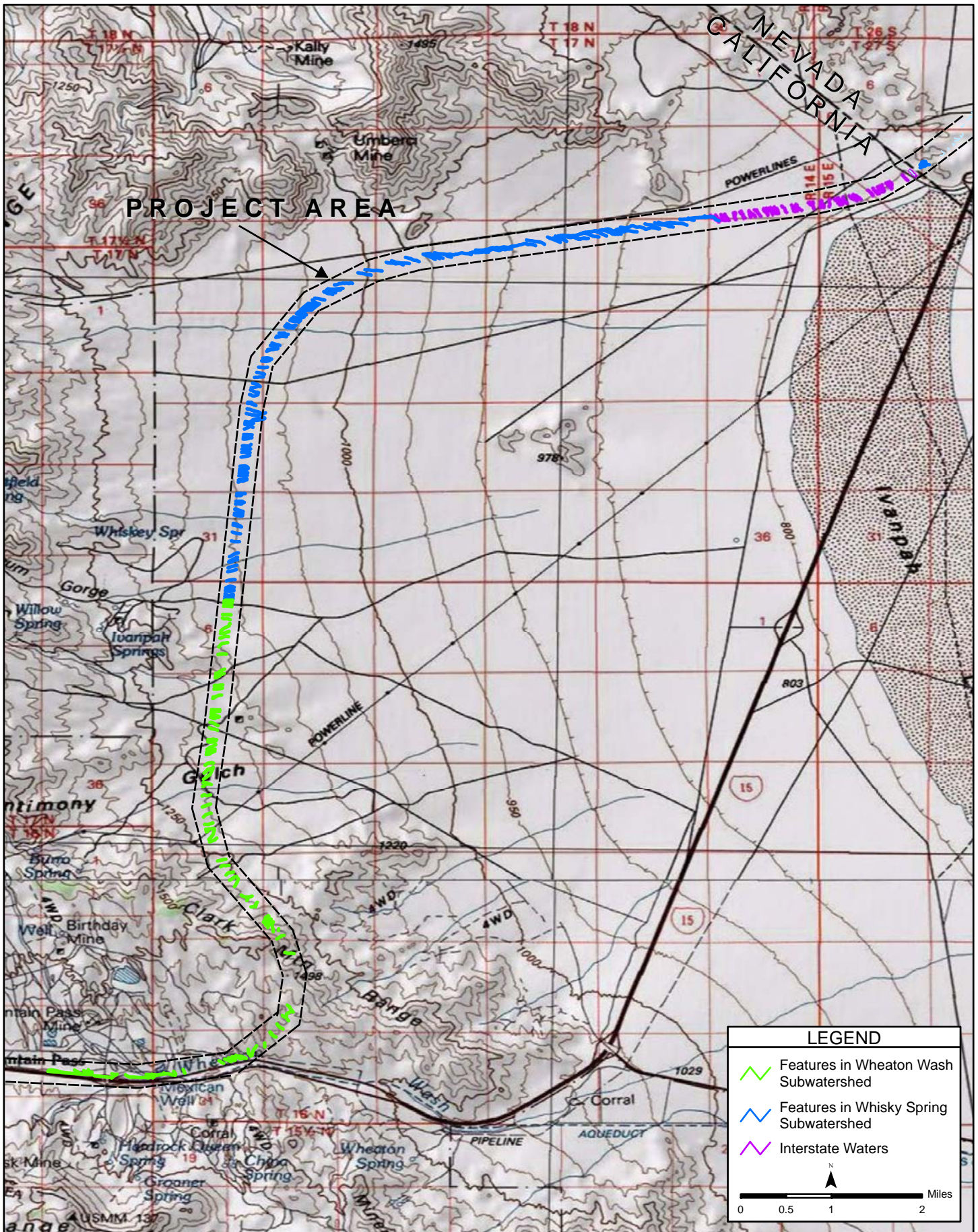
Date:

Telephone number:

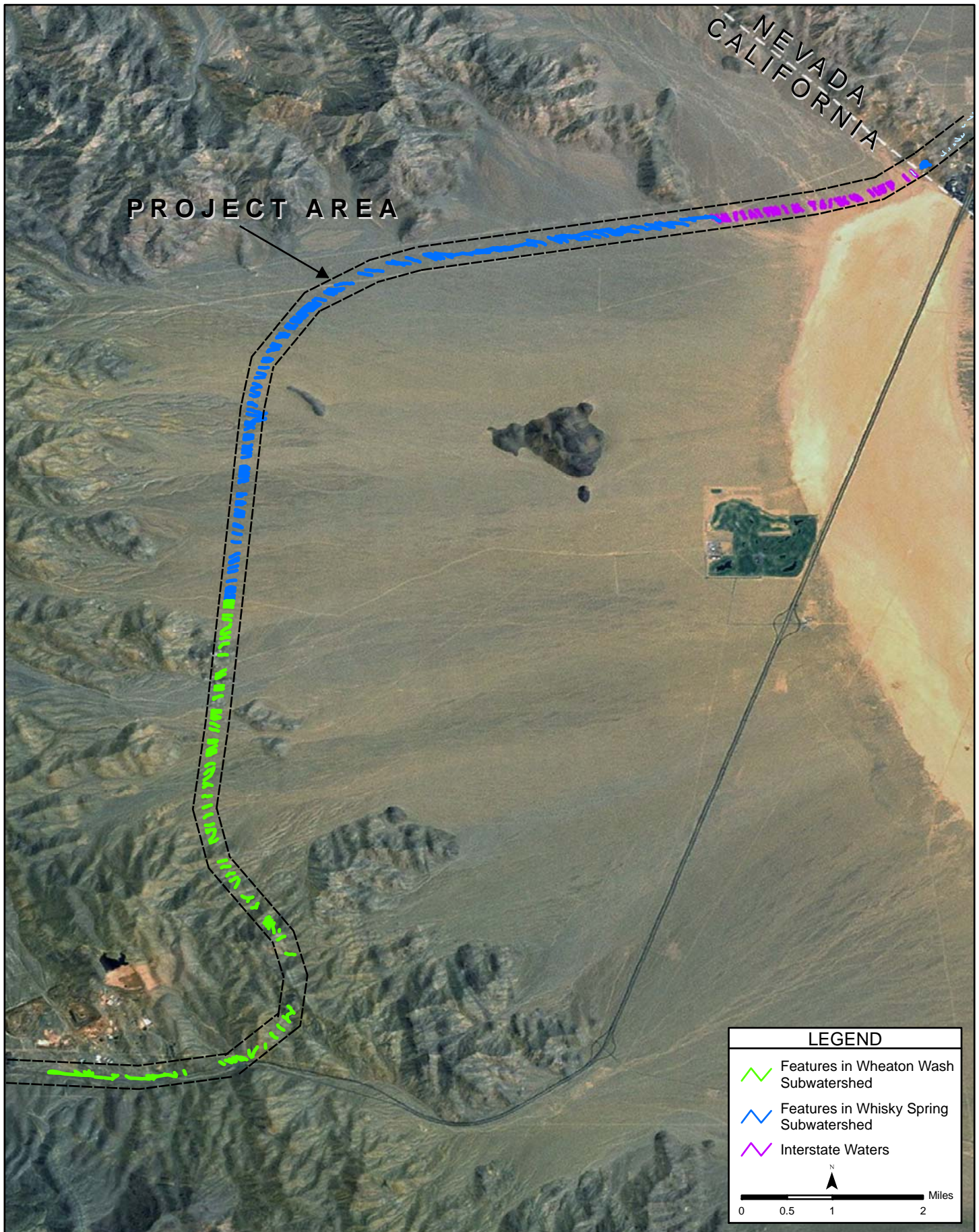
Administrative Appeal Process for Approved Jurisdictional Determinations



Approved JD for Ivanpah Dry Bed Lake Watershed



Approved JD for Ivanpah Dry Bed Lake Watershed



APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 28-Nov-2011

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Los Angeles District, SPL-2006-01958-JD1

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State :
County/parish/borough:
City:
Lat:
Long:
Universal Transverse Mercator

CA - California
San Bernardino
Victorville
35.611
-115.404
Folder UTM List
UTM list determined by folder location

- NAD83 / UTM zone 11N

Waters UTM List
UTM list determined by waters location

- NAD83 / UTM zone 11N

Name of nearest waterbody:
Name of nearest Traditional Navigable Water (TNW):
Name of watershed or Hydrologic Unit Code (HUC):

Ivanpah Dry Lake Bed
Not applicable
Ivanpah Dry Lake

Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.

Check if other sites (e.g., offsite mitigation sites, disposal sites, etc.) are associated with the action and are recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION:

Office Determination Date: 28-Nov-2011

Field Determination Date(s):

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION

There "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area.

Waters subject to the ebb and flow of the tide.

Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

Explain:

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area.

1. Waters of the U.S.

a. Indicate presence of waters of U.S. in review area:¹

Water Name	Water Type(s) Present
Ivanpah Lake D-30-1	Isolated (interstate or intrastate) waters, including isolated wetlands
Ivanpah Lake D-30-10	Isolated (interstate or intrastate) waters, including isolated wetlands
Ivanpah Lake D-30-11	Isolated (interstate or intrastate) waters, including isolated wetlands
Ivanpah Lake D-30-12	Isolated (interstate or intrastate) waters, including isolated wetlands
Ivanpah Lake D-30-13	Isolated (interstate or intrastate) waters, including isolated wetlands
Ivanpah Lake D-30-14	Isolated (interstate or intrastate) waters, including isolated wetlands

[illegible]

Whisky Spring-Frontal Ivanpah Lake D-31-439	Isolated (interstate or intrastate) waters, including isolated wetlands
Whisky Spring-Frontal Ivanpah Lake D-31-440	Isolated (interstate or intrastate) waters, including isolated wetlands
Whisky Spring-Frontal Ivanpah Lake D-31-441	Isolated (interstate or intrastate) waters, including isolated wetlands
Whisky Spring-Frontal Ivanpah Lake D-31-442	Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area:

Area: 13099.46 (m²)
Linear: 6271.504 (m)

c. Limits (boundaries) of jurisdiction:

based on: Established by OHWM.
OHWM Elevation: 4 (if known)

2. Non-regulated waters/wetlands:³

Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: These non-RPW waters are non-jurisdictional intrastate waters that flow to the isolated Ivanpah Dry Lake. These non-RPW waters within the Wheaton Wash subwatershed have been defined as ephemeral washes, ranging in width from 0.5-60 feet wide within the project area. The Clark Mountains and the Ivanpah Range are situated northwest and west, respectively, of both the non-RPWs and Ivanpah Dry Lake. These non-RPWs are situated within an alluvial fan, where any surface flows within the area would travel west to east, for an approximate distance ranging from 8 to 5 miles from the project area to reach Ivanpah dry lake. The predominant soil type is Arizona loamy sand, which is characterized by high rates of permeability with resultant surface runoff ranging from negligible to medium flows. These non-RPWs generally collect into a drainage adjacent to the freeway that flows through a culvert under the I-15 freeway. The flow from the culvert dissipates into smaller braided channels as they progress toward Ivanpah Dry Lake. Based on examination of aerial photographs, the submitted JD Report, and the California Groundwater Bulletin #118: Ivanpah Valley Groundwater Basin, there is a high likelihood that these non-RPWs generally have hydrologic connectivity with Ivanpah lake. The area on average receives 4.5 inches of precipitation annually, with a majority of the rainfall occurring October through April. Ivanpah Dry Lake is the terminus for these designated non-RPW waters, as well as for all other non-RPWs within the Ivanpah Valley Groundwater Basin. Ivanpah Dry Lake is NOT a TNW or an (a)(3) water. Ivanpah lake is an interstate ((a)(2)) water, with the majority of its area falling within the California state border. Roughly 5% of the total area of Ivanpah Dry Lake is situated within Nevada. Currently, there are no known or published recreational uses of these designated non-RPW waters. Published recreational uses of Ivanpah Dry Lake are limited to a few non-water (no recreational navigation) related activities, including camping, archery, kite bugging and land sailing.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

1. TNW
Not Applicable.

2. Wetland Adjacent to TNW
Not Applicable.

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):

1. Characteristics of non-TNWs that flow directly or indirectly into TNW

(i) General Area Conditions:

Watershed size:
Drainage area:
Average annual rainfall: inches
Average annual snowfall: inches

(ii) Physical Characteristics

(a) Relationship with TNW:

Tributary flows directly into TNW.
Tributary flows through [] tributaries before entering TNW.
:Number of tributaries

Project waters are river miles from TNW.
Project waters are river miles from RPW.
Project Waters are aerial (straight) miles from TNW.
Project waters are aerial(straight) miles from RPW.

Project waters cross or serve as state boundaries.

Explain:

Identify flow route to TNW:⁵

Tributary Stream Order, if known:

Not Applicable.

(b) General Tributary Characteristics:

Tributary is:

Not Applicable.

Tributary properties with respect to top of bank (estimate):

Not Applicable.

Primary tributary substrate composition:

Not Applicable.

Tributary (conditions, stability, presence, geometry, gradient):

Not Applicable.

(c) Flow:

Not Applicable.

Surface Flow is:

Not Applicable.

Subsurface Flow:

Not Applicable.

Tributary has:

Not Applicable.

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction:

High Tide Line indicated by:

Not Applicable.

Mean High Water Mark indicated by:

Not Applicable.

(iii) Chemical Characteristics:

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality;general watershed characteristics, etc.).

Not Applicable.

(iv) Biological Characteristics. Channel supports:

Not Applicable.

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics:

Properties:

Not Applicable.

(b) General Flow Relationship with Non-TNW:

Flow is:

Not Applicable.

Surface flow is:

Not Applicable.

Subsurface flow:
Not Applicable.

(c) Wetland Adjacency Determination with Non-TNW:
Not Applicable.

(d) Proximity (Relationship) to TNW:
Not Applicable.

(ii) Chemical Characteristics:
Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).
Not Applicable.

(iii) Biological Characteristics. Wetland supports:
Not Applicable.

3. Characteristics of all wetlands adjacent to the tributary (if any):
All wetlands being considered in the cumulative analysis:
Not Applicable.

Summarize overall biological, chemical and physical functions being performed:
Not Applicable.

C. SIGNIFICANT NEXUS DETERMINATION

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Significant Nexus: Not Applicable

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE:

1. TNWs and Adjacent Wetlands:
Not Applicable.

2. RPWs that flow directly or indirectly into TNWs:
Not Applicable.

Provide estimates for jurisdictional waters in the review area:
Not Applicable.

3. Non-RPWs that flow directly or indirectly into TNWs:⁸
Not Applicable.

Provide estimates for jurisdictional waters in the review area:
Not Applicable.

4. Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.
Not Applicable.

Provide acreage estimates for jurisdictional wetlands in the review area:
Not Applicable.

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs:
Not Applicable.

Provide acreage estimates for jurisdictional wetlands in the review area:
Not Applicable.

6. Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs:
Not Applicable.

Provide estimates for jurisdictional wetlands in the review area:
Not Applicable.

7. Impoundments of jurisdictional waters:⁹
Not Applicable.

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS:¹⁰

Waters Name	Interstate\Foreign Travelers	Fish/Shellfish Commerce	Industrial Commerce	Interstate Isolated	Explain	Other Factors	Explain
Ivanpah Lake D-30-1	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Ivanpah Lake D-30-10	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Ivanpah Lake D-30-11	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Ivanpah Lake D-30-12	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Ivanpah Lake D-30-13	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Ivanpah Lake D-30-14	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Ivanpah Lake D-30-15	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Ivanpah Lake D-30-16	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Ivanpah Lake D-30-17	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Ivanpah Lake D-30-18	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Ivanpah Lake D-30-19	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Ivanpah Lake D-30-2	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Ivanpah Lake D-30-20	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Ivanpah Lake D-30-3	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Ivanpah Lake D-30-4	-	-	-	X	Tributary crosses California-Nevada	-	-

					Border		
Ivanpah Lake D-30-5	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Ivanpah Lake D-30-6	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Ivanpah Lake D-30-7	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Ivanpah Lake D-30-8	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Ivanpah Lake D-30-9	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-369	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-370	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-371	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-375	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-376	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-378	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-379	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-380	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-381	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-382	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-383	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-384	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-385	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-386	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-387	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-388	-	-	-	X	Tributary crosses California-Nevada Border	-	-

Whisky Spring-Frontal Ivanpah Lake D-31-389	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-390	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-391	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-392	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-393	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-394	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-395	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-396	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-399	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-400	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-401	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-402	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-403	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-404	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-405	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-406	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-407	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-408	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-409	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-373	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-410	-	-	-	X	Tributary crosses California-Nevada Border	-	-
					Tributary crosses		

Whisky Spring-Frontal Ivanpah Lake D-31-411	-	-	-	X	California-Nevada Border	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-412	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-413	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-439	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-440	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-441	-	-	-	X	Tributary crosses California-Nevada Border	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-442	-	-	-	X	Tributary crosses California-Nevada Border	-	-

Identify water body and summarize rationale supporting determination:

Water Name	Adjacent To TNW Rationale	TNW Rationale
Ivanpah Lake D-30-1	-	-
Ivanpah Lake D-30-10	-	-
Ivanpah Lake D-30-11	-	-
Ivanpah Lake D-30-12	-	-
Ivanpah Lake D-30-13	-	-
Ivanpah Lake D-30-14	-	-
Ivanpah Lake D-30-15	-	-
Ivanpah Lake D-30-16	-	-
Ivanpah Lake D-30-17	-	-
Ivanpah Lake D-30-18	-	-
Ivanpah Lake D-30-19	-	-
Ivanpah Lake D-30-2	-	-
Ivanpah Lake D-30-20	-	-
Ivanpah Lake D-30-3	-	-
Ivanpah Lake D-30-4	-	-
Ivanpah Lake D-30-5	-	-
Ivanpah Lake D-30-6	-	-
Ivanpah Lake D-30-7	-	-
Ivanpah Lake D-30-8	-	-
Ivanpah Lake D-30-9	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-369	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-370	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-371	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-375	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-376	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-378	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-379	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-380	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-381	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-382	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-383	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-384	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-385	-	-
Whisky Spring-Frontal Ivanpah Lake D-31-386	-	-

[illegible]

[illegible]

[illegible]

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS

If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements:

Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce:

Prior to the Jan 2001 Supreme Court decision in "SWANCC," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR):

Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (Explain):

Other (Explain):

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (ie., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional

judgment:
Not Applicable.

Provide acreage estimates for non-jurisdictional waters in the review area, that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction.
Not Applicable.

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD
(listed items shall be included in case file and, where checked and requested, appropriately reference below):

Data Reviewed	Source Label	Source Description
--Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant	HGB Report	Investigation of the Presence of Wetlands and Other Waters of the United States DesertXpress Project HUC8 Ivanpah - Pahrump Valleys Watershed Draining to Ivanpah Dry Lake San Bernardino County California & Clark County, Nevada (July 2010 by Huffman-Broadway Group, Inc.) and revised GIS data and mapping submitted 8/18/2011.
--Data sheets prepared/submitted by or on behalf of the applicant/consultant	Revised Data Tables	DXE Ivanpah Pahrump Valleys JD Shapefiles & Jurisdictional Waters Data Table CD (Aug 2011)
----Office concurs with data sheets/delineation report	Regulatory Review	Veronica Chan reviewed delineation and concurs with delineation.
--Photographs	HGB Report	Investigation of the Presence of Wetlands and Other Waters of the United States DesertXpress Project HUC8 Ivanpah - Pahrump Valleys Watershed Draining to Ivanpah Dry Lake San Bernardino County California & Clark County, Nevada (July 2010 by Huffman-Broadway Group, Inc.) and revised GIS data and mapping submitted 8/18/2011.
----Aerial	Bing Maps	Bing Map Aerial Server (accessed 9/6/2011)

B. ADDITIONAL COMMENTS TO SUPPORT JD:

Description

The tributaries originate in the Nevada side and cross the California-Nevada state border. The tributaries are jurisdictional as defined by 33 CFR 328.3(a)2.

- 1-Boxes checked below shall be supported by completing the appropriate sections in Section III below.
- 2-For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).
- 3-Supporting documentation is presented in Section III.F.
- 4-Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.
- 5-Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.
- 6-A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.
- 7-Ibid.
- 8-See Footnote #3.
- 9 -To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.
- 10.-Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 28-Nov-2011

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Los Angeles District, SPL-2006-01958-JD2

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State :

CA - California

County/parish/borough:

San Bernardino

City:

Victorville

Lat:

35.611

Long:

-115.404

Universal Transverse Mercator

Folder UTM List

UTM list determined by folder location

• NAD83 / UTM zone 11N

Waters UTM List

UTM list determined by waters location

• NAD83 / UTM zone 11N

Name of nearest waterbody:

Ivanpah Dry Lake Bed

Name of nearest Traditional Navigable Water (TNW):

Not applicable

Name of watershed or Hydrologic Unit Code (HUC):

Ivanpah Dry Lake

Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.

Check if other sites (e.g., offsite mitigation sites, disposal sites, etc.) are associated with the action and are recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION:

Office Determination Date: 28-Nov-2011

Field Determination Date(s):

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION

There "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area.

Waters subject to the ebb and flow of the tide.

Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

Explain:

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area.

1. Waters of the U.S.

a. Indicate presence of waters of U.S. in review area:¹

Water Name	Water Type(s) Present
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands

[illegible]

Area: 29816.32 (m²)
Linear: 12801.94 (m)

c. Limits (boundaries) of jurisdiction:
 based on: Established by OHWM
 OHWM Elevation: (if known)

Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: These non-RPW waters are non-jurisdictional intrastate waters that flow to the isolated Ivanpah Dry Lake. The non-RPWs are not (a)(3) waters as defined by 33 CFR 328.3, and the non-RPWs do not meet any of the i-ii criteria (no recreation or interstate commerce related to fisheries or industry). These non-RPW waters within the Wheaton Wash subwatershed have been defined as ephemeral washes, ranging in width from 0.5-60 feet wide within the project area. The Clark Mountains and the Ivanpah Range are situated northwest and west, respectively, of both the non-RPWs and Ivanpah Dry Lake. These non-RPWs are situated within an alluvial fan, where any surface flows within the area would travel west to east, for an approximate distance ranging from 8 to 5 miles from the project area to reach Ivanpah dry lake. The

predominant soil type is Arizona loamy sand, which is characterized by high rates of permeability with resultant surface runoff ranging from negligible to medium flows. These non-RPWs generally collect into a drainage adjacent to the freeway that flows through a culvert under the I-15 freeway. The flow from the culvert dissipates into smaller braided channels as they progress toward Ivanpah Dry Lake. Based on examination of aerial photographs, the submitted JD Report, and the California Groundwater Bulletin #118: Ivanpah Valley Groundwater Basin, there is a high likelihood that these non-RPWs generally have hydrologic connectivity with Ivanpah lake. The area on average receives 4.5 inches of precipitation annually, with a majority of the rainfall occurring October through April. Ivanpah Dry Lake is the terminus for these designated non-RPW waters, as well as for all other non-RPWs within the Ivanpah Valley Groundwater Basin. Ivanpah Dry Lake is NOT a TNW or an (a)(3) water. Ivanpah lake is an interstate ((a)(2)) water, with the majority of its area falling within the California state border. Roughly 5% of the total area of Ivanpah Dry Lake is situated within Nevada. Currently, there are no known or published recreational uses of these designated non-RPW waters. Published recreational uses of Ivanpah Dry Lake are limited to a few non-water (no recreational navigation) related activities, including camping, archery, kite buggying and land sailing.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

1. TNW
Not Applicable.

2. Wetland Adjacent to TNW
Not Applicable.

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):

1. Characteristics of non-TNWs that flow directly or indirectly into TNW

(i) General Area Conditions:

Watershed size:
Drainage area:
Average annual rainfall: inches
Average annual snowfall: inches

(ii) Physical Characteristics

(a) Relationship with TNW:

Tributary flows directly into TNW.
Tributary flows through [] tributaries before entering TNW.
:Number of tributaries

Project waters are river miles from TNW.
Project waters are river miles from RPW.
Project Waters are aerial (straight) miles from TNW.
Project waters are aerial(straight) miles from RPW.

Project waters cross or serve as state boundaries.

Explain:
Identify flow route to TNW:⁵

Tributary Stream Order, if known:
Not Applicable.

(b) General Tributary Characteristics:
Tributary is:
Not Applicable.

Tributary properties with respect to top of bank (estimate):
Not Applicable.

Primary tributary substrate composition:
Not Applicable.

Tributary (conditions, stability, presence, geometry, gradient):
Not Applicable.

(c) Flow:
Not Applicable.

Surface Flow is:
Not Applicable.

Subsurface Flow:
Not Applicable.

Tributary has:
Not Applicable.

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction:

High Tide Line indicated by:
Not Applicable.

Mean High Water Mark indicated by:
Not Applicable.

(iii) Chemical Characteristics:
Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).
Not Applicable.

(iv) Biological Characteristics. Channel supports:
Not Applicable.

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:
(a) General Wetland Characteristics:
Properties:
Not Applicable.

(b) General Flow Relationship with Non-TNW:
Flow is:
Not Applicable.

Surface flow is:
Not Applicable.

Subsurface flow:
Not Applicable.

(c) Wetland Adjacency Determination with Non-TNW:
Not Applicable.

(d) Proximity (Relationship) to TNW:
Not Applicable.

(ii) Chemical Characteristics:
Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).
Not Applicable.

(iii) Biological Characteristics. Wetland supports:
Not Applicable.

3. Characteristics of all wetlands adjacent to the tributary (if any):
All wetlands being considered in the cumulative analysis:
Not Applicable.

Summarize overall biological, chemical and physical functions being performed:
Not Applicable.

C. SIGNIFICANT NEXUS DETERMINATION

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Significant Nexus: Not Applicable

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE:

1. TNWs and Adjacent Wetlands:
Not Applicable.

2. RPWs that flow directly or indirectly into TNWs:
Not Applicable.

Provide estimates for jurisdictional waters in the review area:
Not Applicable.

3. Non-RPWs that flow directly or indirectly into TNWs:⁸
Not Applicable.

Provide estimates for jurisdictional waters in the review area:
Not Applicable.

4. Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.
Not Applicable.

Provide acreage estimates for jurisdictional wetlands in the review area:
Not Applicable.

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs:
Not Applicable.

Provide acreage estimates for jurisdictional wetlands in the review area:
Not Applicable.

6. Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs:
Not Applicable.

Provide estimates for jurisdictional wetlands in the review area:
Not Applicable.

7. Impoundments of jurisdictional waters:⁹
Not Applicable.

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS:¹⁰

Waters Name	Interstate\Foreign Travelers	Fish/Shellfish Commerce	Industrial Commerce	Interstate Isolated	Explain	Other Factors	Explain
Wheaton Wash-Frontal Ivanpah							

[illegible]

[illegible]

[illegible]

[illegible]

Identify water body and summarize rationale supporting determination:

[illegible]

[illegible]

Wheaton Wash-Frontal Ivanpah Lake	-	-
Wheaton Wash-Frontal Ivanpah Lake	-	-
Wheaton Wash-Frontal Ivanpah Lake	-	-
Wheaton Wash-Frontal Ivanpah Lake	-	-

Provide estimates for jurisdictional waters in the review area:

Water Name	Type	Size (Linear) (m)	Size (Area) (m²)
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	219.58709448	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	31.232514624	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	122.43310032	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	122.43310032	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	47.613411504	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	111.401678136	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	110.81753808	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	84.403274424	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	86.35938024	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	133.355145024	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	186.51586776	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	72.13399848	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	134.45035848	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	37.42142376	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	128.43324072	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	133.0762896	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	182.70041184	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	138.10283784	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	124.88335704	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	143.0237424	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	170.12692416	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	152.04853512	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	126.9680976	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	129.52561344	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	123.97487016	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	128.66412672	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	53.9729934	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	49.594172592	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	127.46891448	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	126.83575344	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	152.04853512	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	170.12692416	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	138.1027464	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	137.605008	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	125.03209944	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	31.769261893154	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	17.8293390830981	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	65.9159542515211	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	71.9278756901104	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	65.8299253655625	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	111.796040719775	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	162.155275162195	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	125.024586893848	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	127.253192847257	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	198.920909690361	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	129.643343202228	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	136.686253230553	-

Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	140.0202432	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	129.6162	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	141.6341592	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	139.813284	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	138.8284752	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	110.8304616	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	266.5914912	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	181.35651816	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	155.729763216	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	129.272538	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	30.8852885976	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	144.4578264	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	133.9007736	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	133.913118	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	156.37401288	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	136.377426	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	637.2692868	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	132.89974944	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	134.50939824	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	124.69279608	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	133.37389632	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	121.79817144	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	133.37389632	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	199.905366	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	121.6942956	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	134.50939824	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	133.29251472	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	127.85463888	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	123.754174934549	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	126.49160376	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	179.84550264	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	135.5762592	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	101.6898144	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	181.63794	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	134.29207584	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	126.999158467328	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	27.498778632	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	115.7301216	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	51.49666104	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	60.18629568	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	435.1855152	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	77.4697968	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	23.39592984	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	71.111310877543	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	61.62778632	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	47.61338712	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	105.2699952	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	70.2673728	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	37.36635222168	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	81.8052269490134	-
Wheaton Wash-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	102.6061956	-
Total:		12390.9172797893765	0

F. NON-JURISDICTIONAL WATERS. INCLUDING WETLANDS

If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements:

Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce:

Prior to the Jan 2001 Supreme Court decision in "SWANCC," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR):

Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (Explain):

Other (Explain):

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment:
Not Applicable.

Provide acreage estimates for non-jurisdictional waters in the review area, that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction.
Not Applicable.

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD
(listed items shall be included in case file and, where checked and requested, appropriately reference below):

Data Reviewed	Source Label	Source Description
--Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant	Huffman & Broadway JD maps	GIS data dated 8/18/11
--Data sheets prepared/submitted by or on behalf of the applicant/consultant	-	-
----Office concurs with data sheets/delineation report	Huffman & Broadway Datasheets	Data sheets submitted with JD request dated 11/17/10
--U.S. Geological Survey Hydrologic Atlas	-	-
----USGS NHD data	-	-
----USGS 8 and 12 digit HUC maps	-	-
--Photographs	-	-
----Aerial	ESRI aerial server	2009 aerial imagery

B. ADDITIONAL COMMENTS TO SUPPORT JD:

Description
<p>These non-RPW waters are non-jurisdictional intrastate waters that flow to the isolated Ivanpah Dry Lake. The non-RPWs are not (a)(3) waters as defined by 33 CFR 328.3, and the non-RPWs do not meet any of the i-ii criteria (no recreation or interstate commerce related to fisheries or industry). These non-RPW waters within the Wheaton Wash subwatershed have been defined as ephemeral washes, ranging in width from 0.5-60 feet wide within the project area. The Clark Mountains and the Ivanpah Range are situated northwest and west, respectively, of both the non-RPWs and Ivanpah Dry Lake. These non-RPWs are situated within an alluvial fan, where any surface flows within the area would travel west to east, for an approximate distance ranging from 8 to 5 miles from the project area to reach Ivanpah dry lake. The predominant soil type is Arizona loamy sand, which is characterized by high rates of permeability with resultant surface runoff ranging from negligible to medium flows. These non-RPWs generally collect into a drainage adjacent to the freeway that flows through a culvert under the I-15 freeway. The flow from the culvert dissipates into smaller braided channels as they progress toward Ivanpah Dry Lake. Based on examination of aerial photographs, the submitted JD Report, and the California Groundwater Bulletin #118: Ivanpah Valley Groundwater Basin, there is a high likelihood that these non-RPWs generally have hydrologic connectivity with Ivanpah lake. The area on average receives 4.5 inches of precipitation annually, with a majority of the rainfall occurring October through April. Ivanpah Dry Lake is the terminus for these designated non-RPW waters, as well as for all other non-RPWs within the Ivanpah Valley Groundwater Basin. Ivanpah Dry Lake is NOT a TNW or an (a)(3) water. Ivanpah lake is an interstate ((a)(2)) water, with the majority of its area falling within the California state border. Roughly 5% of the total area of Ivanpah Dry Lake is situated within Nevada. Currently, there are no known or published recreational uses of these designated non-RPW waters. Published recreational uses of Ivanpah Dry Lake are limited to a few non-water (no recreational navigation) related activities, including camping, archery, kite bugging and land sailing.</p>

1-Boxes checked below shall be supported by completing the appropriate sections in Section III below.
2-For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).
3

- Supporting documentation is presented in Section III.F.
- 4-Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.
- 5-Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.
- 6-A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.
- 7-Ibid.
- 8-See Footnote #3.
- 9 -To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.
- 10-Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 28-Nov-2011

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Los Angeles District, SPL-2006-01958-JD3

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State :
County/parish/borough:
City:
Lat:
Long:
Universal Transverse Mercator

CA - California
San Bernardino
Victorville
35.611
-115.404
Folder UTM List
UTM list determined by folder location

- NAD83 / UTM zone 11N

Waters UTM List
UTM list determined by waters location

- NAD83 / UTM zone 11N

Name of nearest waterbody: Ivanpah Dry Lake Bed
Name of nearest Traditional Navigable Water (TNW): Not applicable
Name of watershed or Hydrologic Unit Code (HUC): Ivanpah Dry Lake

Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.
Check if other sites (e.g., offsite mitigation sites, disposal sites, etc.) are associated with the action and are recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION:

Office Determination Date: 28-Nov-2011
Field Determination Date(s):

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION

There "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area.

Waters subject to the ebb and flow of the tide.
Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

Explain:

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area.

1. Waters of the U.S.

a. Indicate presence of waters of U.S. in review area:¹

Water Name	Water Type(s) Present
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands

[illegible]

[https://orm.usace.army.mil/orm2/f?p=106:34:2967172902459226::NO::\[11/28/2011 3:13:57 PM\]](https://orm.usace.army.mil/orm2/f?p=106:34:2967172902459226::NO::[11/28/2011 3:13:57 PM])

Area: 116285.5 (m²)
Linear: 24925.39 (m)

c. Limits (boundaries) of jurisdiction:

based on: Established by OHWM.
OHWM Elevation: (if known)

2. Non-regulated waters/wetlands:³

Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: These non-RPW waters are non-jurisdictional intrastate waters that flow to the isolated Ivanpah Dry Lake. The non-RPWs are not (a)(3) waters as defined by 33 CFR 328.3, and the non-RPWs do not meet any of the i-ii criteria (no recreation or interstate commerce related to fisheries or industry). These non-RPW waters within the Whisky Spring Wash subwatershed have been defined as ephemeral washes, ranging in width from 0.5-235 feet wide within the project area. The Clark Mountains and the Ivanpah Range are situated northwest and west, respectively, of both the non-RPWs and Ivanpah Dry Lake. These non-RPWs are situated within an alluvial fan, where any surface flows within the area would travel west to east, for an approximate distance ranging from 1 to 4 miles from the project area to reach Ivanpah dry lake. The predominant soil type is Arizona loamy sand, which is characterized by high rates of permeability with resultant surface runoff ranging from negligible to medium flows. These non-RPWs generally collect into a drainage adjacent to the freeway that flows through a culvert under the I-15 freeway. The flow from the culvert dissipates into smaller braided channels as they progress toward Ivanpah Dry Lake. Based on examination of aerial photographs, the submitted JD Report, and the California Groundwater Bulletin #118: Ivanpah Valley Groundwater Basin, there is a high likelihood that these non-RPWs generally have hydrologic connectivity with Ivanpah lake. The area on average receives 4.5 inches of precipitation annually, with a majority of the rainfall occurring October through April. Ivanpah Dry Lake is the terminus for these designated non-RPW waters, as well as for all other non-RPWs within the Ivanpah Valley Groundwater Basin. Ivanpah Dry Lake is NOT a TNW or an (a)(3) water. Ivanpah lake is an interstate ((a)(2)) water, with the majority of its area falling within the California state border. Roughly 5% of the total area of Ivanpah Dry Lake is situated within Nevada. Currently, there are no known or published recreational uses of these designated non-RPW waters. Published recreational uses of Ivanpah Dry Lake are limited to a few non-water (no recreational navigation) related activities, including camping, archery, kite buggying and land sailing.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

1. TNW
Not Applicable.

2. Wetland Adjacent to TNW
Not Applicable.

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):

1. Characteristics of non-TNWs that flow directly or indirectly into TNW

(i) General Area Conditions:

Watershed size:
Drainage area:
Average annual rainfall: inches
Average annual snowfall: inches

(ii) Physical Characteristics

(a) Relationship with TNW:

Tributary flows directly into TNW.
Tributary flows through [] tributaries before entering TNW.

:Number of tributaries

Project waters are river miles from TNW.
Project waters are river miles from RPW.
Project Waters are aerial (straight) miles from TNW.
Project waters are aerial(straight) miles from RPW.

Project waters cross or serve as state boundaries.

Explain:

Identify flow route to TNW:⁵

Tributary Stream Order, if known:

Not Applicable.

(b) General Tributary Characteristics:
Tributary is:
Not Applicable.

Tributary properties with respect to top of bank (estimate):
Not Applicable.

Primary tributary substrate composition:
Not Applicable.

Tributary (conditions, stability, presence, geometry, gradient):
Not Applicable.

(c) Flow:
Not Applicable.

Surface Flow is:
Not Applicable.

Subsurface Flow:
Not Applicable.

Tributary has:
Not Applicable.

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction:

High Tide Line indicated by:
Not Applicable.

Mean High Water Mark indicated by:
Not Applicable.

(iii) Chemical Characteristics:
Characterize tributary (e.g., water color is clear, discolored, oily film; water quality;general watershed characteristics, etc.).
Not Applicable.

(iv) Biological Characteristics. Channel supports:
Not Applicable.

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:
(a) General Wetland Characteristics:
Properties:
Not Applicable.

(b) General Flow Relationship with Non-TNW:
Flow is:
Not Applicable.

Surface flow is:
Not Applicable.

Subsurface flow:
Not Applicable.

(c) Wetland Adjacency Determination with Non-TNW:
Not Applicable.

(d) Proximity (Relationship) to TNW:
Not Applicable.

(ii) Chemical Characteristics:
Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).
Not Applicable.

(iii) Biological Characteristics. Wetland supports:
Not Applicable.

3. Characteristics of all wetlands adjacent to the tributary (if any):
All wetlands being considered in the cumulative analysis:
Not Applicable.

Summarize overall biological, chemical and physical functions being performed:
Not Applicable.

C. SIGNIFICANT NEXUS DETERMINATION

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Significant Nexus: Not Applicable

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE:

1. TNWs and Adjacent Wetlands:
Not Applicable.

2. RPWs that flow directly or indirectly into TNWs:
Not Applicable.

Provide estimates for jurisdictional waters in the review area:
Not Applicable.

3. Non-RPWs that flow directly or indirectly into TNWs:⁸
Not Applicable.

Provide estimates for jurisdictional waters in the review area:
Not Applicable.

4. Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.
Not Applicable.

Provide acreage estimates for jurisdictional wetlands in the review area:
Not Applicable.

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs:
Not Applicable.

Provide acreage estimates for jurisdictional wetlands in the review area:
Not Applicable.

6. Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs:
Not Applicable.

Provide estimates for jurisdictional wetlands in the review area:
Not Applicable.

7. Impoundments of jurisdictional waters:⁹
Not Applicable.

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS:¹⁰

[illegible]

[illegible]

[illegible]

Identify water body and summarize rationale supporting determination:

[illegible]

[illegible]

Whisky Spring-Frontal Ivanpah Lake	-	-
Whisky Spring-Frontal Ivanpah Lake	-	-
Whisky Spring-Frontal Ivanpah Lake	-	-
Whisky Spring-Frontal Ivanpah Lake	-	-
Whisky Spring-Frontal Ivanpah Lake	-	-
Whisky Spring-Frontal Ivanpah Lake	-	-
Whisky Spring-Frontal Ivanpah Lake	-	-
Whisky Spring-Frontal Ivanpah Lake	-	-
Whisky Spring-Frontal Ivanpah Lake	-	-
Whisky Spring-Frontal Ivanpah Lake	-	-
Whisky Spring-Frontal Ivanpah Lake	-	-
Whisky Spring-Frontal Ivanpah Lake	-	-
Whisky Spring-Frontal Ivanpah Lake	-	-
Whisky Spring-Frontal Ivanpah Lake	-	-
Whisky Spring-Frontal Ivanpah Lake	-	-
Whisky Spring-Frontal Ivanpah Lake	-	-
Whisky Spring-Frontal Ivanpah Lake	-	-
Whisky Spring-Frontal Ivanpah Lake	-	-
Whisky Spring-Frontal Ivanpah Lake	-	-
Whisky Spring-Frontal Ivanpah Lake	-	-
Whisky Spring-Frontal Ivanpah Lake	-	-

Provide estimates for jurisdictional waters in the review area:

Water Name	Type	Size (Linear) (m)	Size (Area) (m²)
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	129.542838840282	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	124.036508151313	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	124.267599049798	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	133.839846657662	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	123.79090443727	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	122.818433875486	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	126.005241955191	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	36.2620741091222	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	121.617095958527	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	123.56623737612	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	141.587910454842	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	119.943380554755	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	156.519513616073	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	122.255918220844	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	168.669689830209	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	123.614887483808	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	264.40135571822	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	206.913541540054	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	197.947258846984	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	424.685072097276	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	261.354391849576	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	545.207541796328	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	148.24734877986	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	139.303963794353	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	139.4732796	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	122.60369688	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	125.1703872	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	102.8736576	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	153.156666	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	139.0645428	-

Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	128.36853168	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	303.11756496	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	37.3447056	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	109.18847352	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	125.81080248	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	128.63300664	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	124.62552672	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	126.63202512	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	125.6441988	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	138.6265452	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	124.62552672	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	128.63300664	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	125.81080248	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	122.22973776	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	139.737111432	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	303.11756496	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	306.81186288	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	118.18720584	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	298.76538672	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	231.92192376	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	135.36006456	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	136.87141536	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	133.94521344	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	136.87141536	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	131.202400536	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	153.68140968	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	118.18720584	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	149.69115096	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	140.95646688	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	135.41239872	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	127.123492031008	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	132.995091731613	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	48.0922970107431	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	105.694420116909	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	128.102629149023	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	59.7336173214736	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	24.6086301715338	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	57.4421534669275	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	135.41239872	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	140.95646688	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	180.162131326191	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	183.039101893746	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	77.5091686773402	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	127.908103856707	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	123.743146277775	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	96.3239281568612	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	195.762573693334	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	77.7156687850547	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	153.076856947236	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	217.058003037945	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	190.442833580592	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	143.841284624078	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	144.563705253113	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	63.1508847739308	-

Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	122.357218732997	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	108.649347521835	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	282.421157134398	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	201.313066036394	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	252.211241696462	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	260.683967465667	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	130.498676819915	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	136.786370461447	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	200.951771338639	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	224.618877964451	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	201.517525182657	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	191.296355246786	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	383.725529459424	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	297.744377322055	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	123.788075337381	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	128.085036763475	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	125.913546781496	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	118.569891624861	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	280.534749648992	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	265.492342480428	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	218.289717600635	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	155.56534637029	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	125.350795638528	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	135.24470572729	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	131.162730298132	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	128.36853168	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	153.156669048	-
Total:		17607.5076451877231	0

F. NON-JURISDICTIONAL WATERS. INCLUDING WETLANDS

If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements:

Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce:

Prior to the Jan 2001 Supreme Court decision in "SWANCC," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR):

Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (Explain):

Other (Explain):

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (ie., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment:

Not Applicable.

Provide acreage estimates for non-jurisdictional waters in the review area, that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction.

Not Applicable.

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD
(listed items shall be included in case file and, where checked and requested, appropriately reference below):

Data Reviewed	Source Label	Source Description
--Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant	Huffman & Broadway JD maps	GIS data dated 8/18/11

--Data sheets prepared/submitted by or on behalf of the applicant/consultant	-	-
----Office concurs with data sheets/delineation report	Huffman & Broadway Datasheets	Data sheets submitted with JD request dated 11/17/10
--U.S. Geological Survey Hydrologic Atlas	-	-
----USGS NHD data	-	-
----USGS 8 and 12 digit HUC maps	-	-
--Photographs	-	-
----Aerial	ESRI Aerial Server 2009	http://services.arcgisonline.com/arcgis/services

B. ADDITIONAL COMMENTS TO SUPPORT JD:

Description
<p>These non-RPW waters are non-jurisdictional intrastate waters that flow to the isolated Ivanpah Dry Lake. The non-RPWs are not (a)(3) waters as defined by 33 CFR 328.3, and the non-RPWs do not meet any of the i-ii criteria (no recreation or interstate commerce related to fisheries or industry). These non-RPW waters within the Whisky Spring Wash subwatershed have been defined as ephemeral washes, ranging in width from 0.5-235 feet wide within the project area. The Clark Mountains and the Ivanpah Range are situated northwest and west, respectively, of both the non-RPWs and Ivanpah Dry Lake. These non-RPWs are situated within an alluvial fan, where any surface flows within the area would travel west to east, for an approximate distance ranging from 1 to 4 miles from the project area to reach Ivanpah dry lake. The predominant soil type is Arizona loamy sand, which is characterized by high rates of permeability with resultant surface runoff ranging from negligible to medium flows. These non-RPWs generally collect into a drainage adjacent to the freeway that flows through a culvert under the I-15 freeway. The flow from the culvert dissipates into smaller braided channels as they progress toward Ivanpah Dry Lake. Based on examination of aerial photographs, the submitted JD Report, and the California Groundwater Bulletin #118: Ivanpah Valley Groundwater Basin, there is a high likelihood that these non-RPWs generally have hydrologic connectivity with Ivanpah lake. The area on average receives 4.5 inches of precipitation annually, with a majority of the rainfall occurring October through April. Ivanpah Dry Lake is the terminus for these designated non-RPW waters, as well as for all other non-RPWs within the Ivanpah Valley Groundwater Basin. Ivanpah Dry Lake is NOT a TNW or an (a)(3) water. Ivanpah lake is an interstate ((a)(2)) water, with the majority of its area falling within the California state border. Roughly 5% of the total area of Ivanpah Dry Lake is situated within Nevada. Currently, there are no known or published recreational uses of these designated non-RPW waters. Published recreational uses of Ivanpah Dry Lake are limited to a few non-water (no recreational navigation) related activities, including camping, archery, kite bugging and land sailing.</p>

- 1-Boxes checked below shall be supported by completing the appropriate sections in Section III below.
- 2-For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).
- 3-Supporting documentation is presented in Section III.F.
- 4-Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.
- 5-Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.
- 6-A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.
- 7-Ibid.
- 8-See Footnote #3.
- 9 -To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.
- 10-Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 28-Nov-2011

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Los Angeles District, SPL-2006-01958-JD4

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State :
County/parish/borough:
City:
Lat:
Long:
Universal Transverse Mercator

CA - California
San Bernardino
Victorville
35.611
-115.404
Folder UTM List
UTM list determined by folder location

- NAD83 / UTM zone 11N

Waters UTM List
UTM list determined by waters location

- NAD83 / UTM zone 11N

Name of nearest waterbody:
Name of nearest Traditional Navigable Water (TNW):
Name of watershed or Hydrologic Unit Code (HUC):

Ivanpah Dry Lake Bed
Not applicable
Ivanpah Dry Lake

Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.

Check if other sites (e.g., offsite mitigation sites, disposal sites, etc.) are associated with the action and are recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION:

Office Determination Date: 28-Nov-2011

Field Determination Date(s):

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION

There "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area.

Waters subject to the ebb and flow of the tide.

Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

Explain:

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area.

1. Waters of the U.S.

a. Indicate presence of waters of U.S. in review area:¹

Water Name	Water Type(s) Present
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

1.TNW
Not Applicable.

2. Wetland Adjacent to TNW
Not Applicable.

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):

1. Characteristics of non-TNWs that flow directly or indirectly into TNW

(i) General Area Conditions:

Watershed size:
Drainage area:
Average annual rainfall: inches
Average annual snowfall: inches

(ii) Physical Characteristics

(a) Relationship with TNW:
Tributary flows directly into TNW.
Tributary flows through [] tributaries before entering TNW.
:Number of tributaries

Project waters are river miles from TNW.
Project waters are river miles from RPW.
Project Waters are aerial (straight) miles from
TNW.
Project waters are aerial(straight) miles from RPW.

Project waters cross or serve as state boundaries.
Explain:
Identify flow route to TNW:⁵

Tributary Stream Order, if known:
Not Applicable.

(b) General Tributary Characteristics:
Tributary is:
Not Applicable.

Tributary properties with respect to top of bank (estimate):
Not Applicable.

Primary tributary substrate composition:
Not Applicable.

Tributary (conditions, stability, presence, geometry, gradient):
Not Applicable.

(c) Flow:
Not Applicable.

Surface Flow is:
Not Applicable.

Subsurface Flow:
Not Applicable.

Tributary has:
Not Applicable.

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction:

High Tide Line indicated by:
Not Applicable.

Mean High Water Mark indicated by:
Not Applicable.

(iii) Chemical Characteristics:
Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).
Not Applicable.

(iv) Biological Characteristics. Channel supports:
Not Applicable.

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:
(a) General Wetland Characteristics:
Properties:
Not Applicable.

(b) General Flow Relationship with Non-TNW:
Flow is:
Not Applicable.

Surface flow is:
Not Applicable.

Subsurface flow:
Not Applicable.

(c) Wetland Adjacency Determination with Non-TNW:
Not Applicable.

(d) Proximity (Relationship) to TNW:
Not Applicable.

(ii) Chemical Characteristics:
Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).
Not Applicable.

(iii) Biological Characteristics. Wetland supports:
Not Applicable.

3. Characteristics of all wetlands adjacent to the tributary (if any):
All wetlands being considered in the cumulative analysis:
Not Applicable.

Summarize overall biological, chemical and physical functions being performed:
Not Applicable.

C. SIGNIFICANT NEXUS DETERMINATION

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Significant Nexus: Not Applicable

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE:

1. TNWs and Adjacent Wetlands:
Not Applicable.

2. RPWs that flow directly or indirectly into TNWs:
Not Applicable.

Provide estimates for jurisdictional waters in the review area:
Not Applicable.

3. Non-RPWs that flow directly or indirectly into TNWs:⁸
Not Applicable.

Provide estimates for jurisdictional waters in the review area:
Not Applicable.

4. Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.
Not Applicable.

Provide acreage estimates for jurisdictional wetlands in the review area:
Not Applicable.

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs:
Not Applicable.

Provide acreage estimates for jurisdictional wetlands in the review area:
Not Applicable.

6. Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs:
Not Applicable.

Provide estimates for jurisdictional wetlands in the review area:
Not Applicable.

7. Impoundments of jurisdictional waters:⁹
Not Applicable.

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS:¹⁰

Waters Name	Interstate\Foreign Travelers	Fish/Shellfish Commerce	Industrial Commerce	Interstate Isolated	Explain	Other Factors	Explain
Whisky Spring-Frontal Ivanpah Lake	-	-	-	-	-	-	-
Whisky Spring-Frontal Ivanpah Lake	-	-	-	-	-	-	-
Whisky Spring-Frontal Ivanpah Lake	-	-	-	-	-	-	-
Whisky Spring-Frontal Ivanpah Lake	-	-	-	-	-	-	-
Whisky Spring-Frontal Ivanpah Lake	-	-	-	-	-	-	-
Whisky Spring-Frontal Ivanpah Lake	-	-	-	-	-	-	-
Whisky Spring-Frontal Ivanpah Lake	-	-	-	-	-	-	-
Whisky Spring-Frontal Ivanpah Lake	-	-	-	-	-	-	-
Whisky Spring-Frontal Ivanpah Lake	-	-	-	-	-	-	-
Whisky Spring-Frontal Ivanpah Lake	-	-	-	-	-	-	-
Whisky Spring-Frontal Ivanpah Lake	-	-	-	-	-	-	-
Whisky Spring-Frontal Ivanpah Lake	-	-	-	-	-	-	-
Whisky Spring-Frontal Ivanpah Lake	-	-	-	-	-	-	-

[illegible]

Whisky Spring-Frontal Ivanpah Lake	-	-
Whisky Spring-Frontal Ivanpah Lake	-	-
Whisky Spring-Frontal Ivanpah Lake	-	-
Whisky Spring-Frontal Ivanpah Lake	-	-
Whisky Spring-Frontal Ivanpah Lake	-	-

Provide estimates for jurisdictional waters in the review area:

Water Name	Type	Size (Linear) (m)	Size (Area) (m²)
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	65.7687243394741	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	27.0703202618432	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	25.8281066020168	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	29.3763498826918	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	127.252758930849	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	226.256830870354	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	288.582464032118	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	69.3999097785538	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	321.492333012829	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	100.563934412878	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	596.880977222186	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	235.09675299142	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	287.538718512669	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	132.622926755701	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	424.906351490702	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	95.1063992113947	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	135.676333238065	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	131.1905651021	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	133.282132748456	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	132.502299381216	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	144.37697485127	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	135.221105298984	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	137.985935447661	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	138.719452159758	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	127.656973859038	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	181.689518740289	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	203.330254598974	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	20.1255168126687	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	551.706956532609	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	626.446635164391	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	191.386883907492	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	332.548462859842	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	292.730075571655	-
Whisky Spring-Frontal Ivanpah Lake	Isolated (interstate or intrastate) waters, including isolated wetlands	180.602206419717	-
Total:		6850.9221410018661	0

F. NON-JURISDICTIONAL WATERS. INCLUDING WETLANDS

If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements:

Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce:

Prior to the Jan 2001 Supreme Court decision in "SWANCC," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR):

Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (Explain):

Other (Explain):

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (ie., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment:
Not Applicable.

Provide acreage estimates for non-jurisdictional waters in the review area, that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction.
Not Applicable.

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD
(listed items shall be included in case file and, where checked and requested, appropriately reference below):

Data Reviewed	Source Label	Source Description
--Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant	Huffman & Broadway JD maps	GIS data dated 8/18/11
--Data sheets prepared/submitted by or on behalf of the applicant/consultant	-	-
----Office concurs with data sheets/delineation report	Huffman & Broadway Datasheets	Data sheets submitted with JD request dated 11/17/10
--U.S. Geological Survey Hydrologic Atlas	-	-
----USGS NHD data	-	-
----USGS 8 and 12 digit HUC maps	-	-
--Photographs	-	-
----Aerial	ESRI Aerial Server 2009	http://services.arcgisonline.com/arcgis/services

B. ADDITIONAL COMMENTS TO SUPPORT JD:

Description
<p>These non-RPW waters are non-jurisdictional intrastate waters that flow to the isolated Ivanpah Dry Lake. The non-RPWs are not (a)(3) waters as defined by 33 CFR 328.3, and the non-RPWs do not meet any of the i-ii criteria (no recreation or interstate commerce related to fisheries or industry). These non-RPW waters within the Whisky Spring Wash subwatershed have been defined as ephemeral washes, ranging in width from 0.5-235 feet wide within the project area. The Clark Mountains and the Ivanpah Range are situated northwest and west, respectively, of both the non-RPWs and Ivanpah Dry Lake. These non-RPWs are situated within an alluvial fan, where any surface flows within the area would travel west to east, for an approximate distance ranging from 1 to 4 miles from the project area to reach Ivanpah dry lake. The predominant soil type is Arizona loamy sand, which is characterized by high rates of permeability with resultant surface runoff ranging from negligible to medium flows. These non-RPWs generally collect into a drainage adjacent to the freeway that flows through a culvert under the I-15 freeway. The flow from the culvert dissipates into smaller braided channels as they progress toward Ivanpah Dry Lake. Based on examination of aerial photographs, the submitted JD Report, and the California Groundwater Bulletin #118: Ivanpah Valley Groundwater Basin, there is a high likelihood that these non-RPWs generally have hydrologic connectivity with Ivanpah lake. The area on average receives 4.5 inches of precipitation annually, with a majority of the rainfall occurring October through April. Ivanpah Dry Lake is the terminus for these designated non-RPW waters, as well as for all other non-RPWs within the Ivanpah Valley Groundwater Basin. Ivanpah Dry Lake is NOT a TNW or an (a)(3) water. Ivanpah lake is an interstate ((a)(2)) water, with the majority of its area falling within the California state border. Roughly 5% of the total area of Ivanpah Dry Lake is situated within Nevada. Currently, there are no known or published recreational uses of these designated non-RPW waters. Published recreational uses of Ivanpah Dry Lake are limited to a few non-water (no recreational navigation) related activities, including camping, archery, kite bugging and land sailing.</p>

1-Boxes checked below shall be supported by completing the appropriate sections in Section III below.

2-For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).

3-Supporting documentation is presented in Section III.F.

4-Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

5-Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

6-A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.

7-Ibid.

8-See Footnote #3.

9 -To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.

10-Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.

