

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

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): May 7, 2012

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Los Angeles District, SPI-2011-00171-GS

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: California County/parish/borough: San Bernardino City: Barstow
Center coordinates of site (lat/long in degree decimal format): Lat. 34.8325° N, Long. -117.016° W.
Name of nearest waterbody: Mojave River
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: None.
Name of watershed or Hydrologic Unit Code (HUC): Mojave River (18090208)

- 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 this action and are recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

- Office (Desk) Determination. Date:
 Field Determination. Date(s): March 6, 2012

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There **Are no** "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [Required]

- 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 **Are no** "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [Required]

1. Waters of the U.S.

a. Indicate presence of waters of U.S. in review area (check all that apply):

- TNWs, including territorial seas
 Wetlands adjacent to TNWs
 Relatively permanent waters¹ (RPWs) that flow directly or indirectly into TNWs
 Non-RPWs that flow directly or indirectly into TNWs (no adjacent wetlands)
 Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
 Wetlands adjacent to but not directly abutting RPWs (with a surface connection) that flow directly or indirectly into TNWs
 Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
 Impoundments of jurisdictional waters
 Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-wetland waters: linear feet: width (ft) and/or acres.
Wetlands: acres.

c. Limits (boundaries) of jurisdiction based on: **Pick List**

Elevation of established OHWM (if known): .

2. Non-regulated waters/wetlands (check if applicable):²

- Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.
Explain: Watershed A contains two drainages, A1 and A2, which have been defined as non-RPWs ranging in width from 1 foot at the upper end of the watershed to 28 feet wide. Drainages A1 and A2 are approximately 770 lineal feet and 1330 lineal feet in length, respective. These waters are situated within the Mojave River watershed, approximately 4-aerial miles southwest of the Mojave River. Surface flows within the watershed would travel in a general northeast direction, with the non-RPWs typically conveying flows in response to major storm events. Typical annual rainfall totals average less than 2-inches in this area. The soil survey for San Bernardino County, Mojave River area (United States Department of Agriculture 1971) was reviewed for classification of soils associated with the two survey areas. The soils associated with the majority of the

¹ 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).

² Supporting documentation is presented in Section III.F.

expansion area have been classified as a Typic Haplargid. These are soils found in arid temperature and moisture regimes with weak to moderately developed argillic horizons (a layer of accumulated clays within the soil profile) that also may have accumulations of carbonates. Typic haplargids have lithic or bedrock contacts within about 20 inches of the soil surface. Field observations made within the survey area confirmed the soil class recorded in the USDA survey. Vegetation present are typical western Mojave Desert perennial woody and annual herbaceous plants. The project area is in a hilly area, with an approximately 5% slope. Regulatory project manager visited the site on March 6, 2012 to verify site conditions.

Drainage A1 and A2 terminate into the existing Barstow Sanitary Landfill (BSL) Borrow Pit Area. The BSL is an active, Class III waste management unit which accepts municipal solid waste, inert material waste, non-hazardous solid waste and liquid waste. The BSL began operations in 1962. The 19.5 acre borrow area, located east-adjacent of the landfill footprint, has been part of landfill operations since it was permitted in 1962. Cover material has historically and is currently being obtained from this location. This area is the site of the next refuse cell expansion.

The borrow pit area currently has a bottom elevation of 2834 feet above mean sea level (amsl). Storm water would need to reach 2845 feet amsl to overtop the borrow area. A 43.8 acre watershed is tributary to the borrow area (Borrow Pit Area = 19.5 acres + west adjacent on-site tributary areas 5.3 acre + 19.0 acre Watershed A). Using the Unit Hydrograph Method to calculate a 1,000 year 24 hour storm event, the peak run-off and volume for this area is 229.7 cfs and 13.8 acre-ft, respectively. Storm water would pond to 2842.2 feet amsl, leaving 2.8 feet of freeboard in a 1,000 year 24 hour storm event. Therefore, a 1000 year 24 hour storm on the 19 acre Watershed A would be fully contained within the 14.7 acre-feet 19.5 acre Borrow Pit area, and would not have the potential to reach the Mojave River.

Moreover, Watershed A drainages are NOT (a)(3) waters as defined by 33 CFR 328.3. Drainages A1 and A2 do NOT meet criteria (a)(3)(i-iii), as they:

- i) DO NOT have use for surface water recreation or other purposes by foreign or interstate travelers,
- ii) DO NOT have harvesting activities of fish or shellfish that may be sold in interstate or foreign commerce, and
- iii) DO NOT have surface water industrial usage by industries in interstate commerce.

Therefore, Watershed A Drainages 1 and 1A are isolated waters without a surface water connection to commerce. Based on the above information, the Corps concludes that Watershed A Drainages 1 and 1A (isolated non-RPWs) are NONJURISDICTIONAL waters of the United States, since the waters are NOT tributary to either a TNW or an (a)(3) water and are NOT (a)(3) waters themselves. The Corps makes such a conclusion since the waters have no downstream connectivity and since the waters also do not qualify as (a)(3) waters.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

1. TNW

Identify TNW: _____

Summarize rationale supporting determination: _____

2. Wetland adjacent to TNW

Summarize rationale supporting conclusion that wetland is "adjacent": _____

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

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under *Rapanos* have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are "relatively permanent waters" (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

If the waterbody³ is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must

³ Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

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

(i) General Area Conditions:

Watershed size: **Pick List**
 Drainage area: **Pick List**
 Average annual rainfall: inches
 Average annual snowfall: inches

(ii) Physical Characteristics:

(a) Relationship with TNW:

- Tributary flows directly into TNW.
- Tributary flows through **Pick List** tributaries before entering TNW.

Project waters are **Pick List** river miles from TNW.
 Project waters are **Pick List** river miles from RPW.
 Project waters are **Pick List** aerial (straight) miles from TNW.
 Project waters are **Pick List** aerial (straight) miles from RPW.
 Project waters cross or serve as state boundaries. Explain: .

Identify flow route to TNW⁴: .
 Tributary stream order, if known: .

(b) General Tributary Characteristics (check all that apply):

Tributary is: Natural
 Artificial (man-made). Explain: .
 Manipulated (man-altered). Explain: .

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

Average width: feet
 Average depth: feet
 Average side slopes: **Pick List**.

Primary tributary substrate composition (check all that apply):

- Silts
- Sands
- Concrete
- Cobbles
- Gravel
- Muck
- Bedrock
- Vegetation. Type/% cover: .
- Other. Explain: .

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: .
 Presence of run/riffle/pool complexes. Explain: .
 Tributary geometry: **Pick List**
 Tributary gradient (approximate average slope): %

(c) Flow:

Tributary provides for: **Pick List**
 Estimate average number of flow events in review area/year: **Pick List**
 Describe flow regime: .
 Other information on duration and volume: .

Surface flow is: **Pick List**. Characteristics: .

Subsurface flow: **Pick List**. Explain findings: .
 Dye (or other) test performed: .

Tributary has (check all that apply):

- Bed and banks
- OHWM⁵ (check all indicators that apply):

⁴ 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.

- | | |
|--|---|
| <input type="checkbox"/> clear, natural line impressed on the bank | <input type="checkbox"/> the presence of litter and debris |
| <input type="checkbox"/> changes in the character of soil | <input type="checkbox"/> destruction of terrestrial vegetation |
| <input type="checkbox"/> shelving | <input type="checkbox"/> the presence of wrack line |
| <input type="checkbox"/> vegetation matted down, bent, or absent | <input type="checkbox"/> sediment sorting |
| <input type="checkbox"/> leaf litter disturbed or washed away | <input type="checkbox"/> scour |
| <input type="checkbox"/> sediment deposition | <input type="checkbox"/> multiple observed or predicted flow events |
| <input type="checkbox"/> water staining | <input type="checkbox"/> abrupt change in plant community |
| <input type="checkbox"/> other (list): | |
- Discontinuous OHWM.⁶ Explain: .

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):

- | | |
|--|--|
| <input type="checkbox"/> High Tide Line indicated by: | <input type="checkbox"/> Mean High Water Mark indicated by: |
| <input type="checkbox"/> oil or scum line along shore objects | <input type="checkbox"/> survey to available datum; |
| <input type="checkbox"/> fine shell or debris deposits (foreshore) | <input type="checkbox"/> physical markings; |
| <input type="checkbox"/> physical markings/characteristics | <input type="checkbox"/> vegetation lines/changes in vegetation types. |
| <input type="checkbox"/> tidal gauges | |
| <input type="checkbox"/> other (list): | |

(iii) Chemical Characteristics:

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

Explain: .

Identify specific pollutants, if known: .

(iv) Biological Characteristics. Channel supports (check all that apply):

- Riparian corridor. Characteristics (type, average width): .
- Wetland fringe. Characteristics: .
- Habitat for:
 - Federally Listed species. Explain findings: .
 - Fish/spawn areas. Explain findings: .
 - Other environmentally-sensitive species. Explain findings: .
 - Aquatic/wildlife diversity. Explain findings: .

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

(i) Physical Characteristics:

(a) General Wetland Characteristics:

Properties:

Wetland size: . acres

Wetland type. Explain: .

Wetland quality. Explain: .

Project wetlands cross or serve as state boundaries. Explain: .

(b) General Flow Relationship with Non-TNW:

Flow is: **Pick List**. Explain: .

Surface flow is: **Pick List**

Characteristics: .

Subsurface flow: **Pick List**. Explain findings: .

Dye (or other) test performed: .

(c) Wetland Adjacency Determination with Non-TNW:

Directly abutting

Not directly abutting

Discrete wetland hydrologic connection. Explain: .

Ecological connection. Explain: .

Separated by berm/barrier. Explain: .

(d) Proximity (Relationship) to TNW

Project wetlands are **Pick List** river miles from TNW.

Project waters are **Pick List** aerial (straight) miles from TNW.

⁵A 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.

⁶Ibid.

Flow is from: **Pick List**.

Estimate approximate location of wetland as within the **Pick List** floodplain.

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: .

Identify specific pollutants, if known: .

(iii) Biological Characteristics. Wetland supports (check all that apply):

Riparian buffer. Characteristics (type, average width): .

Vegetation type/percent cover. Explain: .

Habitat for:

Federally Listed species. Explain findings: .

Fish/spawn areas. Explain findings: .

Other environmentally-sensitive species. Explain findings: .

Aquatic/wildlife diversity. Explain findings: .

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in the cumulative analysis: **Pick List**

Approximately () acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

Directly abuts? (Y/N)

Size (in acres)

Directly abuts? (Y/N)

Size (in acres)

Summarize overall biological, chemical and physical functions being performed: .

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.

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):

1. TNWs and Adjacent Wetlands. Check all that apply and provide size estimates in review area:

TNWs: linear feet width (ft), Or, acres.

Wetlands adjacent to TNWs: acres.

2. RPWs that flow directly or indirectly into TNWs.

Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial:

Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally:

Provide estimates for jurisdictional waters in the review area (check all that apply):

Tributary waters: linear feet width (ft).

Other non-wetland waters: acres.

Identify type(s) of waters: .

3. Non-RPWs⁷ that flow directly or indirectly into TNWs.

⁷See Footnote # 3.

- Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional waters within the review area (check all that apply):

- Tributary waters: linear feet width (ft).
 Other non-wetland waters: acres.
Identify type(s) of waters: .

4. Wetlands directly abutting an RPW that flow directly or indirectly into TNWs. FOR THE WETLANDS

- Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.
 Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: .
 Wetlands directly abutting an RPW where tributaries typically flow “seasonally.” Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: .

Provide acreage estimates for jurisdictional wetlands in the review area: acres.

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

- Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetlands in the review area: acres.

6. Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.

- Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional wetlands in the review area: acres.

7. Impoundments of jurisdictional waters.⁸

As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.

- Demonstrate that impoundment was created from “waters of the U.S.,” or
 Demonstrate that water meets the criteria for one of the categories presented above (1-6), or
 Demonstrate that water is isolated with a nexus to commerce (see E below).

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 (CHECK ALL THAT APPLY):⁹

- which are or could be used by interstate or foreign travelers for recreational or other purposes.
 from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
 which are or could be used for industrial purposes by industries in interstate commerce.
 Interstate isolated waters. Explain: .
 Other factors. Explain: .

Provide estimates for jurisdictional waters in the review area (check all that apply):

- Tributary waters: linear feet width (ft).
 Other non-wetland waters: acres.
Identify type(s) of waters: .
 Wetlands: acres.

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):

⁸ To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.

⁹ 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.

- 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, if not covered above): .

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 (check all that apply):

- Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
- Lakes/ponds: acres.
- Other non-wetland waters: acres. List type of aquatic resource: .
- Wetlands: acres.

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 (check all that apply):

- Non-wetland waters (i.e., rivers, streams): linear feet, width (ft).
- Lakes/ponds: acres.
- Other non-wetland waters: acres. List type of aquatic resource: .
- Wetlands: acres.

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):

- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: "Jurisdictional Delineation of Wetlands/Waters Subject to Regulatory Authority Unnamed Drainages Barstow Sanitary Landfill Expansion Area, Tetra Tech (February 2011 and August 2011)."
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
 - Office concurs with data sheets/delineation report.
 - Office does not concur with data sheets/delineation report.
- Data sheets prepared by the Corps: .
- Corps navigable waters' study: .
- U.S. Geological Survey Hydrologic Atlas: .
 - USGS NHD data.
 - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: .
- USDA Natural Resources Conservation Service Soil Survey. Citation: .
- National wetlands inventory map(s). Cite name: .
- State/Local wetland inventory map(s): .
- FEMA/FIRM maps: .
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): .
or Other (Name & Date): Los Angeles District, March 6, 2012.
- Previous determination(s). File no. and date of response letter: .
- Applicable/supporting case law: .
- Applicable/supporting scientific literature: .
- Other information (please specify): "Barstow Sanitary Landfill Supporting Information, San Bernardino County Department of Public Works (April 5, 2012)."

B. ADDITIONAL COMMENTS TO SUPPORT JD:

The 19 acre Watershed A contains two drainages, A1 and A2, which have been defined as non-RPWs ranging in width from 1 foot at the upper end of the watershed to 28 feet wide. Drainages A1 and A2 are approximately 770 lineal feet and 1330 lineal feet in length, respectively. These waters are situated within the Mojave River watershed, approximately 4-aerial miles southwest of the Mojave River. Surface flows within the watershed would travel in a general northeast direction, with the non-RPWs typically conveying flows in response to major storm events. Typical annual rainfall totals average less than 2-inches in this area. The soil survey for San Bernardino County, Mojave River area (United States Department of Agriculture 1971) was reviewed for classification of soils associated with the two survey areas. The soils associated with the majority of the expansion area have been classified as a Typic Haplargid. These are soils found in arid temperature and moisture regimes with weak to moderately developed argillic horizons (a layer of accumulated clays within the soil profile) that also may have accumulations of carbonates. Typic haplargids have lithic or bedrock contacts within about 20 inches of the soil surface. Field observations made within the survey area confirmed the soil class recorded in the USDA survey. Vegetation present are typical western Mojave Desert perennial woody and

annual herbaceous plants. The project area is in a hilly area, with an approximately 5% slope. Regulatory project manager visited the site on March 6, 2012 to verify site conditions.

Drainage A1 and A2 terminate into the existing Barstow Sanitary Landfill (BSL) Borrow Pit Area. The BSL is an active, Class III waste management unit which accepts municipal solid waste, inert material waste, non-hazardous solid waste and liquid waste. The BSL began operations in 1962. The 19.5 acre borrow area, located east-adjacent of the landfill footprint, has been part of landfill operations since it was permitted in 1962. Cover material has historically and is currently being obtained from this location. This area is the site of the next refuse cell expansion.

The borrow pit area currently has a bottom elevation of 2834 feet above mean sea level (amsl). Storm water would need to reach 2845 feet amsl to overtop the borrow area. A 43.8 acre watershed is tributary to the borrow area (Borrow Pit Area = 19.5 acres + west adjacent on-site tributary areas 5.3 acre + 19.0 acre Watershed A). Using the Unit Hydrograph Method to calculate a 1,000 year 24 hour storm event, the peak run-off and volume for this area is 229.7 cfs and 13.8 acre-ft, respectively. Storm water would pond to 2842.2 feet amsl, leaving 2.8 feet of freeboard in a 1,000 year 24 hour storm event. Therefore, a 1000 year 24 hour storm on the 19 acre Watershed A would be fully contained within the 14.7 acre-feet 19.5 acre Borrow Pit area, and would not have the potential to reach the Mojave River.

Moreover, Watershed A drainages are NOT (a)(3) waters as defined by 33 CFR 328.3. Drainages A1 and A2 do NOT meet criteria (a)(3)(i-iii), as they:

- i) DO NOT have use for surface water recreation or other purposes by foreign or interstate travelers,
- ii) DO NOT have harvesting activities of fish or shellfish that may be sold in interstate or foreign commerce, and
- iii) DO NOT have surface water industrial usage by industries in interstate commerce.

Therefore, Watershed A Drainages 1 and 1A are isolated waters without a surface water connection to commerce. Based on the above information, the Corps concludes that Watershed A Drainages 1 and 1A (isolated non-RPWs) are NONJURISDICTIONAL waters of the United States, since the waters are NOT tributary to either a TNW or an (a)(3) water and are NOT (a)(3) waters themselves. The Corps makes such a conclusion since the waters have no downstream connectivity and since the waters also do not qualify as (a)(3) waters.