

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

## SECTION I: BACKGROUND INFORMATION

**A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD):** 01-Jun-2012

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER:** Los Angeles District, SPL-2007-01449-JD1

**C. PROJECT LOCATION AND BACKGROUND INFORMATION:**

**State :** CA - California  
**County/parish/borough:** San Bernardino  
**City:** Hinkley  
**Lat:** 34.92079  
**Long:** -117.201419  
**Universal Transverse Mercator** Folder UTM List  
*UTM list determined by folder location*  
 Enter SPL-2007-01449 location information to display the UTM list.  
Waters UTM List  
*UTM list determined by waters location*

- NAD83 / UTM zone 11N

**Name of nearest waterbody:** Harper Dry Lake

**Name of nearest Traditional Navigable Water (TNW):**

**Name of watershed or Hydrologic Unit Code (HUC):** Coyote-Cuddeback Lakes (HUC 18090207)

- 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: 01-Jun-2012
- 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:<sup>1</sup>**

Water Name	Water Type(s) Present
Harper Dry Lake1	Isolated (interstate or intrastate) waters, including isolated wetlands
Harper Dry Lake10	Isolated (interstate or intrastate) waters, including isolated wetlands
Harper Dry Lake11	Isolated (interstate or intrastate) waters, including isolated wetlands
Harper Dry Lake12	Isolated (interstate or intrastate) waters, including isolated wetlands
Harper Dry Lake13	Isolated (interstate or intrastate) waters, including isolated wetlands
Harper Dry Lake14	Isolated (interstate or intrastate) waters, including isolated wetlands
Harper Dry Lake15	Isolated (interstate or intrastate) waters, including isolated wetlands

Harper Dry Lake16	Isolated (interstate or intrastate) waters, including isolated wetlands
Harper Dry Lake17	Isolated (interstate or intrastate) waters, including isolated wetlands
Harper Dry Lake18	Isolated (interstate or intrastate) waters, including isolated wetlands
Harper Dry Lake19	Isolated (interstate or intrastate) waters, including isolated wetlands
Harper Dry Lake2	Isolated (interstate or intrastate) waters, including isolated wetlands
Harper Dry Lake20	Isolated (interstate or intrastate) waters, including isolated wetlands
Harper Dry Lake21	Isolated (interstate or intrastate) waters, including isolated wetlands
Harper Dry Lake22	Isolated (interstate or intrastate) waters, including isolated wetlands
Harper Dry Lake23	Isolated (interstate or intrastate) waters, including isolated wetlands
Harper Dry Lake24	Isolated (interstate or intrastate) waters, including isolated wetlands
Harper Dry Lake25	Isolated (interstate or intrastate) waters, including isolated wetlands
Harper Dry Lake26	Isolated (interstate or intrastate) waters, including isolated wetlands
Harper Dry Lake27	Isolated (interstate or intrastate) waters, including isolated wetlands
Harper Dry Lake28	Isolated (interstate or intrastate) waters, including isolated wetlands
Harper Dry Lake29	Isolated (interstate or intrastate) waters, including isolated wetlands
Harper Dry Lake3	Isolated (interstate or intrastate) waters, including isolated wetlands
Harper Dry Lake30	Isolated (interstate or intrastate) waters, including isolated wetlands
Harper Dry Lake31	Isolated (interstate or intrastate) waters, including isolated wetlands
Harper Dry Lake32	Isolated (interstate or intrastate) waters, including isolated wetlands
Harper Dry Lake33	Isolated (interstate or intrastate) waters, including isolated wetlands
Harper Dry Lake34	Isolated (interstate or intrastate) waters, including isolated wetlands
Harper Dry Lake35	Isolated (interstate or intrastate) waters, including isolated wetlands
Harper Dry Lake36	Isolated (interstate or intrastate) waters, including isolated wetlands
Harper Dry Lake37	Isolated (interstate or intrastate) waters, including isolated wetlands
Harper Dry Lake38	Isolated (interstate or intrastate) waters, including isolated wetlands
Harper Dry Lake39	Isolated (interstate or intrastate) waters, including isolated wetlands
Harper Dry Lake4	Isolated (interstate or intrastate) waters, including isolated wetlands
Harper Dry Lake40	Isolated (interstate or intrastate) waters, including isolated wetlands
Harper Dry Lake5	Isolated (interstate or intrastate) waters, including isolated wetlands
Harper Dry Lake6	Isolated (interstate or intrastate) waters, including isolated wetlands
Harper Dry Lake7	Isolated (interstate or intrastate) waters, including isolated wetlands
Harper Dry Lake8	Isolated (interstate or intrastate) waters, including isolated wetlands
Harper Dry Lake9	Isolated (interstate or intrastate) waters, including isolated wetlands

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

**Area:** 20179.92 (m<sup>2</sup>)

**Linear:** 2925 (m)

**c. Limits (boundaries) of jurisdiction:**

**based on:** Established by OHWM.

**OHWM Elevation:** (if known)

**2. Non-regulated waters/wetlands:<sup>3</sup>**

**Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain:**

These onsite ephemeral (non-RPW) drainage features are within the Harper Dry Lake watershed. The nearest receiving waterbody is Harper Dry Lake to the north of the Project area. These non-RPWs convey flows only in response to major storm events. Any surface flows in the area would travel north to northwest for an approximate distance between approximately 3 to 6 miles from the project area. These non-RPWs generally dissipate into smaller braided channels as they progress toward Harper Dry Lake. The area on average receives 5 inches of precipitation, with a majority of the rainfall occurring October through April. Harper Dry Lake is the terminus for these designated non-RPWs, as well as for other non-RPWs within the Harper Basin.

These drainage features are NOT "a3" waters, as defined by 33 CFR 328.3, and do not meet any of the i-iii criteria (no recreation or interstate commerce related to fisheries or industry).

Based on the information above, the Corps concludes these ephemeral non-RPW drainage features are isolated with no connection to a downstream TNW, and thus are non-jurisdictional waters of the United States.

**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:<sup>5</sup>****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:<sup>8</sup>**

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:<sup>9</sup>**

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:<sup>10</sup>**

Waters Name	Interstate\Foreign Travelers	Fish/Shellfish Commerce	Industrial Commerce	Interstate Isolated	Explain	Other Factors	Explain
Harper Dry Lake1	-	-	-	-	-	-	-
Harper Dry Lake10	-	-	-	-	-	-	-
Harper Dry Lake11	-	-	-	-	-	-	-
Harper Dry Lake12	-	-	-	-	-	-	-
Harper Dry Lake13	-	-	-	-	-	-	-
Harper Dry Lake14	-	-	-	-	-	-	-
Harper Dry Lake15	-	-	-	-	-	-	-
Harper Dry Lake16	-	-	-	-	-	-	-
Harper Dry Lake17	-	-	-	-	-	-	-

Harper Dry Lake18	-	-	-	-	-	-	-
Harper Dry Lake19	-	-	-	-	-	-	-
Harper Dry Lake2	-	-	-	-	-	-	-
Harper Dry Lake20	-	-	-	-	-	-	-
Harper Dry Lake21	-	-	-	-	-	-	-
Harper Dry Lake22	-	-	-	-	-	-	-
Harper Dry Lake23	-	-	-	-	-	-	-
Harper Dry Lake24	-	-	-	-	-	-	-
Harper Dry Lake25	-	-	-	-	-	-	-
Harper Dry Lake26	-	-	-	-	-	-	-
Harper Dry Lake27	-	-	-	-	-	-	-
Harper Dry Lake28	-	-	-	-	-	-	-
Harper Dry Lake29	-	-	-	-	-	-	-
Harper Dry Lake3	-	-	-	-	-	-	-
Harper Dry Lake30	-	-	-	-	-	-	-
Harper Dry Lake31	-	-	-	-	-	-	-
Harper Dry Lake32	-	-	-	-	-	-	-
Harper Dry Lake33	-	-	-	-	-	-	-
Harper Dry Lake34	-	-	-	-	-	-	-
Harper Dry Lake35	-	-	-	-	-	-	-
Harper Dry Lake36	-	-	-	-	-	-	-
Harper Dry Lake37	-	-	-	-	-	-	-
Harper Dry Lake38	-	-	-	-	-	-	-
Harper Dry Lake39	-	-	-	-	-	-	-
Harper Dry Lake4	-	-	-	-	-	-	-
Harper Dry Lake40	-	-	-	-	-	-	-
Harper Dry Lake5	-	-	-	-	-	-	-
Harper Dry Lake6	-	-	-	-	-	-	-
Harper Dry Lake7	-	-	-	-	-	-	-
Harper Dry Lake8	-	-	-	-	-	-	-
Harper Dry Lake9	-	-	-	-	-	-	-

**Identify water body and summarize rationale supporting determination:**

Water Name	Adjacent To TNW Rationale	TNW Rationale
Harper Dry Lake1	-	-
Harper Dry Lake10	-	-
Harper Dry Lake11	-	-
Harper Dry Lake12	-	-
Harper Dry Lake13	-	-
Harper Dry Lake14	-	-
Harper Dry Lake15	-	-
Harper Dry Lake16	-	-
Harper Dry Lake17	-	-
Harper Dry Lake18	-	-
Harper Dry Lake19	-	-
Harper Dry Lake2	-	-
Harper Dry Lake20	-	-
Harper Dry Lake21	-	-
Harper Dry Lake22	-	-
Harper Dry Lake23	-	-
Harper Dry Lake24	-	-
Harper Dry Lake25	-	-
Harper Dry Lake26	-	-
Harper Dry Lake27	-	-
Harper Dry Lake28	-	-

Harper Dry Lake29	-	-
Harper Dry Lake3	-	-
Harper Dry Lake30	-	-
Harper Dry Lake31	-	-
Harper Dry Lake32	-	-
Harper Dry Lake33	-	-
Harper Dry Lake34	-	-
Harper Dry Lake35	-	-
Harper Dry Lake36	-	-
Harper Dry Lake37	-	-
Harper Dry Lake38	-	-
Harper Dry Lake39	-	-
Harper Dry Lake4	-	-
Harper Dry Lake40	-	-
Harper Dry Lake5	-	-
Harper Dry Lake6	-	-
Harper Dry Lake7	-	-
Harper Dry Lake8	-	-
Harper Dry Lake9	-	-

**Provide estimates for jurisdictional waters in the review area:**

Water Name	Type	Size (Linear) (m)	Size (Area) (m <sup>2</sup> )
Harper Dry Lake1	Isolated (interstate or intrastate) waters, including isolated wetlands	-	214.259408067339
Harper Dry Lake10	Isolated (interstate or intrastate) waters, including isolated wetlands	-	1551.26235145863
Harper Dry Lake11	Isolated (interstate or intrastate) waters, including isolated wetlands	-	935.859849164313
Harper Dry Lake12	Isolated (interstate or intrastate) waters, including isolated wetlands	-	151.956197413537
Harper Dry Lake13	Isolated (interstate or intrastate) waters, including isolated wetlands	-	606.900283712514
Harper Dry Lake14	Isolated (interstate or intrastate) waters, including isolated wetlands	-	1623.81195477678
Harper Dry Lake15	Isolated (interstate or intrastate) waters, including isolated wetlands	-	39.5762059752667
Harper Dry Lake16	Isolated (interstate or intrastate) waters, including isolated wetlands	-	48.9006669604575
Harper Dry Lake17	Isolated (interstate or intrastate) waters, including isolated wetlands	-	117.691594170164
Harper Dry Lake18	Isolated (interstate or intrastate) waters, including isolated wetlands	-	133.351584486986
Harper Dry Lake19	Isolated (interstate or intrastate) waters, including isolated wetlands	-	178.060274478513
Harper Dry Lake2	Isolated (interstate or intrastate) waters, including isolated wetlands	-	37.1618238350834
Harper Dry Lake20	Isolated (interstate or intrastate) waters, including isolated wetlands	-	180.596880159421
Harper Dry Lake21	Isolated (interstate or intrastate) waters, including isolated wetlands	-	104.670426144432
Harper Dry Lake22	Isolated (interstate or intrastate) waters, including isolated wetlands	-	118.133056654238
Harper Dry Lake23	Isolated (interstate or intrastate) waters, including isolated wetlands	-	65.7033357955547
Harper Dry Lake24	Isolated (interstate or intrastate) waters, including isolated wetlands	-	120.045324416902
Harper Dry Lake25	Isolated (interstate or intrastate) waters, including isolated wetlands	-	168.821923244708
Harper Dry Lake26	Isolated (interstate or intrastate) waters, including isolated wetlands	-	243.685321862597
Harper Dry Lake27	Isolated (interstate or intrastate) waters, including isolated wetlands	-	206.831159161444
Harper Dry Lake28	Isolated (interstate or intrastate) waters, including isolated wetlands	-	161.662012872216
Harper Dry Lake29	Isolated (interstate or intrastate) waters, including isolated wetlands	-	469.563445089833
Harper Dry Lake3	Isolated (interstate or intrastate) waters, including isolated wetlands	-	9.17623647258246
Harper Dry Lake30	Isolated (interstate or intrastate) waters, including isolated wetlands	-	466.29446655849
Harper Dry Lake31	Isolated (interstate or intrastate) waters, including isolated wetlands	-	198.425346334444
Harper Dry Lake32	Isolated (interstate or intrastate) waters, including isolated wetlands	-	148.002298333907
Harper Dry Lake33	Isolated (interstate or intrastate) waters, including isolated wetlands	-	967.166377607138
Harper Dry Lake34	Isolated (interstate or intrastate) waters, including isolated wetlands	-	207.044745235645
Harper Dry Lake35	Isolated (interstate or intrastate) waters, including isolated wetlands	-	564.026537609891
Harper Dry Lake36	Isolated (interstate or intrastate) waters, including isolated wetlands	-	294.97926047427
Harper Dry Lake37	Isolated (interstate or intrastate) waters, including isolated wetlands	-	732.40239876988
Harper Dry Lake38	Isolated (interstate or intrastate) waters, including isolated wetlands	-	807.372237902564
Harper Dry Lake39	Isolated (interstate or intrastate) waters, including isolated wetlands	-	848.583280568144

Harper Dry Lake4	Isolated (interstate or intrastate) waters, including isolated wetlands	-	215.342968769638
Harper Dry Lake40	Isolated (interstate or intrastate) waters, including isolated wetlands	-	815.491111831795
Harper Dry Lake5	Isolated (interstate or intrastate) waters, including isolated wetlands	-	949.533084295462
Harper Dry Lake6	Isolated (interstate or intrastate) waters, including isolated wetlands	-	1762.82387925204
Harper Dry Lake7	Isolated (interstate or intrastate) waters, including isolated wetlands	-	66.0836844096185
Harper Dry Lake8	Isolated (interstate or intrastate) waters, including isolated wetlands	-	1295.01714263804
Harper Dry Lake9	Isolated (interstate or intrastate) waters, including isolated wetlands	-	2356.8563079115
<b>Total:</b>		<b>0</b>	<b>20183.12644487597826</b>

**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	Google Earth, ESRI aeriels	online mapping websites
--U.S. Geological Survey Hydrologic Atlas	-	-
----USGS NHD data	-	-
----USGS 8 and 12 digit HUC maps	-	-
--Photographs	Jurisdictional Delineation Report	-
----Aerial	-	-
----Other	-	-
--Other information	Jurisdictional Delineation	Jurisdictional Delineation for SR58 Re-Alignment and Widening Project (December 2010)

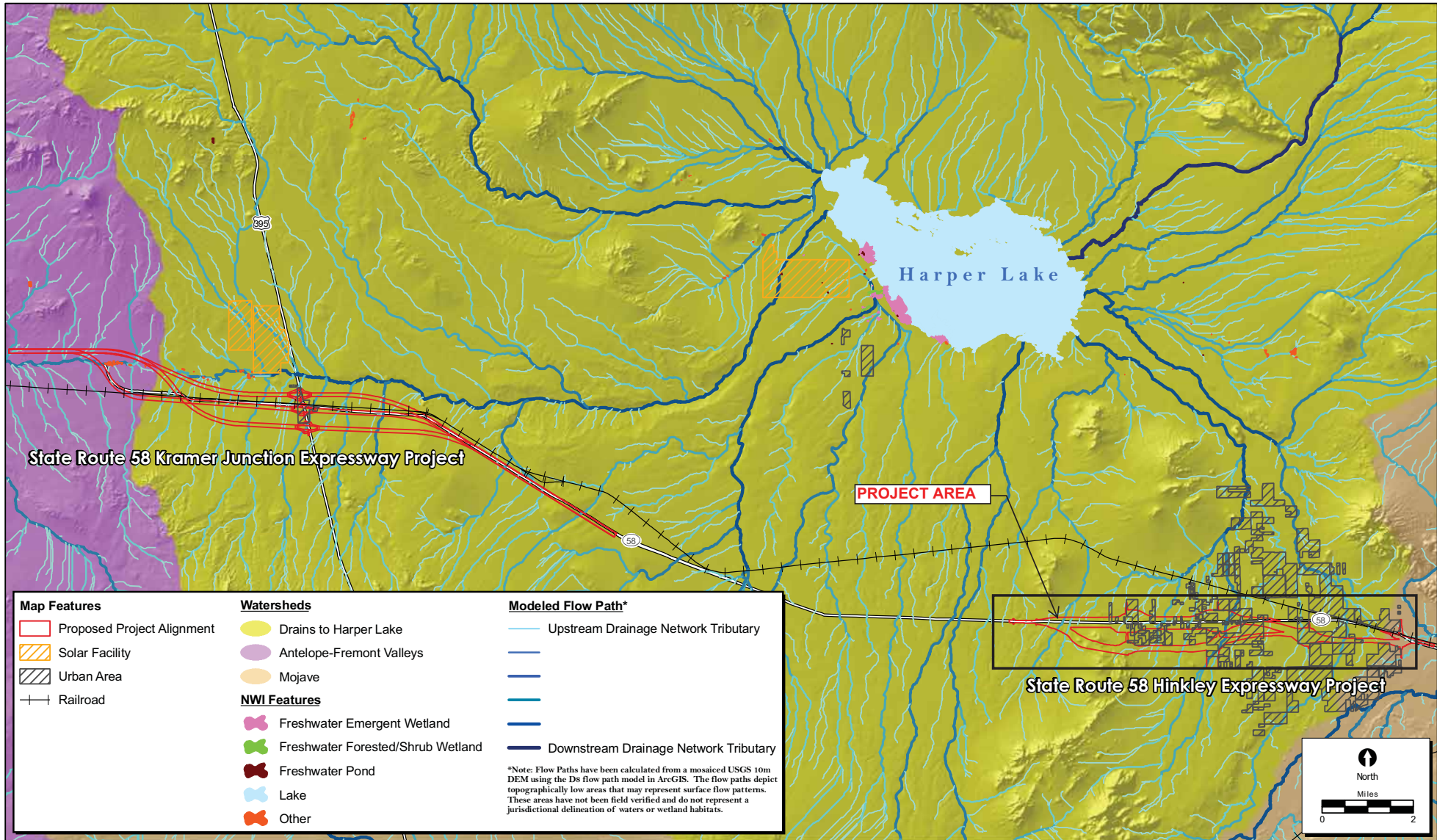
**B. ADDITIONAL COMMENTS TO SUPPORT JD:**

Description
<p>These drainage features are NOT "a3" waters, as defined by 33 CFR 328.3, and do not meet any of the i-iii criteria (no recreation or interstate commerce related to fisheries or industry). These onsite ephemeral (non-RPW) drainage features are within the Harper Dry Lake watershed (Lynx Cat Mountain, Town of Hinkley, and Hinkley Valley HUC 12). The nearest receiving waterbody is Harper Dry Lake to the north of the Project area. These non-RPWs convey flows only in response to major storm events. Any surface flows in the area would travel north to northwest for an approximate distance between approximately 3 to 6 miles from the project area. These non-RPWs generally dissipate into smaller braided channels as they progress toward Harper Dry Lake. The area on average receives 3 to 7 inches of precipitation, with a majority of the rainfall occurring October through April. Harper Dry Lake is the terminus for these designated non-RPWs, as well as for other non-RPWs within the watershed. Since surface waters are ephemeral, there are no recreational, industrial, or fisheries</p>



uses that use the surface waters for interstate commerce. The natural recharge of the Harper Valley groundwater basin is mainly from infiltration of rainfall and percolation of surface runoff through alluvial fans around edges of the valley. Harper Valley also receives some groundwater underflow from the Mojave River Valley and Cuddeback Valley groundwater basins. In general, groundwater flows toward Harper Dry Lake, in the southern part of the valley. (California Groundwater Bulletin 118, 2004) The drainage features have potential connectivity to Harper Dry Lake through surface or subsurface flows. Harper Lake is a marsh with water pumped from the nearby solar energy facility as part of mitigation requirements. Harper Lake is an isolated intrastate water with no recreational navigation activities. These drainage features are NOT "a3" waters, as defined by 33 CFR 328.3, and do not meet any of the i-iii criteria (no recreation or interstate commerce related to fisheries or industry). Therefore, based on the information above, the Corps concludes these ephemeral non-RPW drainage features are isolated with no connection to a downstream TNW, and thus are non-jurisdictional waters of the United States. Note: HarperDryLake 1 through 40 is the same as STRM 1-14 on the maps that the applicant provided. The GIS file broke the STRM 1-14 into 40 different pieces.

- <sup>1</sup>-Boxes checked below shall be supported by completing the appropriate sections in Section III below.
- <sup>2</sup>-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).
- <sup>3</sup>-Supporting documentation is presented in Section III.F.
- <sup>4</sup>-Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.
- <sup>5</sup>-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.
- <sup>6</sup>-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.
- <sup>7</sup>-Ibid.
- <sup>8</sup>-See Footnote #3.
- <sup>9</sup>-To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.
- <sup>10</sup>-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.



N:\2008\2008-040 Caltrans District 8\Task 012\MAPS\HYDROLOGY\TO1214\_Flow\_HarperLake.mxd  
**Task Orders 12 & 14 Flow to Harper Lake**  
 2008-040 CalTrans District 8



