

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): July 8, 2010

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Sacramento District, Nextlight Renewable Power, SPK-2010-00222-SG

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: **Nevada**

County/parish/borough: **Clark**

City: **Primm**

Center coordinates of site (lat/long in degree decimal format): Lat. **35.599°**, Long. **-115.335°**

Universal Transverse Mercator: **11 650743.59 3940818.1**

Name of nearest waterbody: **Ivanpah Lake**

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: **Ivanpah Lake**

Name of watershed or Hydrologic Unit Code (HUC): **Ivanpah-Pahrump Valleys, California, Nevada, 16060015**

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: **Sites draining into Roach Lake are assessed in a separate JD.**

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

Office (Desk) Determination. Date: **July 8, 2010**

Field Determination. Date(s): **August 24, 2009**

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** "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):¹

TNWs, including territorial seas

Wetlands adjacent to TNWs

Relatively permanent waters² (RPWs) that flow directly or indirectly into TNWs

Non-RPWs that flow directly or indirectly into TNWs

Wetlands directly abutting RPWs that flow directly or indirectly into TNWs

Wetlands adjacent to but not directly abutting RPWs 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, wide, and/or acres.

Wetlands: acres.

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

Elevation of established OHWM (if known):

2. Non-regulated waters/wetlands (check if applicable):³

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

Explain:

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

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.

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: NA

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.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody⁴ 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 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: NA

C. SIGNIFICANT NEXUS DETERMINATION: NA

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

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):⁵

- 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: **The aquatic resources associated with this Jurisdictional Determination cross the Nevada/California border and flow into Ivanpah Lake. Ivanpah Lake is an interstate isolated water (33 CFR 328.3 (a)(2)), with the majority of its area falling within the State of California. Roughly 5% of the total area of Ivanpah dry lake is situated within Nevada. 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. Based on 33 CFR 328.3 (a)(2), which includes definitions of jurisdictional waters, the drainages associated with Ivanpah Lake that crosses from Nevada into California would be regulated as interstate waters.**

- Other factors. Explain:

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

⁵ 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*.

Identify water body and summarize rationale supporting determination:

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

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

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

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:
- 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: **1:24K; NV-ROACH**
- 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 Geodectic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date):
 - or Other (Name & Date):
- Previous determination(s). File no. and date of response letter:
- Applicable/supporting case law:
- Applicable/supporting scientific literature:
- Other information (please specify):

B. ADDITIONAL COMMENTS TO SUPPORT JD:

These drainages are associated and are tributaries of Ivanpah Dry Lake and cross the Nevada/California border. Ivanpah Lake is an interstate, isolated water (Closed Basin).

The following is a list of waters associated with this site:

Regulatory Action Type	Size	Cowardin	HGM	Local Waterway
2010-0222A (ISOLATE)	200	R4SB	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222B (ISOLATE)	5691	R4SB	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222C (ISOLATE)	6779	R4SB	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222D (ISOLATE)	5897	R4SB	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222E (ISOLATE)	10430	R4SB	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222F (ISOLATE)	9480	R4SB	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222G (ISOLATE)	5624	R4SB	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222H (ISOLATE)	2481.6	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222I (ISOLATE)	1900.8	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222J (ISOLATE)	686.4	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222K (ISOLATE)	1320	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222L (ISOLATE)	2692.8	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake

2010-0222M (ISOLATE)	2112	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222N (ISOLATE)	739.2	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222O (ISOLATE)	4699.2	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222P (ISOLATE)	6283.2	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222Q (ISOLATE)	1900.8	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222R (ISOLATE)	3801.6	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222S (ISOLATE)	1214.4	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222T (ISOLATE)	1161.6	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222U (ISOLATE)	1214.4	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222V (ISOLATE)	1848	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222W (ISOLATE)	1689.6	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222X (ISOLATE)	2323.2	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222Y (ISOLATE)	6494.4	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222Z (ISOLATE)	9768	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222(A 2) (ISOLATE)	7339.2	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222(B2) (ISOLATE)	528	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222(C2) (ISOLATE)	475.2	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222(D2) (ISOLATE)	1584	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222(E2) (ISOLATE)	8025.6	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222(F2) (ISOLATE)	1214.4	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222(G2) (ISOLATE)	6336	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222(H2) (ISOLATE)	2112	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222(I2) (ISOLATE)	1900.8	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222(J2) (ISOLATE)	2745.6	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222(K2) (ISOLATE)	2428.8	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222(L2) (ISOLATE)	844.8	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222(M2) (ISOLATE)	3748.8	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222(N2) (ISOLATE)	2164.8	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222(O2) (ISOLATE)	3062.4	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222(P2) (ISOLATE)	16420.8	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222(Q2) (ISOLATE)	3643.2	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222(R2) (ISOLATE)	1584	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222S2 (ISOLATE)	1584	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222T2 (ISOLATE)	4540.8	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222U2 (ISOLATE)	1108.8	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222V2 (ISOLATE)	1953.6	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222X2 (ISOLATE)	897.6	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222Y2 (ISOLATE)	1161.6	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222Z2 (ISOLATE)	3590.4	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222A3 (ISOLATE)	528	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222B3 (ISOLATE)	3537.6	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222C3 (ISOLATE)	3062.4	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222D3 (ISOLATE)	1795.2	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222E3 (ISOLATE)	3484.8	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake

2010-0222F3 (ISOLATE)	7708.8	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222G3 (ISOLATE)	1161.6	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222H3 (ISOLATE)	1425.6	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222I3 (ISOLATE)	3696	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222J3 (ISOLATE)	7656	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222K3 (ISOLATE)	3326.4	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222L3 (ISOLATE)	6652.8	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222M3 (ISOLATE)	2640	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222N3 (ISOLATE)	13516.8	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222O3 (ISOLATE)	11721.6	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222P3 (ISOLATE)	11404.8	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222Q3 (ISOLATE)	4963.2	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222R3 (ISOLATE)	5016	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222S3 (ISOLATE)	10137.6	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222T3 (ISOLATE)	5702.4	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222U3 (ISOLATE)	5596.8	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222V3 (ISOLATE)	2323.2	R4SB2	RIVERINE	Tributary of Ivanpah Dry Lake
2010-0222(RL1) (ISOLATE)	16843.2	R4SB2	RIVERINE	Tributary of Roach Dry Lake
2010-0222(RL2) (ISOLATE)	8606.4	R4SB2	RIVERINE	Tributary of Roach Dry Lake
2010-0222(RL3) (ISOLATE)	2006.4	R4SB2	RIVERINE	Tributary of Roach Dry Lake
2010-0222(RL4) (ISOLATE)	7761.6	R4SB2	RIVERINE	Tributary of Roach Dry Lake
2010-0222(RL5) (ISOLATE)	6758.4	R4SB2	RIVERINE	Tributary of Roach Dry Lake
2010-0222(RL6) (ISOLATE)	10190.4	R4SB2	RIVERINE	Tributary of Roach Dry Lake
2010-0222(RL7) (ISOLATE)	9504	R4SB2	RIVERINE	Tributary of Roach Dry Lake
2010-0222(RL8) (ISOLATE)	3590.4	R4SB2	RIVERINE	Tributary of Roach Dry Lake
2010-0222(RL9) (ISOLATE)	5491.2	R4SB2	RIVERINE	Tributary of Roach Dry Lake
2010-0222(RL10) (ISOLATE)	2745.6	R4SB2	RIVERINE	Tributary of Roach Dry Lake
2010-0222(RL11) (ISOLATE)	3432	R4SB2	RIVERINE	Tributary of Roach Dry Lake
2010-0222(RL12) (ISOLATE)	10929.6	R4SB2	RIVERINE	Tributary of Roach Dry Lake
2010-0222(RL13) (ISOLATE)	6283.2	R4SB2	RIVERINE	Tributary of Roach Dry Lake
2010-0222(RL14) (ISOLATE)	7444.8	R4SB2	RIVERINE	Tributary of Roach Dry Lake
2010-0222(RL15) (ISOLATE)	3115.2	R4SB2	RIVERINE	Tributary of Roach Dry Lake
2010-0222(RL16) (ISOLATE)	5544	R4SB2	RIVERINE	Tributary of Roach Dry Lake
2010-0222(RL17) (ISOLATE)	5544	R4SB2	RIVERINE	Tributary of Roach Dry Lake
2010-0222(RL18) (ISOLATE)	12513.6	R5RS2	RIVERINE	Tributary of Roach Dry Lake
2010-0222(RL19) (ISOLATE)	12619.2	R4SB2	RIVERINE	Tributary of Roach Dry Lake
2010-0222(RL20) (ISOLATE)	11932.8	R4SB2	RIVERINE	Tributary of Roach Dry Lake
2010-0222(RL21) (ISOLATE)	3062.4	R4SB2	RIVERINE	Tributary of Roach Dry Lake
2010-0222(RL22) (ISOLATE)	3960	R4SB2	RIVERINE	Tributary of Roach Dry Lake
2010-0222(RL23) (ISOLATE)	2587.2	R4SB2	RIVERINE	Tributary of Roach Dry Lake
2010-0222(RL24) (ISOLATE)	4382.4	R4SB2	RIVERINE	Tributary of Roach Dry Lake
2010-0222(RL25) (ISOLATE)	4382.4	R4SB2	RIVERINE	Tributary of Roach Dry Lake
2010-0222(RL26) (ISOLATE)	7497.6	R4SB2	RIVERINE	Tributary of Roach Dry Lake
2010-0222(RL27) (ISOLATE)	16368	R4SB2	RIVERINE	Tributary of Roach Dry Lake

2010-0222(RL28) (ISOLATE)	2428.8	R4SB2	RIVERINE	Tributary of Roach Dry Lake
2010-0222(RL29) (ISOLATE)	2587.2	R4SB2	RIVERINE	Tributary of Roach Dry Lake
2010-0222(RL30) (ISOLATE)	18321.6	R4SB2	RIVERINE	Tributary of Roach Dry Lake
2010-0222(RL31) (ISOLATE)	17889	R4SB2	RIVERINE	Tributary of Roach Dry Lake
2010-0222(RL32) (ISOLATE)	3696	R4SB2	RIVERINE	Tributary of Roach Dry Lake
2010-0222(RL33) (ISOLATE)	6494.4	R4SB2	RIVERINE	Tributary of Roach Dry Lake
2010-0222(RL34) (ISOLATE)	9028.8	R4SB2	RIVERINE	Tributary of Roach Dry Lake
2010-0222(RL35) (ISOLATE)	1795.2	R4SB2	RIVERINE	Tributary of Roach Dry Lake
2010-0222(RL35) (ISOLATE)	5755.2	R4SB2	RIVERINE	Tributary of Roach Dry Lake
2010-0222(RL36) (ISOLATE)	6072	R4SB2	RIVERINE	Tributary of Roach Dry Lake
2010-0222(RL37) (ISOLATE)	4857.6	R4SB2	RIVERINE	Tributary of Roach Dry Lake
2010-0222(RL38) (ISOLATE)	4118.4	R4SB2	RIVERINE	Tributary of Roach Dry Lake
2010-0222(RL39) (ISOLATE)	555	R4SB2	RIVERINE	Tributary of Roach Dry Lake
2010-0222(RL40) (ISOLATE)	2956.8	R4SB2	RIVERINE	Tributary of Roach Dry Lake
2010-0222(RL41) (ISOLATE)	3220.8	R4SB2	RIVERINE	Tributary of Roach Dry Lake
2010-0222(RL42) (ISOLATE)	2376	R4SB2	RIVERINE	Tributary of Roach Dry Lake
Total linear feet	583733.8			