

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

**SECTION I: BACKGROUND INFORMATION**

**A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD) August 16, 2010.**

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER:** Sacramento District, Nextlight Solar Project, SPK-2010-0222.  
Name of water being evaluated on this JD form: Tributaries of Roach Lake RL1-RL42

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

State: Nevada County: Clark City: Primm

Center coordinates of site (lat/long in degree decimal format): Lat: 35.608 N, Long: -115.33 W

Universal Transverse Mercator: \_\_\_\_\_

Name of nearest waterbody: Roach Lake.

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: NA.

Name of watershed or Hydrologic Unit Code (HUC): \_\_\_\_\_

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. List other JDs: A2 Waters associated with Ivanpah Dry Lake that cross from Nevada into California were assessed separately and considered to be jurisdictional.

**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 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):<sup>1</sup>**

- TNWs, including territorial seas
- Wetlands adjacent to TNWs
- Relatively permanent waters<sup>2</sup> (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 \_\_\_\_\_ width (ft) and/or \_\_\_\_\_ acres.

Wetlands: \_\_\_\_\_ acres.

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

Elevation of established OHWM (if known): \_\_\_\_\_

**2. Non-regulated waters/wetlands (check if applicable):<sup>3</sup>**

- Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: **Roach Lake and a number of ephemeral tributaries were previously assessed under SPK-2002-50472 (including several of the drainages included in this determination) and determined to be isolated, non-jurisdictional**

<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.

waters. Surface drainage in the Roach Lake basin is entirely internal. The drainages in the project area associated with Roach Lake are all located entirely within the state of Nevada and do not cross state lines. Information from MACTEC, an environmental consultant for the landowner and internet searches for information. The area was part of cattle operation in the past. However, evidence indicates that water was trucked in and stored in above ground tanks. Water ponds in the area for very short periods after very infrequent storm events. Average annual rainfall for the area is 4 inches. Severe drought conditions have existed for the past several years. All of the waters are ephemeral in a arid desert environment subject to very minimal rainfall. Poned water will be present in playa after infrequent storm events. The waters are probably used by migratory birds. No other indication of an interstate or foreign commerce connection. No evidence of a prior Clean Water Act Section 303(d) designation or 402 determination. Roach Lake is a closed basin located entirely within the state of Nevada. No water dependent interstate commerce exists within the basin.

**SECTION III: CWA ANALYSIS**

- A. TNWs AND WETLANDS ADJACENT TO TNWs: NOT APPLICABLE
- B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS: NOT APPLICABLE
- C. SIGNIFICANT NEXUS DETERMINATION: NOT APPLICABLE
- D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE: 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 (CHECK ALL THAT APPLY):<sup>4</sup>

- 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: \_\_\_\_\_.

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 \_\_\_\_\_ width (ft).
- Other non-wetland waters: \_\_\_\_\_ acres.  
Identify type(s) of waters: \_\_\_\_\_.
- Wetlands: \_\_\_\_\_ acres.

**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). This area probably would not have been jurisdictional based solely on migratory birds. This is an arid environment and only contains water during storm events. It is unlikely that these occur during the migration period (usually occur as summer thunder storms).
  - Other: (explain, if not covered above): **Roach Lake and a number of ephemeral tributaries were previously assessed under SPK-2002-50472 (including several of the drainages included in this document) and determined to be isolated, non-jurisdictional waters. Surface drainage in the Roach Lake basin is entirely internal. The drainages in the project area associated with Roach Lake are all located entirely within the state of Nevada and do not cross state lines. Information from MACTEC, an environmental consultant for the landowner and internet searches for information. The area was part of cattle operation in the past. However, evidence indicates that water was trucked in and stored in above ground tanks. Water ponds in the area for very short periods after very infrequent storm events. Average annual rainfall for the area is 4 inches. Severe drought conditions have existed for the past several years. All of the waters are ephemeral in a arid desert environment subject to very minimal rainfall. Poned water will be present in playa after infrequent storm events. The waters are probably used by migratory birds. No other indication of an interstate or foreign commerce connection. No evidence of a prior Clean Water Act Section 303(d) designation or 402 determination.**

<sup>4</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.

**Roach Lake is a closed basin located entirely within the state of Nevada. No water dependent interstate commerce exists within the basin.**

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): **287,248.8** 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: Newfields. 2009. Preliminary Jurisdictional Delineation for Ivanpah Valley International Airport, Clark County, Nevada. Clark County Department of Aviation. April 2009. Newfields. 2009b. Addendum to the Preliminary Jurisdictional Delineation for Ivanpah Valley International Airport, Clark County, Nevada. Clark County Department of Aviation. MacTec. 2004. Final Report: Preliminary Wetland Delineation and Waters of the U.S. Inventory.
- 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: IVANPAH LAKE 7.5' QUADRANGLES
- USDA Natural Resources Conservation Service Soil Survey. Citation: NRCS. 2009. <http://websoilsurvey.nrcs.usda.gov/app/WebSoilSurvey.aspx>.
- National wetlands inventory map(s). Cite name: <http://www.fws.gov/wetlands/Data/Mapper.html>.
- 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: Supplemental Airport SPK-2002-50472, September 3, 2009.
- Applicable/supporting case law: \_\_\_\_\_.
- Applicable/supporting scientific literature: Price, J.G., J. T. Hastings, and C.M. Arritt. 2007. Assessment of Risks and Vulnerability to Flood Hazards in Nevada. Nevada Bureau of Mines and Geology, Open File Report #07-2, December 30, 2007 <http://www.nbmng.unr.edu/dox/of072.pdf>. Nevada Bureau of Mines and Geology, PRELIMINARY SURFICIAL GEOLOGIC MAP OF THE IVANPAH VALLEY PART OF THE STATE LINE PASS AND IVANPAH LAKE 7.5' QUADRANGLES, CLARK NEVADA BUREAU OF MINES AND GEOLOGY COUNTY, NEVADA. Open File Report 06-11E. Draft EIS available at: [http://www.blm.gov/nv/st/en/fo/lvfo/blm\\_programs/energy/nextlight\\_renewable0.html](http://www.blm.gov/nv/st/en/fo/lvfo/blm_programs/energy/nextlight_renewable0.html).
- Other information (please specify): \_\_\_\_\_.

**B. ADDITIONAL COMMENTS TO SUPPORT JD: Roach Lake and a number of ephemeral tributaries were previously assessed under SPK-2002-50472 (including several of the drainages included in this document) and determined to be isolated, non-jurisdictional waters. An approved JD, declining jurisdiction over Roach Lake and a number of tributaries, was sent out on September 3, 2009, under SPK-2002-50472. Surface drainage in the Roach Lake basin is entirely internal. The drainages in the project area associated with Roach Lake are all located entirely within the state of Nevada and do not cross state lines. Information from MACTEC, an environmental consultant for the landowner and internet searches for information. The area was part of cattle operation in the past. However, evidence indicates that water was trucked in and stored in above ground tanks. Water ponds in the area for very short periods after very infrequent storm events. Average annual rainfall for the area is 4 inches. Severe drought conditions have existed for the past several years. All of the waters are ephemeral in a arid desert environment subject to very minimal rainfall. Pondered**

**water will be present in playa after infrequent storm events. The waters are probably used by migratory birds. No other indication of an interstate or foreign commerce connection. No evidence of a prior Clean Water Act Section 303(d) designation or 402 determination. Roach Lake is a closed basin located entirely within the state of Nevada. No water dependent interstate commerce exists within the basin.**

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

Regulatory Action Type	Size	Cowardin	HGM	Local Waterway
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	287248.8			