

DRY LAND APPROVED JURISDICTIONAL DETERMINATION FORM¹
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): February 10, 2022

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: SPK-2020-00587

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: CO County/parish/borough: Moffat City: 45 Miles west of Craig, CO
Center coordinates of site (lat/long in degree decimal format): Lat. 40.96383°, Long. -108.18422°
Universal Transverse Mercator: 12 736954.39 4538560.66
Name of nearest waterbody: Little Snake River
Name of watershed or Hydrologic Unit Code (HUC): Little Snake, 14050003

- Check if map/diagram of review area is 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. A previous JD was recorded on November 3, 2020, in the vicinity of this site under the same project number, SPK-2020-00587.

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

- Office (Desk) Determination. Date: February 10, 2022
- Field Determination. Date(s):

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.

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.

SECTION III: 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: *Project Area Update*, September 21, 2021, and *Wetland and Waterbody Resources Inventory Report: Banjo Solar Energy Facility*, July 31, 2020, both prepared by Stantec.
- 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:
- U.S. Geological Survey Hydrologic Atlas: *Project Area Update*, September 21, 2021, and *Wetland and Waterbody Resources Inventory Report: Banjo Solar Energy Facility*, July 31, 2020, both prepared by Stantec.
- 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: *Project Area Update*, September 21, 2021, and *Wetland and Waterbody Resources Inventory Report: Banjo Solar Energy Facility*, July 31, 2020, both prepared by Stantec.
- National wetlands inventory map(s). Cite name: *Project Area Update*, September 21, 2021, and *Wetland and Waterbody Resources Inventory Report: Banjo Solar Energy Facility*, July 31, 2020, both prepared by Stantec.
- State/Local wetland inventory map(s):
- FEMA/FIRM maps:
- 100-year Floodplain Elevation is:
- Photographs: Aerial (Name & Date):
- or Other (Name & Date): *Project Area Update*, September 21, 2021, and *Wetland and Waterbody Resources Inventory Report: Banjo Solar Energy Facility*, July 31, 2020, both prepared by Stantec.
- Previous determination(s). File no. and date of response letter: SPK-2020-00587, November 3, 2020.
- Applicable/supporting case law:
- Applicable/supporting scientific literature:
- Other information (please specify):

¹ This form is for use only in recording approved JDs involving dry land. It extracts the relevant elements of the longer approved JD form in use since 2007 for aquatic areas and adds no new fields.

B. REQUIRED ADDITIONAL COMMENTS TO SUPPORT JD. EXPLAIN RATIONALE FOR DETERMINATION THAT THE REVIEW AREA ONLY INCLUDES DRY LAND:

The preamble for 33 CFR 328.4, published in Federal Register Volume 51, Number 219, published November 13, 1986 (page 41217), states "Limits of Jurisdiction. Section 328.4(c)(1) defines the lateral limit of jurisdiction in non-tidal waters as the ordinary high water mark provided the jurisdiction is not extended by the presence of wetlands...Corps jurisdiction also stops when the ordinary high water mark is no longer perceptible." In this case the Powder Wash lacks characteristics of bed and banks and ordinary high water mark as defined in 33 CFR 328.3(e), and does not support any wetlands. A small erosion channel was found within the subject area, but it was overgrown with upland plant species and did not exhibit an ordinary high-water mark or other indicators of recent flow (e.g., scour, debris flows). As such, the Corps has determined that the aquatic resources within the project area are not potential wetlands or other waters of the United States subject to Corps jurisdiction.