

**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):** March 23, 2015
Waters assessed on this form: SPK-2015-00320(1)-(8), SPK-2015-00320(ISC1)-(ISC5); and SPK-2015-00320(GMW1)-(GMW 3)
- B. **DISTRICT OFFICE, FILE NAME, AND NUMBER:** Sacramento District, Granite Mountain Solar Development Site, SPK-2015-00320-SG
- C. **PROJECT LOCATION AND BACKGROUND INFORMATION:**
State: **Utah** County/parish/borough: **Iron** City: **Cedar City**
Center coordinates of site (lat/long in degree decimal format): Lat. **37.77533°**, Long. **-113.2453°**
Universal Transverse Mercator: **12 302251.7 4183262.45**
Name of nearest waterbody: **Iron Springs Creek**
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: **None**
Name of watershed or Hydrologic Unit Code (HUC): **Escalante Desert, Utah, 16030006**
 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: **April 13, 2015**
 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. [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):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: **Pick List**

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: There are 16 total water features that are assessed on this form. Eight washes exhibited OHWM, bed and bank and a defined channel. **There are 6 drainages, one pond and one area that appeared to be an area of ponding (GMW1) that were considered to be non-jurisdictional based on a lack of hydrology indicators (OHWM, bed and bank, defined channel, hydric soils, vegetation). The Iron Springs Creek (ISC 1-**

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.

5) area did not exhibit any defined channel or bed and bank. ISC 2 was an excavated pond to capture run-off from the surrounding uplands. Although originally excavated within what was the Iron Creek Springs channel, there is currently no defined channel upstream or downstream of the pond. Granite Mountain West (GMW) contains several NHD mapped streams that did not exhibit any indicators of surface water flow. These waters do not connect to any downstream drainages and there are no traditionally navigable waters within the Escalante Desert Basin.

Ephemeral washes 1-8 flow from the foothills of the Three Peaks west and southwest into the proposed project area. Water 1 disappears before connecting with Iron Springs. Water 2 is an incised channel that does exhibit an OHWM and defined bed and bank in the upper reaches but dissipates before reaching Iron Springs Creek. Water 3 is a relatively wide channel with defined bed and bank and OHWM and appears to drain into the stock pond. Waters 4 and 5 have defined bed and bank and OHWM in upper reaches but once both washes are intercepted by a dirt road, there are no further indicators of any channel features on the west side of the road and there is no evidence of a connection with Iron Springs Creek. Water 6 is a defined channel with OHWM and bed and bank present but also is intercepted at the dirt road and there is no further sign of a channel downstream to connect to Iron Springs Creek. There is about 155-ft between the end of the visible channel and Iron Springs Creek. Wash 7 is a well defined channel with OHWM and bed and bank present and does appear to connect downstream to Iron Springs Creek. Water 8 is a well defined channel with OHWM and bed and bank but dissipates before reaching Iron Springs Creek.

SECTION III: CWA ANALYSIS

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

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

- 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): **Within the Granite Mountain East project Site: Iron Springs Creek (ISC) 1 was determined to be an upland swale and did not contain sufficient evidence of OHWM and bed and bank, with upland plant species interspersed throughout the channel. ISC 2 and 3 were also upland swales with similar characteristics to ISC 1. There was a stock pond formed within a depression along the main channel that had been excavated and bermed to catch surface water run-off from the surrounding slopes. No hydric soils or vegetation were found within the pond and no surface water was present during field visits. It was determined not to be a wetland. ISC 4 and 5 were associated with Iron Creek Springs, and downstream of the pond site, the channel is approximately 1-ft wide with upland vegetation within the channel. There is no sign of recent flow from the pond downstream. The second project area is northwest of GME: There were three areas (GMW 1-3) delineated at the Granite Mountain West site that did not meet the criteria for "Waters of the U.S." with no defined channels, OHWM or bed and bank.**

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): Not applicable – waters on site would not have been jurisdictional based on the MBR.

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, wide.
- 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:
 - 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; UT-THE THREE PEAKS**
 - 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):
 - Previous determination(s). File no. and date of response letter:
 - Applicable/supporting case law:
 - Applicable/supporting scientific literature: Brooks, L.E. and J.L. Mason. 2005. Hydrology and simulation of groundwater flow in Cedar Valley, Iron County, Utah. U.S. Department of Interior, Geological Survey. Scientific Investigations Report 2005-5170. Eisinger, C. 1998. A summary of the geology and hydrogeology of the Cedar Valley Drainage Basin, Iron County, Utah. Utah Geological Survey. Harlow, H.A. 2002. The geology of Cedar Valley, Iron County, Utah and its relation to ground-water conditions. Utah Geological Survey
 - Other information (please specify):

B. ADDITIONAL COMMENTS TO SUPPORT JD:

In all, 16 features were mapped for this proposed project. Washes 1-8 exhibited defined channels, OHWM features and bed and bank. However, all features drain into Iron Springs Creek that terminates approximately 20 miles northwest of the project area and has no downstream connections to any other waters. The annual rainfall of 11.3 inches coupled with the permeability of the soils within the area make it highly unlikely that surface water will drain to Iron Springs Creek except in extreme events. Iron Springs Creek drains from Cedar Valley northwest through a gap between Granite Mountain and Three Peaks area and dissipates quickly in the Escalante Desert Basin. The Escalante Desert Basin is a terminal basin with no TNWs with Iron Springs and Mud Springs Wash flowing westerly from the Cedar Valley into the Escalante Desert Basin. Iron Springs Creek drains from Cedar Valley northwest through a gap between Granite Mountain and Three Peaks area and dissipates quickly in the Escalante Desert Basin. Several of the above reports (Section IV.A.) indicate that surface flow through the gap is negligible and any flow is typically diverted for agricultural use. Iron Springs Creek terminates in a playa approximately 20 miles northwest of the proposed project area. Ephemeral washes 1-8 flow from the foothills of the Three Peaks west and southwest into the proposed project area. Water 1 disappears before connecting with Iron Springs. Water 2 is an incised channel that does exhibit an OHWM and defined bed and bank in the upper reaches but dissipates before reaching Iron Springs Creek. Water 3 is a relatively wide channel with defined bed and bank and OHWM and appears to drain into the stock pond. Waters 4 and 5 have defined bed and bank and OHWM in upper reaches but once both washes are intercepted by a dirt road, there are no further indicators of any channel features on the west side of the road and there is no evidence of a connection with Iron Springs Creek. Water 6 is a defined channel with OHWM and bed and bank present but also is intercepted at the dirt road and there is no further sign of a channel downstream to connect to Iron Springs Creek. There is about 155-ft between the end of the visible channel and Iron Springs Creek. Wash 7 is a well defined channel with OHWM and bed and bank present and does appear to connect downstream to Iron Springs Creek. Water 8 is a well defined channel with OHWM and bed and bank but dissipates before reaching Iron Springs Creek. Iron Springs Creek flows from southeast from Cedar Valley through the gap between Granite Mountain and Three Peaks into the Escalante Desert Basin and terminates in a large playa approximately 20 miles northwest of the proposed project area. The Corps found no evidence of interstate commerce within Iron Springs Creek Drainage and concluded that the waters associated with the proposed project are intrastate, isolated waters and are therefore non-jurisdictional.