



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, SACRAMENTO DISTRICT
1325 J STREET
SACRAMENTO CA 95814-2922

CESPK-RDI-N

12 June 2025

MEMORANDUM FOR RECORD

SUBJECT: US Army Corps of Engineers (Corps) Approved Jurisdictional Determination in accordance with the "Revised Definition of 'Waters of the United States'"; (88 FR 3004 (January 18, 2023) as amended by the "Revised Definition of 'Waters of the United States'; Conforming" (8 September 2023) ,¹ [SPK-2025-00055].

BACKGROUND. An Approved Jurisdictional Determination (AJD) is a Corps document stating the presence or absence of waters of the United States on a parcel or a written statement and map identifying the limits of waters of the United States on a parcel. AJDs are clearly designated appealable actions and will include a basis of JD with the document.² AJDs are case-specific and are typically made in response to a request. AJDs are valid for a period of five years unless new information warrants revision of the determination before the expiration date or a District Engineer has identified, after public notice and comment, that specific geographic areas with rapidly changing environmental conditions merit re-verification on a more frequent basis.³

On January 18, 2023, the Environmental Protection Agency (EPA) and the Department of the Army ("the agencies") published the "Revised Definition of 'Waters of the United States,'" 88 FR 3004 (January 18, 2023) ("2023 Rule"). On September 8, 2023, the agencies published the "Revised Definition of 'Waters of the United States'; Conforming", which amended the 2023 Rule to conform to the 2023 Supreme Court decision in *Sackett v. EPA*, 598 U.S., 143 S. Ct. 1322 (2023) ("*Sackett*").

This Memorandum for Record (MFR) constitutes the basis of jurisdiction for a Corps AJD as defined in 33 CFR §331.2. For the purposes of this AJD, we have relied on Section 10 of the Rivers and Harbors Act of 1899 (RHA),⁴ the 2023 Rule as amended, as well as other applicable guidance, relevant case law, and longstanding practice in evaluating jurisdiction.

1. SUMMARY OF CONCLUSIONS.

¹ While the Revised Definition of "Waters of the United States"; Conforming had no effect on some categories of waters covered under the CWA, and no effect on any waters covered under RHA, all categories are included in this Memorandum for Record for efficiency.

² 33 CFR 331.2.

³ Regulatory Guidance Letter 05-02.

⁴ USACE has authority under both Section 9 and Section 10 of the Rivers and Harbors Act of 1899 but for convenience, in this MFR, jurisdiction under RHA will be referred to as Section 10.

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a. Provide a list of each individual feature within the review area and the jurisdictional status of each one (i.e., identify whether each feature is/is not a water of the United States and/or a navigable water of the United States).

(1) Drainage Area 1, non-jurisdictional.

(2) Drainage Area 2, non-jurisdictional.

(3) Drainage Area 3, non-jurisdictional.

(4) Drainage Area 4, non-jurisdictional.

2. REFERENCES.

a. "Revised Definition of 'Waters of the United States,'" 88 FR 3004 (January 18, 2023) ("2023 Rule")

b. "Revised Definition of 'Waters of the United States'; Conforming" 88 FR 61964 (September 8, 2023))

c. *Sackett v. EPA*, 598 U.S. 651, 143 S. Ct. 1322 (2023)

d. Memorandum for Record "Verification of Aquatic Resource Delineation Report for the Arida 2b Solar Project" (June 12, 2025).

e. *Arizona v. California*, 283 U.S. 423, 51 S. Ct. 522 (1931)

f. *Arizona v. California*, 298 U.S. 558, 56 S. Ct 848 (1936)

g. SPK-2016-00281 Administrative Record

3. REVIEW AREA. The approximately 1,020-acre review area is located west of Needles Highway at Latitude: 35.170156, Longitude: -114.633853, Clark County, Nevada. See Figure 1 which contains the boundaries of the review area. The review area overlaps in the southeastern corner with an AJD issued 18 January 2024 for SPK-2016-00281. This previous AJD determined that no aquatic resources in its entire review, including the overlap, were subject to either Section 10 or Section 404.

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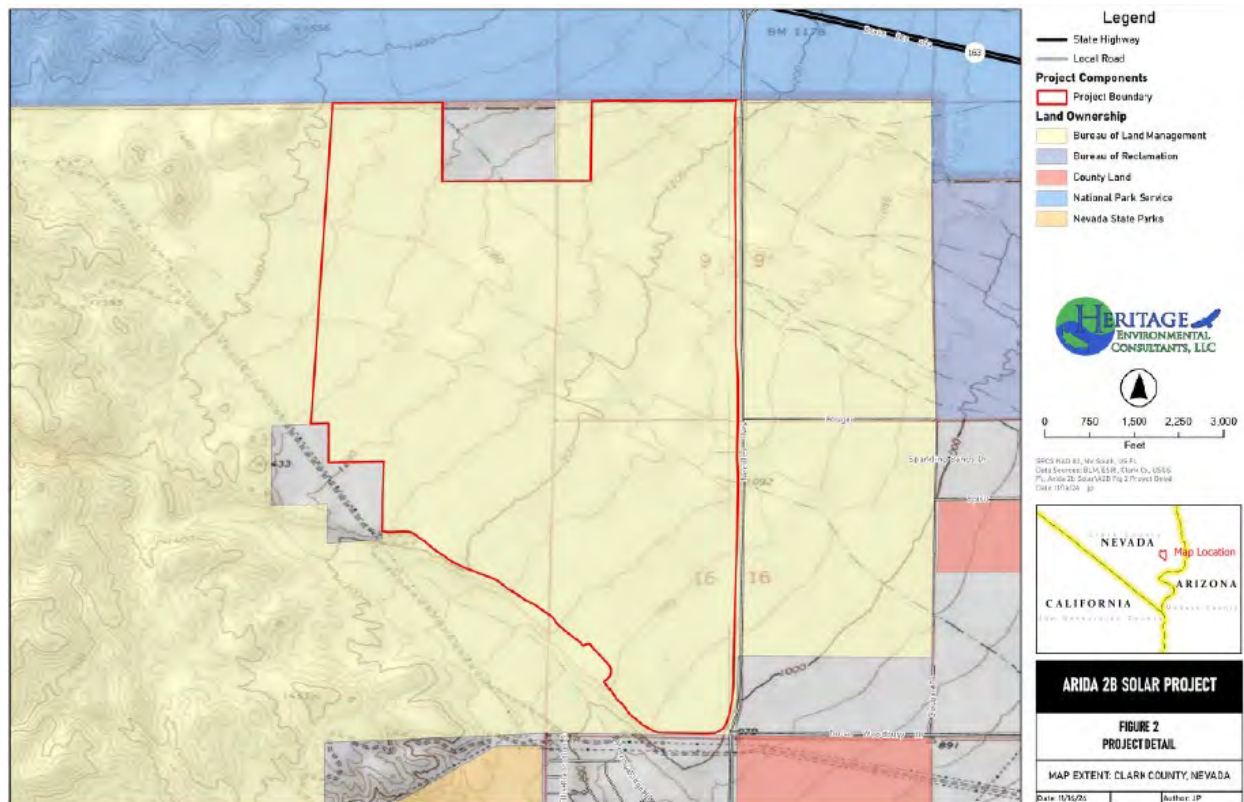


Figure 1. Review Area

4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), THE TERRITORIAL SEAS, OR INTERSTATE WATER TO WHICH THE AQUATIC RESOURCE IS CONNECTED. The nearest TNW to which aquatic resources in the review area are connected to is the Colorado River, specifically the stretch extending from below the Hoover Dam to the international border between the United States of America and the United Mexican States. This portion of the river was officially recognized as navigable by the U.S. Supreme Court in *Arizona v. California* (1931 and 1936). In the 1936 decision, the Court stated:

“The Colorado river is a navigable stream of the United States. The privilege of the states through which it flows and their inhabitants to appropriate and use the water is subject to the paramount power of the United States to control it for the purpose of improving navigation.”

The Colorado River is a Navigable Water of the U.S. for jurisdictional purposes under Section 10. Waters subject to Section 10 jurisdiction meet the definition of a TNW. The preamble to the Revised Definition of Waters of the United States stated (Reference 2.a):

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“Paragraph (a)(1)(i) waters include all of the ‘navigable waters of the United States,’ defined in 33 CFR part 329”⁵

5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, THE TERRITORIAL SEAS, OR INTERSTATE WATER. Aquatic resources within the review area flow from west to east, continuing beyond the review area for approximately 3.1 miles before entering the Colorado River.

6. SECTION 10 JURISDICTIONAL WATERS⁶: Describe aquatic resources or other features within the review area determined to be jurisdictional in accordance with Section 10 of the Rivers and Harbors Act of 1899. Include the size of each aquatic resource or other feature within the review area and how it was determined to be jurisdictional in accordance with Section 10.⁷ N/A.

7. SECTION 404 JURISDICTIONAL WATERS: Describe the aquatic resources within the review area that were found to meet the definition of waters of the United States in accordance with the 2023 Rule as amended, consistent with the Supreme Court’s decision in *Sackett*. List each aquatic resource separately, by name, consistent with the naming convention used in section 1, above. Include a rationale for each aquatic resource, supporting that the aquatic resource meets the relevant category of “waters of the United States” in the 2023 Rule as amended. The rationale should also include a written description of, or reference to a map in the administrative record that shows, the lateral limits of jurisdiction for each aquatic resource, including how that limit was determined, and incorporate relevant references used. Include the size of each aquatic resource in acres or linear feet and attach and reference related figures as needed.

- a. Traditional Navigable Waters (TNWs) (a)(1)(i): N/A.
- b. The Territorial Seas (a)(1)(ii): N/A.
- c. Interstate Waters (a)(1)(iii): N/A.
- d. Impoundments (a)(2): N/A.

⁵ 88 FR 3069

⁶ 33 CFR 329.9(a) A waterbody which was navigable in its natural or improved state, or which was susceptible of reasonable improvement (as discussed in § 329.8(b) of this part) retains its character as “navigable in law” even though it is not presently used for commerce, or is presently incapable of such use because of changed conditions or the presence of obstructions.

⁷ This MFR is not to be used to make a report of findings to support a determination that the water is a navigable water of the United States. The district must follow the procedures outlined in 33 CFR part 329.14 to make a determination that water is a navigable water of the United States subject to Section 10 of the RHA.

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- e. Tributaries (a)(3): N/A.
- f. Adjacent Wetlands (a)(4): N/A.
- g. Additional Waters (a)(5): N/A.

8. NON-JURISDICTIONAL AQUATIC RESOURCES AND FEATURES

a. Describe aquatic resources and other features within the review area identified in the 2023 Rule as amended as not “waters of the United States” even where they otherwise meet the terms of paragraphs (a)(2) through (5). Include the type of excluded aquatic resource or feature, the size of the aquatic resource or feature within the review area and describe how it was determined to meet one of the exclusions listed in 33 CFR 328.3(b).⁸ N/A.

b. Describe aquatic resources and features within the review area that were determined to be non-jurisdictional because they do not meet one or more categories of waters of the United States under the 2023 Rule as amended (e.g., tributaries that are non-relatively permanent waters; non-tidal wetlands that do not have a continuous surface connection to a jurisdictional water).

Drainage Area 1 (79,111 linear feet), Drainage Area 2 (42,017 linear feet), Drainage Area 3 (42,250 linear feet), and Drainage Area 4 (19,645 linear feet) do not meet the criteria for Waters of the United States. Although these aquatic resources exhibit ordinary high-water marks and serve as tributaries to a Traditional Navigable Waterway (TNW), they flow solely in response to precipitation and are therefore not considered relatively permanent waters.

9. DATA SOURCES. List sources of data/information used in making determination. Include titles and dates of sources used and ensure that information referenced is available in the administrative record.

- a. Office evaluation conducted 12 June 2025.
- b. “Arida 2B Solar Project Aquatic Resources Survey Report” prepared by Heritage Environmental Consultants, LLC., dated December 2024.
- c. USGS. 3D Elevation Program “1 Meter 11 x71y390 NV_ClarkCounty_B22”. Published Date 30 October 2023. Accessed 12 June 2025.

⁸ 88 FR 3004 (January 18, 2023)

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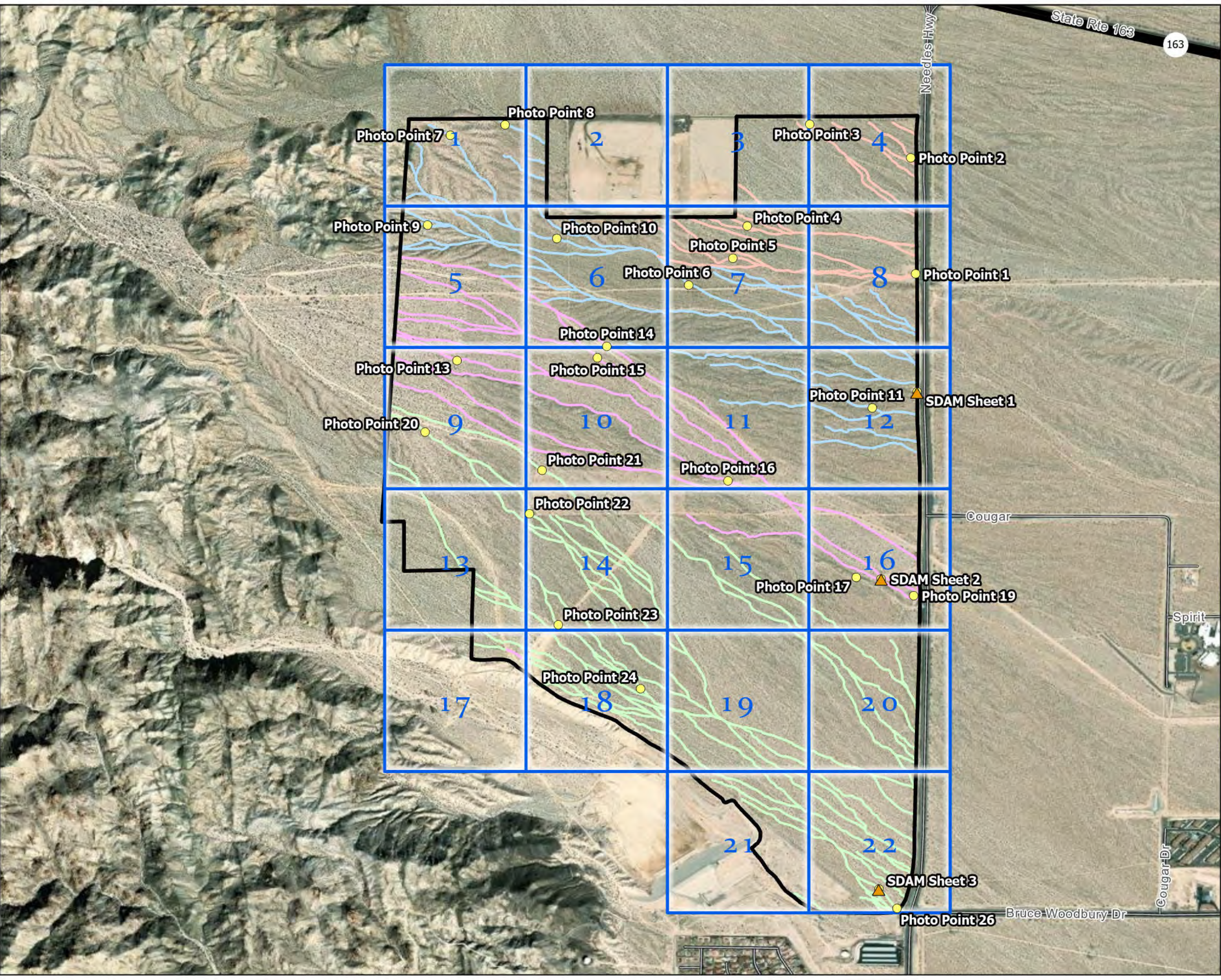
d. USFWS. National Wetland Inventory Mapper. Accessed 12 June 2025.

e. USGS. National Hydrography Dataset Plus Hydrologic Unit 4 – 1503. Accessed 12 June 2025.

10. OTHER SUPPORTING INFORMATION. See Reference 2.d.

11. NOTE: The structure and format of this MFR were developed in coordination with the EPA and Department of the Army. The MFR's structure and format may be subject to future modification or may be rescinded as needed to implement additional guidance from the agencies; however, the approved jurisdictional determination described herein is a final agency action.





Legend

- State Highway
- Local Road
- Mapbook Page
- Photo Points
- SDAM

Project Components

- Survey Boundary

Drainage Areas

- 001
- 002
- 003
- 004

0 1,000 2,000
US Feet

SPCS NAD 83, NV South, US Ft.
Data Sources: BLM, ESRI, Clark Co., USGS.
F:\...Arida 2b Solar\A2B Fig 5 Survey Results
Date: 11/14/24 jp

ARIDA 2B SOLAR PROJECT

FIGURE 5 SURVEY RESULTS

MAP EXTENT: CLARK COUNTY, NEVADA

Date: 11/14/24	Author: JP
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**APPROVED JURISDICTION DETERMINATION
SECTION 404 CLEAN WATER ACT**

U.S. Army Corps of Engineers, Los Angeles District
Application No. SPL-XXXX-XXXX

Boundary of Jurisdictional Waters of the
United States

Approximate Ordinary High Water Mark

Wetlands (If legend is blank no
wetlands occur within the survey area)

Scale - See scale bar
Photography Date - 7/14/2023
Site Visit By Corps (Y/N) - N
Date - N/A
Determination Issues -
Project Manager -

Legend

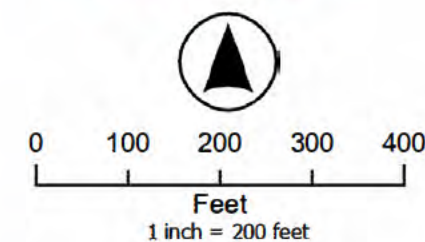
Local Road

Culverts

Photo Points

SDAM

Page Number: 1 of 22



State Plane Coordinate System
NAD 83 , Nevada South
Feet



ARIDA 2B SOLAR PROJECT

**FIGURE 5
SURVEY RESULTS**

MAP EXTENT: CLARK COUNTY, NEVADA

Date: 11/14/24

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Project Manager -

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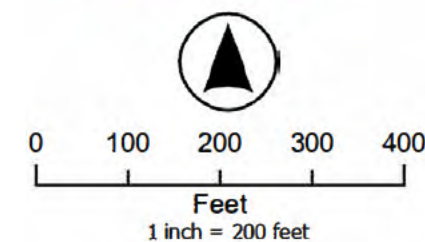
Local Road

Culverts

Photo Points

SDAM

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State Plane Coordinate System
NAD 83 , Nevada South
Feet



ARIDA 2B SOLAR PROJECT

**FIGURE 5
SURVEY RESULTS**

MAP EXTENT: CLARK COUNTY, NEVADA

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Project Manager -

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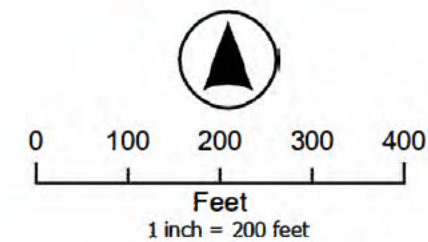
Local Road

Culverts

Photo Points

SDAM

Page Number: 3 of 22



State Plane Coordinate System
NAD 83 , Nevada South
Feet



ARIDA 2B SOLAR PROJECT

**FIGURE 5
SURVEY RESULTS**

MAP EXTENT: CLARK COUNTY, NEVADA

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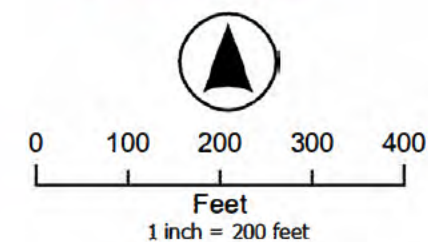
- Boundary of Jurisdictional Waters of the United States
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- Wetlands (If legend is blank no wetlands occur within the survey area)

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Site Visit By Corps (Y/N) - N
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Determination Issues -
Project Manager -

Legend

- Local Road
- Culverts
- Photo Points
- SDAM

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State Plane Coordinate System
NAD 83 , Nevada South
Feet



ARIDA 2B SOLAR PROJECT

**FIGURE 5
SURVEY RESULTS**

MAP EXTENT: CLARK COUNTY, NEVADA

Date: 11/14/24 Author: JP



**APPROVED JURISDICTION DETERMINATION
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Boundary of Jurisdictional Waters of the
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Site Visit By Corps (Y/N) - N
Date - N/A
Determination Issues -
Project Manager -

Legend

Local Road

Culverts

Photo Points

SDAM

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0 100 200 300 400
Feet
1 inch = 200 feet

State Plane Coordinate System
NAD 83 , Nevada South
Feet



ARIDA 2B SOLAR PROJECT

**FIGURE 5
SURVEY RESULTS**

MAP EXTENT: CLARK COUNTY, NEVADA

Date: 11/14/24

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Site Visit By Corps (Y/N) - N
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Determination Issues -
Project Manager -

Legend

Local Road

Culverts

Photo Points

SDAM

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0 100 200 300 400
Feet
1 inch = 200 feet

State Plane Coordinate System
NAD 83 , Nevada South
Feet



ARIDA 2B SOLAR PROJECT

**FIGURE 5
SURVEY RESULTS**

MAP EXTENT: CLARK COUNTY, NEVADA

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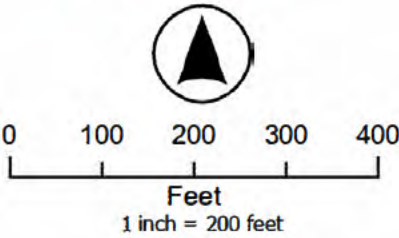
Local Road

Culverts

Photo Points

SDAM

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State Plane Coordinate System
NAD 83 , Nevada South
Feet



ARIDA 2B SOLAR PROJECT

**FIGURE 5
SURVEY RESULTS**

MAP EXTENT: CLARK COUNTY, NEVADA

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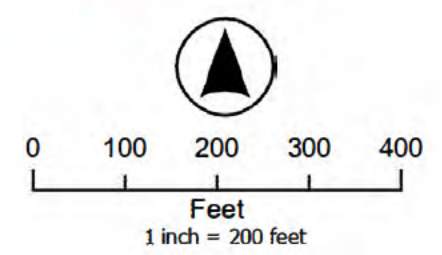
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Photography Date - 7/14/2023
Site Visit By Corps (Y/N) - N
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Determination Issues -
Project Manager -

Legend

- Local Road
- Culverts
- Photo Points
- SDAM

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State Plane Coordinate System
NAD 83 , Nevada South
Feet



ARIDA 2B SOLAR PROJECT

**FIGURE 5
SURVEY RESULTS**

MAP EXTENT: CLARK COUNTY, NEVADA

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Legend

Local Road

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Photo Points

SDAM

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0 100 200 300 400
Feet
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State Plane Coordinate System
NAD 83 , Nevada South
Feet



ARIDA 2B SOLAR PROJECT

**FIGURE 5
SURVEY RESULTS**

MAP EXTENT: CLARK COUNTY, NEVADA

Date: 11/14/24

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Photo Point 13

Photo Point 20

Photo Point 21

002

001

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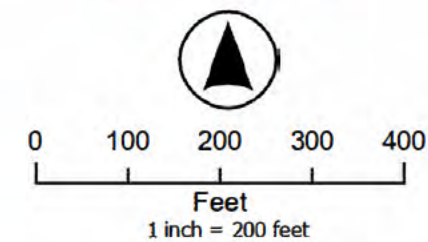
Local Road

Culverts

Photo Points

SDAM

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State Plane Coordinate System
NAD 83 , Nevada South
Feet



ARIDA 2B SOLAR PROJECT

**FIGURE 5
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0 100 200 300 400
Feet
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State Plane Coordinate System
NAD 83 , Nevada South
Feet



ARIDA 2B SOLAR PROJECT

**FIGURE 5
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MAP EXTENT: CLARK COUNTY, NEVADA

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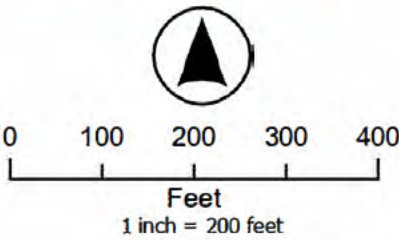
Local Road

Culverts

Photo Points

SDAM

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State Plane Coordinate System
NAD 83 , Nevada South
Feet



ARIDA 2B SOLAR PROJECT

FIGURE 5
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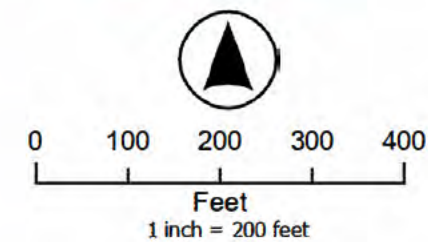
Local Road

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Photo Points

SDAM

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State Plane Coordinate System
NAD 83 , Nevada South
Feet



ARIDA 2B SOLAR PROJECT

**FIGURE 5
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MAP EXTENT: CLARK COUNTY, NEVADA

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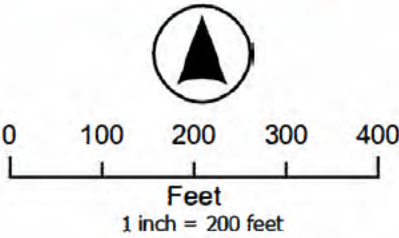
Local Road

Culverts

Photo Points

SDAM

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State Plane Coordinate System
NAD 83 , Nevada South
Feet



ARIDA 2B SOLAR PROJECT

**FIGURE 5
SURVEY RESULTS**

MAP EXTENT: CLARK COUNTY, NEVADA

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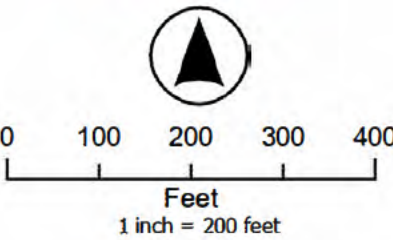
Local Road

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Photo Points

SDAM

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State Plane Coordinate System
NAD 83 , Nevada South
Feet



ARIDA 2B SOLAR PROJECT

**FIGURE 5
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0 100 200 300 400
Feet
1 inch = 200 feet

State Plane Coordinate System
NAD 83 , Nevada South
Feet



ARIDA 2B SOLAR PROJECT

**FIGURE 5
SURVEY RESULTS**

MAP EXTENT: CLARK COUNTY, NEVADA

Date: 11/14/24

Author: JP



**APPROVED JURISDICTION DETERMINATION
SECTION 404 CLEAN WATER ACT**

U.S. Army Corps of Engineers, Los Angeles District
Application No. SPL-XXXX-XXXX

Boundary of Jurisdictional Waters of the
United States

Approximate Ordinary High Water Mark

Wetlands (If legend is blank no
wetlands occur within the survey area)

Scale - See scale bar
Photography Date - 7/14/2023
Site Visit By Corps (Y/N) - N
Date - N/A
Determination Issues -
Project Manager -

Legend

Local Road

Culverts

Photo Points

SDAM

Page Number: 17 of 22



0 100 200 300 400
Feet
1 inch = 200 feet

State Plane Coordinate System
NAD 83 , Nevada South
Feet



ARIDA 2B SOLAR PROJECT

**FIGURE 5
SURVEY RESULTS**

MAP EXTENT: CLARK COUNTY, NEVADA

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Determination Issues -
Project Manager -

Legend

Local Road

Culverts

Photo Points

SDAM

Page Number: 18 of 22



0 100 200 300 400
Feet
1 inch = 200 feet

State Plane Coordinate System
NAD 83 , Nevada South
Feet



ARIDA 2B SOLAR PROJECT

**FIGURE 5
SURVEY RESULTS**

MAP EXTENT: CLARK COUNTY, NEVADA


Date: 11/14/24

Author: JP

**APPROVED JURISDICTION DETERMINATION
SECTION 404 CLEAN WATER ACT**

U.S. Army Corps of Engineers, Los Angeles District
Application No. SPL-XXXX-XXXX

 Boundary of Jurisdictional Waters of the United States

 Approximate Ordinary High Water Mark

Wetlands (If legend is blank no wetlands occur within the survey area)


Scale - See scale bar
Photography Date - 7/14/2023
Site Visit By Corps (Y/N) - N
Date - N/A
Determination Issues -
Project Manager -

Legend

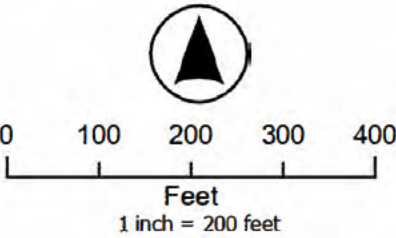
 Local Road

 Culverts

 Photo Points

 SDAM

Page Number: 19 of 22



State Plane Coordinate System
NAD 83 , Nevada South
Feet



ARIDA 2B SOLAR PROJECT

**FIGURE 5
SURVEY RESULTS**



MAP EXTENT: CLARK COUNTY, NEVADA

Date: 11/14/24

Author: JP





**APPROVED JURISDICTION DETERMINATION
SECTION 404 CLEAN WATER ACT**

U.S. Army Corps of Engineers, Los Angeles District
Application No. SPL-XXXX-XXXXX

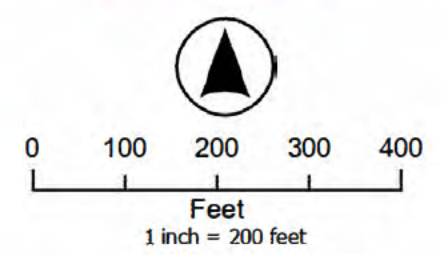
-  Boundary of Jurisdictional Waters of the United States
-  Approximate Ordinary High Water Mark
- Wetlands (If legend is blank no wetlands occur within the survey area)

Scale - See scale bar
Photography Date - 7/14/2023
Site Visit By Corps (Y/N) - N
Date - N/A
Determination Issues -
Project Manager -

Legend

-  Local Road
-  Culverts
-  Photo Points
-  SDAM

Page Number: 20 of 22



State Plane Coordinate System
NAD 83 , Nevada South
Feet



ARIDA 2B SOLAR PROJECT

**FIGURE 5
SURVEY RESULTS**

MAP EXTENT: CLARK COUNTY, NEVADA

Date: 11/14/24 Author: JP



**APPROVED JURISDICTION DETERMINATION
SECTION 404 CLEAN WATER ACT**

U.S. Army Corps of Engineers, Los Angeles District
Application No. SPL-XXXX-XXXX

Boundary of Jurisdictional Waters of the
United States

Approximate Ordinary High Water Mark

Wetlands (If legend is blank no
wetlands occur within the survey area)

Scale - See scale bar
Photography Date - 7/14/2023
Site Visit By Corps (Y/N) - N
Date - N/A
Determination Issues -
Project Manager -

Legend

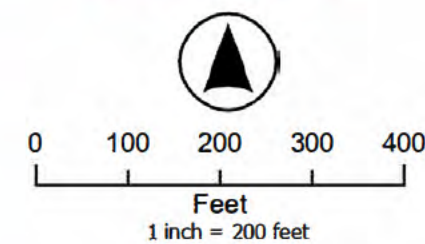
Local Road

Culverts

Photo Points

SDAM

Page Number: 21 of 22



State Plane Coordinate System
NAD 83 , Nevada South
Feet



ARIDA 2B SOLAR PROJECT

**FIGURE 5
SURVEY RESULTS**

MAP EXTENT: CLARK COUNTY, NEVADA

Date: 11/14/24

Author: JP

**APPROVED JURISDICTION DETERMINATION
SECTION 404 CLEAN WATER ACT**

U.S. Army Corps of Engineers, Los Angeles District
Application No. SPL-XXXX-XXXX

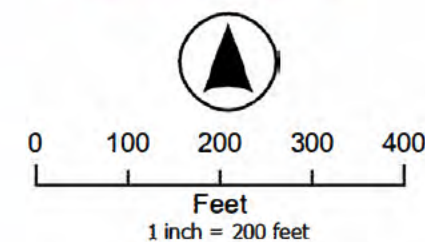
- Boundary of Jurisdictional Waters of the United States
- Approximate Ordinary High Water Mark
- Wetlands (If legend is blank no wetlands occur within the survey area)

Scale - See scale bar
Photography Date - 7/14/2023
Site Visit By Corps (Y/N) - N
Date - N/A
Determination Issues -
Project Manager -

Legend

- Local Road
- Culverts
- Photo Points
- SDAM

Page Number: 22 of 22



State Plane Coordinate System
NAD 83 , Nevada South
Feet



ARIDA 2B SOLAR PROJECT

**FIGURE 5
SURVEY RESULTS**

MAP EXTENT: CLARK COUNTY, NEVADA

Date: 11/14/24

Author: JP

