Appendix F

Jurisdictional Delineation

Ironwood Consulting

370 Alabama Street, Suite A
Redlands, CA 92373
(909) 798-0330
www.ironwoodbio.com

JURISDICTIONAL WATERS REPORT

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Easley Renewable Energy Project

Prepared for:

Aspen Environmental Group
5020 Chesebro Road, Suite 200
Agoura Hills, CA 91301;

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Acronyms

AJD	Approved Jurisdictional Determination
amsl	above mean sea level
ACEC	Area of Critical Environmental Concern
BLM	Bureau of Land Management
CA-177	California Highway 177
CDFW	California Department of Fish and Wildlife
CEC	California Energy Commission
CEQA	California Environmental Quality Act
CFGC	California Fish and Game Code
CNPS	California Native Plant Society
CWA	Clean Water Act
EPA	Environmental Protection Agency
FEIS	Final Environmental Impact Statement
GIS	Geographic Information Systems
GPS	Global Positioning System
HR	Hydrologic Region
I-10	Interstate 10
LSAA	Lake and Streambed Alteration Agreement
NEPA	National Environmental Protection Act
NECO Plan	Northern and Eastern Colorado Desert Coordinated Management Plan
NRCS	Natural Resource Conservation Service
NVCS	National Vegetation Classification System
PV	Photovoltaic
ROW	Right of Way
SWRCB	State Water Resources Control Board
TNW	Traditionally Navigable Water
USACE	U.S. Army Corps of Engineers
USFWS	US Fish and Wildlife Service
WDR	Waste Discharge Requirements

1 Introduction

1.1 Background

Intersect Power (Intersect) is proposing to develop the Easley Renewable Energy Project (Project) near the Desert Center community in unincorporated Riverside County, California (Figure 1). The proposed Project site is located on both Bureau of Land Management (BLM)-managed lands and acquired private property parcels that will be connecting to the existing Southern California Edison Red Bluff substation through a generation-tie (gen-tie) line that will be co-located with the Oberon Renewable Energy Project (Oberon). Aspen Environmental (Aspen) is overseeing all environmental permitting for the Project and has contracted Ironwood Consulting Inc. (Ironwood) to delineate jurisdictional waters and other aquatic resources within the Project site. The following report describes delineation methods and the results of an investigation and assessment to determine the presence of waters that may be subject to federal jurisdiction under the Clean Water Act as well as Regional Water Quality Control Board (RWQCB) jurisdiction as waters of the state (WOTS), and California Department of Fish and Wildlife (CDFW) jurisdiction under § 1602 of the California Fish and Game Code (CFGC). The primary purpose of this report is to provide the locations, extents, and estimation of impacts to potentially jurisdictional waters in support of Project compliance requirements under the Water Quality Certification and Wetlands Program as well as Waste Discharge Program implemented by RWQCB, and Lake and Streambed Alteration (LSA) Program implemented by CDFW.

1.2 Site Location

The Project site is in unincorporated Riverside County, California within Chuckwalla Valley near the community of Desert Center, nearly halfway between the cities of Indio, CA and Blythe, AZ. The Project site consists of approximately 2,741 acres of BLM-managed land and 1,014 acres of acquired private parcels – the Project site is situated immediately northwest of California Highway 177 (CA-177) and east of Kaiser Road (Figure2 1 and 2). A small portion of the Project site is east of CA-177. The Public land portions of the Project site are within Desert Renewable Energy Conservation Plan (DRECP) Renewable Energy Development Focus Areas (Figure 1) between Desert Harvest Solar Facility, Oberon Renewable Energy Project, and the Desert Center community. Nearby land uses include previously developed or developing solar facilities, transmission lines, fallow and active agriculture, and rural residences.

1.3 Project Summary

Easley Renewable Energy Project is proposing to construct, operate, maintain, and decommission an up-to-400 MW solar photovoltaic (PV) electricity generating station, battery energy storage facility, electrical substation, gen-tie lines, appurtenant facilities, and and associated access roads on approximately 2,700 acres of BLM managed land and 1,000 acres of acquired private land in Riverside County, California. A 6.7-mile 500 kilovolt (kV) gen-e-ra-tion-tie (gen-tie) line would mainly traverse across the approved Oberon Renewable Energy Project (Oberon), an adjacent solar and energy storage facility owned by Intersect Power, and connect into Oberon's approved substation, which is currently under construction. From the Oberon onsite substation, the

power generated by the Easley Project would be transmitted to the SCE Red Bluff Substation via the existing Oberon 500 kV gen-tie line, which is expected to be online by the end of 2023.

2 Regulatory Setting

2.1 Clean Water Act (§ 401 and § 404)

Section 404 of the Clean Water Act (CWA) is a federal law administered by the U.S. Army Corps of Engineers (USACE) and the U.S. Environmental Protection Agency (USEPA) (collectively the "agencies") to protect the physical, biological, and chemical integrity of waters of the United States (WOTUS). Under provisions of the CWA, USACE administers the activities required by § 404. These include the individual permit decisions, jurisdictional determinations, developing policy and guidance, and enforcing provisions of § 404. The CWA provides authority for USEPA and USACE to define WOTUS in regulations (33 CFR 328), which have been addressed in four Supreme Court decisions.

The Supreme Court most recently reviewed the definition of WOTUS in arguments held in October 2022 regarding *Sackett v. EPA*. A decision was issued on May 25, 2023, in which it was held that the CWA's use of "waters" refers only to "geographic features that are described in ordinary parlance as 'streams, oceans, rivers, and lakes'" and to adjacent wetlands that are "indistinguishable" from those bodies of water due to a continuous surface connection. Prior to *Sackett v. EPA,* the Supreme Court interpreted the term WOTUS

in their consolidated decision in *Rapanos v. U.S.* and in *Carabell v. U.S.* (hereafter referred to as the *Rapanos* decision). A *Jurisdictional Determination Form Instructional Guidebook* (USACE 2007) was prepared to provide guidance on interpretation and implementation of the *Rapanos* decision, which states:

> *…the Rapanos decision provided two new analytical standards for determining whether water bodies that are not traditional navigable waters (TNWs), including wetlands adjacent to those non-TNWs, are subject to CWA jurisdiction: (1) if the water body is relatively permanent, or if the water body is a wetland that directly abuts (e.g., the wetland is not separated from the tributary by uplands, a berm, dike, or similar feature) a relatively permanent water body (RPW), or (2) if a water body, in combination with all wetlands adjacent to that water body, has a significant nexus with TNWs.*

As a result of *Rapanos*, USEPA and USACE developed the *Memorandum Regarding CWA Jurisdiction Following Rapanos v. United States* ("2008 Guidance"). This guidance requires the application of the two new standards described above, as well as a greater level of documentation, to support an agency Jurisdictional Determination for a particular water body. Furthermore, this guidance required the USACE and EPA to develop a revised Jurisdictional Determination form to be used by field staff for documenting assertion or declination of CWA jurisdiction. Under these rulings, and as summarized in the 2008 Guidance document (USACE and EPA 2008), the agencies asserted jurisdiction over the following waters:

- Traditional Navigable Waters (TNW)
- Wetlands adjacent to Traditional Navigable Waters

- Non-navigable tributaries of Traditional Navigable Waters that are relatively permanent where the tributaries typically flow year-round or have continuous flow at least seasonally (e.g., typically three months)
- Wetlands that directly abut such tributaries

Further, the agencies decide jurisdiction on a case-by-case basis to determine if they have a significant nexus with a Traditional Navigable Water:

- Non-navigable tributaries that are not relatively permanent
- Wetlands adjacent to non-navigable tributaries that are not relatively permanent
- Wetlands adjacent to but that do not directly abut a relatively permanent non-navigable tributary

Wetlands are defined as "Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that normally do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include marshes, swamps, bogs, and similar areas" (Environmental Laboratory 1987). "Adjacent" in the rulings means bordering, contiguous, or neighboring. Wetlands separated from other WOTUS by man-made dikes or barriers, natural river berms, or beach dunes are considered "adjacent wetlands."

Navigable Waters of the U.S. are defined as "those Waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce" (33 CFR Part 329.4). Navigable Waters include the open ocean, tidal bays, salt marshes, and some large rivers and lakes. The upstream limit of a navigable river is the head of navigation as designated by USACE (33 CFR Part 329.4).

Further, as outlined in the 2008 guidance document, USACE generally will not assert jurisdiction over the following features: swales or erosional features (e.g., gullies, small washes characterized by low volume, infrequent, or short duration flow) and ditches (including roadside ditches) excavated wholly in and draining only uplands, as these features are generally not considered tributaries, or they do not have a significant nexus to a downstream Navigable Waters. In applying the significant nexus standard, the agencies (USACE and EPA) may consider the flows and functions of a tributary together with the functions performed by adjacent wetlands adjacent to a tributary.

In 2015, the agencies issued a new Clean Water Rule (2015 Clean Water Rule), which did not establish any regulatory requirements and was focused on clarifying the scope of WOTUS consistent with the CWA, specifically relating to waters with ambiguous jurisdictional status following multiple Supreme Court rulings. The 2015 Clean Water Rule was replaced by the Navigable Waters Protection Rule (NWPR) in a two-step process which repealed the 2015 Rule in 2019 and re-codified the regulatory text that existed prior to the 2015 Rule in 2020.

On August 30, 2021, the USACE and USEPA were in receipt of the U.S. District Court for the District of Arizona's order vacating and remanding NWPR in the case of *Pascua Yaqui Tribe vs. U.S. Environmental Protection Agency.* In light of this order, the agencies halted implementation of NWPR and are interpreting WOTUS consistent with the pre-2015 regulatory regime. On November 18, 2021, the agencies announced the signing of a proposed rule

to revise the definition of WOTUS, which would put back in place pre-2015 definition of WOTUS. The current regulatory definition of WOTUS is consistent with the pre-2015 regulatory regime while the agencies continue review of public comments on a proposed revised definition of "waters of the United States" (33 CFR Part 328).

On December 30, 2022, the agencies announced a new Clean Water final rule founded upon the pre-2015 regulatory regime and definitions of WOTUS, which will become effective on March 20, 2023. In the "Revised Definition of waters of the U.S.", the agencies establish the definition of "waters of the U.S." to include the following categories of waterbodies:

- TNWs – large rivers and lakes that could be used in interstate commerce, as well as waterbodies affected by tides (a)(1).
- Territorial Seas – extending three miles out to sea from the coast (a)(1).
- Interstate Waters – streams, lakes, or wetlands that cross or form part of state boundaries (a)(1).
- Impoundments of WOTUS – impounded water bodies created in or from WOTUS (a)(2).
- Tributaries – branches of creeks, streams, rivers, lakes, ponds, ditches, and impoundments that ultimately flow into TNW, territorial seas, interstate waters, or impoundments of WOTUS (a)(3).
- Adjacent Wetlands – wetlands next to, abutting, or near other WOTUS or behind certain natural or constructed features (a)(4).
- Additional Waters – lakes, ponds, streams, or wetlands that do not fit into the above categories (a)(5).

Jurisdiction over tributaries, adjacent wetlands, and additional waters, is decided on a case-by-case basis by applying two standards:

- Relatively Permanent Standard – waterbodies must be relatively permanent, standing, or continuously flowing waters connected to paragraph (a)(1) waters or waters with a continuous surface connection to relatively permanent waters or to paragraph (a)(1) waters.
- Significant Nexus Standard – certain waterbodies, such as tributaries or wetlands, are jurisdictional based on their connection to and effect on larger downstream WOTUS. A significant nexus exists if the waterbody (alone or in combination) significantly affects the chemical, physical, or biological integrity of traditional navigable waters, the territorial seas, or interstate waters.

The agencies are currently in receipt of the Supreme Court's May 25, 2023, decision in the case of Sackett v. EPA and the agencies will interpret the phrase "waters of the U.S.." consistent with the Supreme Court's decision in Sackett. Notwithstanding the *Sackett* decision, current jurisdictional determinations are anticipated to be consistent with the 2023 Revised Definitions of WOTUS. Further, the analysis of potential CWA jurisdiction in this report draw upon the guidance issued to implement the pre-2015 regulatory regime.

2.2 California Porter-Cologne Water Quality Act

The Porter-Cologne Water Quality Control Act (Porter-Cologne), Division 7 of the California Water Code, establishes the responsibilities and authorities of the nine Regional Water Quality Control Boards (RWQCBs) and the State Water Resources Control Board (SWRCB). This act establishes that the waters of the State shall be protected for use and enjoyment by the people of the State; that the activities and factors which may affect the quality of the waters of the State shall be regulated to attain the highest water quality. Porter-Cologne also

names the RWQCBs to formulate and adopt water quality control plans for all areas within the region. In the State of California, SWRCB and RWQCBs, in conjunction with USACE, administer Section 401 of the CWA (33 U.S.C. 1341) in relation to permitting fill of federally jurisdictional waters. Additionally, beyond federal jurisdiction the SWRCB and the RWQCBs may exert regulatory authority over waters of the state, which are defined in Section 13050(e) of the Porter-Cologne Water Quality Act as "any surface water or groundwater, including saline waters, within the boundaries of the state." This definition may include isolated wetlands and other waters that may be outside of federal jurisdiction, which may be subject to Waste Discharge Requirements (WDRs).

Under Porter-Cologne, the RWQCB may regulate discharge of waste. All parties proposing to discharge waste that could affect waters of the State must file a report of waste discharge with the appropriate RWQCB (§ 13260 of the California Water Code). The RWQCB would then respond to the report of waste discharge by issuing WDRs, or by waiving WDRs for the proposed discharge. Both of the terms *Discharge of Waste* and *waters of the State* are broadly defined such that discharges of waste, including fill, any material resulting from human activity or any other discharge that may directly or indirectly affect waters of the State. While all waters of the U.S. that are within the borders of California are also waters of the State pursuant to Porter-Cologne, the converse is not true. Waters of the U.S. are federally jurisdictional and legally distinct from waters of the State. While CWA Section 404 permits and Section 401 certifications are required when activity results in fill or discharge directly below the ordinary high water mark of waters of the U.S., any activity that results or may result in a discharge that directly or indirectly impacts waters of the State or the beneficial uses of those waters may be subject to WDRs.

Effective on May 28, 2020, the SWRCB adopted the *State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State* (Procedures), for inclusion in the forthcoming Water Quality Control Plan for Inland Surface Waters and Enclosed Bays and Estuaries and Ocean Waters of California. The Procedures include the following four primary components:

1) a wetland definition;
2) a framework for determining if a feature that meets the wetland definition is a water of the state;
3) wetland delineation procedures; and
4) procedures for the submittal, review and approval of applications for Water Quality Certifications and Waste Discharge Requirements for dredge or fill activities.

The Procedures define a wetland as an area, which under normal circumstances, supports:

- continuous or recurrent saturation of the upper substrate caused by groundwater, or shallow surface water, or both;
- the duration of such saturation is sufficient to cause anaerobic conditions in the upper substrate; and
- the area's vegetation is dominated by hydrophytes or the area lacks vegetation.

The Procedures describe a jurisdictional framework for aquatic features that meet the current, or any historic definition, of a wetland. The Water Boards rely on wetland area determinations from that verified by USACE following the methods described in the 1987 Corps of Engineers Wetlands Delineation Manual (Environmental Laboratory 1987) and regional supplements. The methods described are accepted for delineation of wetlands

but modified only to allow for the fact that the lack of vegetation does not preclude the determination of an area meeting the definition of a wetland. Aquatic features that do not meet the definition of a wetland may still be regulated as a non-wetland water of the state (e.g., lakes, streams, and ocean waters) but the Procedures do not include guidance for jurisdictional determinations for other waters of the state.

The following wetlands are considered "waters of the state":

1. Natural wetlands,
2. Wetlands created by modification of a surface water of the state, and
3. Artificial wetlands that meet the following criteria:
    a. Approved by an agency as compensatory mitigation for impacts to other waters of the state except where the approving agency explicitly identifies the mitigation as being of limited duration
    b. Specifically identified in a water quality control plan as a wetland or other water of the state;
    c. Resulted from historic human activity, is not subject to ongoing operation and maintenance, and has become a relatively permanent part of the landscape; or
    d. Greater than or equal to one acre in size, unless the artificial wetland was constructed, and is currently used and maintained, primarily for one or more of the following purposes (i.e., the following artificial wetlands are not waters of the state unless they also satisfy the criteria set forth in 2, 3a, or 3b)
        i. Industrial or wastewater treatment or disposal,
        ii. Settling of sediment,
        iii. Detention, retention, infiltration, or treatment of stormwater runoff and other pollutants or runoff subject to regulation under a municipal, construction, or industrial stormwater permitting program;
        iv. Treatment of surface waters,
        v. Agricultural crop or stock watering,
        vi. Fire suppression,
        vii. Industrial processing or cooling,
        viii. Active surface mining – even if the site is managed for interim wetlands functions and values.

The Procedures set forth that waters of the State include all waters that meet the current or any historic definition of waters of the U.S. In other words, if at any time in the past a feature would have met the definition of waters of the U.S. pursuant to any current or historical federal rule, the feature would meet the current definition of waters of the State.

If waters of the State are determined to potentially be temporarily or permanently affected by a proposed action, an application for dredge or fill is necessary. When considering project impacts and alternatives, it is recommended to avoid waters of the State to the greatest extent feasible, then minimize permanent impacts, and lastly compensate for impacts. The application should describe how the proposed action will not result in significant degradation of the water of the State. Applications should include all items listed in the Cal. Code Regs., title 23, § 3856, a delineation report, project start/end dates, maps, description of impacted waters, and alternatives analysis (unless exemption applies). Additional application requirements (e.g., supplemental field

data, a draft compensatory mitigation plan, proposed water quality monitoring plan, or draft restoration plan for temporary impacts) may be necessary based on coordination with the appropriate RWQCB office.

2.3 California Fish and Game Code §§ 1600 to 1616

Pursuant to § 1602 of the California Fish and Game Code (CFGC), notification to the California Department of Fish and Wildlife (CDFW) is required for any proposed activity that may substantially divert or obstruct a river, stream, or lake. § 1602(a) specifically provides that:

> *An entity may not substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake, or deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake unless all of the following occur:*
>
> *(1) The department receives written notification regarding the activity in the manner prescribed by the department…*

The program developed by CDFW to implement this notification process is generally referred to as the LSAA Program (the acronym LSAA represents a Lake and Streambed Alteration Agreement). CDFW traditionally defines a stream (including creeks and rivers) as a "body of water that flows at least periodically or intermittently through a bed or channel having banks and supports fish or other aquatic life." A stream includes watercourses with surface or subsurface flow that supports or has supported riparian vegetation. CDFW's definition of lakes include natural lakes or man-made reservoirs. Areas within CDFW jurisdiction include riparian habitats associated with watercourses, where "riparian habitat" is not defined in the statute (Title 14, Section 1.72) but typically refers to vegetation associated with a stream channel. The limits of jurisdiction include ephemeral, intermittent, and perennial watercourses and include the outermost edge of riparian vegetation or the top of bank of streams or lakes, whichever is wider. Generally, CDFW jurisdiction is often extended to include areas that exhibit any one of the three wetland indicators – vegetation, soils, or hydrology.

CDFW may require an LSAA prior to any activity that would substantially divert or obstruct the natural flow, or substantially change the bed, channel, or bank of a river, stream, or lake, or use material from a streambed. CDFW's issuance of an LSAA is subject to California Environmental Quality Act certification.

3 Site Characteristics

3.1 Regional Setting

The Project site is located in the central portion of Chuckwalla Valley, east of Palm Springs in the Colorado Desert. The elevation of Chuckwalla Valley ranges from less than 400 feet above mean sea level (amsl) at Ford Dry Lake to approximately 1,800 feet amsl west of Desert Center and along the upper portions of the alluvial fans that surround the valley perimeter. The surrounding mountains rise to over 3,000 feet amsl. The topography of the Project site generally slopes downward toward the northeast at gradient of less than 1 percent. Ground surface elevations at the Project site itself ranges from approximately 800 feet amsl in the southwest and 550 feet amsl in the northeast.

Anthropogenic features and land use near the Project site include agricultural, aquaculture farms, trash dumping, residential, renewable energy, energy transmission, historical military operations, and recreational development. Adjacent and nearby land uses are summarized in Table 1. and shown on Figure 1.

Table 1. Adjacent and Nearby Land Uses

Direction	Land Uses
NORTH	Desert Harvest and Desert Sunlight solar farms, Joshua Tree National Park, rural residences
SOUTH	Chuckwalla Area of Critical Environmental Concern (ACEC), transmission lines, I-10, Southern California Edison's Red Bluff substation, Alligator Rock ACEC, Corn Spring ACEC, desert tortoise critical habitat, Oberon Renewable Energy Project
EAST	Chuckwalla Valley Raceway, Desert Lily Preserve, active/fallow agriculture, rural residences, existing transmission line, CA-177, historical military, Athos, Oberon, Arica, and Victory Pass solar farms
WEST	Kaiser Road, Joshua Tree National Park, desert tortoise critical habitat, rural residences

3.2 Hydrology

The Project site resides within the Colorado River Hydrologic Region (HR). The Colorado River HR covers approximately 13 million acres (20,000 square miles) in southeastern California and is the most arid HR in California with annual precipitation averaging less than 4 inches (Western Regional Climate Center (WRCC) 2022). The Project site is in the Big Wash and Hayfield Lake-Lake Tamarisk HUC 10 Hydrologic Areas, which flow to closed basins, not connected with the Colorado River or other traditional navigable waters. Palen Dry Lake and Ford Dry Lake represent the lowest elevations within the basin.

Desert washes within this region are almost always dry but contract and expand dramatically in size due to extreme variations in flows, which can range from high-discharge floods to extended periods when surface flow is absent. The Project site lies between the alluvial fans emanating from the Eagle Mountains to the west, Chuckwalla Mountains to the south, and Coxcomb Mountains to the north.

The Project site is situated in the lower alluvial fan that is characterized by less stabilized soils consisting of finer sand and silt, compared to the upper alluvial fan that supports more stabilized, rocky soils with well-defined channels. The topography of the Project site is relatively flat with gradients of less than two percent. Alluvial processes across the Project site generally flow from southwest to northeast. Agricultural practices and developments such as the I-10 and CA-177, have greatly modified natural hydrology.

3.3 Soils

Soils within most of the Project site are mapped as Vaiva-Quilotosa-Hyder-Cipriano-Cherioni (Figure 3) and are generally sandy and/or alluvial materials derived from granite, gneiss, metamorphic, rhyolite, and/or volcanic parent material (United States Department of Agriculture (USDA) and Natural Resources Conservation Service (NRCS) 2022). These soils are generally well-drained to somewhat excessively drained and experience medium to rapid runoff and moderate permeability. Soils within the most eastern parcel of the Project site are mapped as Rositas-Dune land-Carsitas (Figure 3). These soils are characterized with a high sand percentage (greater than 95 percent) and are highly susceptible to wind for sand transport and migration.

3.4 Sand Transport System

The Project site is located within the Chuckwalla Valley, a region of active aeolian (wind-blown) sand migration and deposition. Aeolian processes play a major role in the creation and establishment of sand dune formations and habitat in the Chuckwalla Valley and those within the Project vicinity. Aeolian sands (dunes, sand fields, and similar habitats) are important habitats for certain plants and animals, including Mojave fringe-toed lizard.

In conjunction with the DRECP process, the Department of Conservation's California Geological Survey prepared a regional Eolian System Mapping Report for Eastern Riverside County in 2014 (Lancaster, Bedrossian, and Holland 2014); note that eolian and aeolian are alternate spellings of the same word).

Lancaster et al. (2014) characterized the eastern half of the Project site as Qyf, which is described as modern alluvial fan deposits consisting of 'unconsolidated to slightly consolidated sand and gravel' that is considered an active aeolian source (Figure 4). A smaller portion of the northernmost Project site was classified as Qw, which is an active aeolian source. The western portion of the Project site was not characterized by Lancaster et al. (2014). Active aeolian sand deposits are where sand transport corridors exist and where habitat for sensitive wildlife and plant species may be present. None exist on the Project site.

3.5 Rainfall

Measurements of precipitation during winter (October through March) and summer (April through September) periods are important in determining the efficacy of both wildlife and special status plant surveys. Data were obtained from the Western Regional Climate Center (WRCC 2022) for the most proximate stations to the Project site: Blythe Airport and Eagle Mountain weather stations (approximately 40 miles and 10 miles from the Project site, respectively).

The subtropical climate of the Colorado Desert is characterized by dry, mild winters averaging 54 degrees Fahrenheit (°F) and dry, hot summers that average 90°F. Summer highs are known to reach 122°F. Data were obtained from the Western Regional Climate Center (WRCC 2022) for the most proximate stations to the Project site: Blythe Airport and Eagle Mountain weather stations (approximately 40 miles and 10 miles from the Project site, respectively). Recent annual rainfall data from 2010 to 2022 were averaged (Table 2). Over the period of analysis, the highest winter rainfall occurred between October 2019 and March 2020 and highest summer rainfall occurred between April and September 2012. For perspective, average historical winter precipitation recorded since the 1940's was about 2.1 inches, and average summer historical summer precipitations was about 1.4 inches.

Table 2. Seasonal Rainfall Summary

Year	Winter – October to March (inches)*	Summer – April to September (inches)*
2010	4.8	0.1
2011	2.5	1.2
2012	1.0	3.3
2013	1.5	2.6
2014	0.7	1.2

Year	Winter – October to March (inches)*	Summer – April to September (inches)*
2015	2.1	1.3
2016	1.5	0.7
2017	3.4	1.1
2018	0.1	0.5
2019	2.6	0.2
2020	3.6	0.8
2021	0.4	0.5
2022	0.4	0.4
Seasonal Average	**1.9**	**1.1**

3.6 Vegetation Communities

Vegetation communities in the Project site were mapped and classified by botanists, using (Holland 1986) and cross-referencing with *A Manual of California Vegetation, 2nd edition* (Sawyer et al. 2009) and the National Vegetation Classification System (NVCS) referenced in the DRECP. Vegetation was mapped by drawing vegetation polygons on aerial images in the field. These field maps were then digitized into GIS shapefiles using ArcGIS Pro and one-foot pixel aerial imagery on a diagonal flat screen monitor at the office. Most mapped vegetation boundaries are accurate to within approximately 10 feet.

The small-scale PDF vegetation map (Figure 5) provided with this report was generated from ArcGIS shapefiles; the shapefiles were used to calculate areas of each vegetation type and may be viewed at larger scale for management or analysis purposes, if needed. Any vegetation map is subject to imprecision for several reasons:

- Vegetation types tend to intergrade on the landscape so that there are no true boundaries in the vegetation itself. In these cases, a mapped boundary represents best professional judgment.
- Vegetation types as they are named and described tend to intergrade; that is, a given stand of real-world vegetation may not fit into any named type in the classification scheme used. Thus, a mapped and labeled polygon is given the best name available in the classification, but this name does not imply that the vegetation unambiguously matches its mapped name.
- Vegetation types tend to be patchy. Small patches of one named type are often included within mapped polygons of another type. The size of these patches varies, depending on the minimum mapping units and scale of available aerial imagery.

Much of the Project site consists of creosote bush scrub on public parcels with other natural communities intermixed (desert pavement or desert dry wash woodland). The private parcels consist of primarily man-made features that include deciduous orchard/fallow agriculture or developed areas (Figure 5). One vegetation community (desert dry wash woodland) is identified by BLM (Evens and Hartman 2007) and (CDFW 2020) as sensitive due to the association with alluvial processes and would likely be considered California State jurisdictional waters. Vegetation communities on the Project site are shown on Figure 5.

3.6.1 Sonoran Creosote Bush Scrub

Sonoran creosote bush scrub has a State Rarity rank of S5 (CDFW 2020), being demonstrably secure, and is not designated as a sensitive plant community by BLM. It is synonymous with *Larrea tridentata -Ambrosia dumosa* alliance (Sawyer et. al 2009) and *Lower Bajada and Fan Mojavean – Sonoran Desert Scrub* (NVCS). Sonoran creosote bush scrub occurs on well-drained, secondary soils of slopes, fans, and valleys and is the basic creosote bush scrub habitat of the Colorado Desert (Holland 1986). Sonoran creosote bush scrub covers a majority of the Project site and intergrades with desert dry wash woodland along desert washes. Within the Project site, this community occurs on sandy soils with a shallow clay pan. Dominant plants within this community are creosote bush and white bursage. Other occasional components include indigo bush (*Psorothamnus emoryi*), sweetbush (*Bebbia juncea*), and button brittlebush (*Encelia frutescens*).

3.6.2 Desert Dry Wash Woodland

Desert dry wash woodland is a sensitive vegetation community recognized with a rarity rank of S4 (CDFW 2018). Desert dry wash woodland is characteristic of desert washes and is likely to be regulated by CDFW as jurisdictional state waters. This community is synonymous with blue palo verde (*Parkinsonia florida*) - ironwood (*Olneya tesota*) (microphyll) woodland alliance (Sawyer et. al 2009) and Sonoran - Coloradan Semi Desert Wash Woodland / Scrub (NVCS). Holland (Holland 1986) describes this community as an open to relatively densely covered, drought-deciduous, microphyll (small compound leaves) riparian scrub woodland, often supported by braided wash channels that change following every surface flow event. This vegetation community is dominated by an open tree layer of ironwood, blue palo verde, and smoke tree (*Psorothamnus spinosus*) of at least 2-3% cover. The understory is a modified creosote scrub with big galleta grass (*Hilaria rigida*) and desert lavender (Condea [=*Hyptis emoryi*] *emoryi*). Within the Project site, the desert dry wash woodland occurs on mostly the western portion of the Project site, with several ribbons of desert dry wash woodland interspersed between creosote bush scrub.

3.6.3 Desert Pavement

Desert pavement is not descriptive of vegetation, but rather a geomorphic condition that results in tightly interlocking travel and pebbles which develop over time on fluvially inactive upland areas within stabilized alluvial fans (Brady and Vyverberg 2013). It develops as gravel and rock deposits weather in place, causing rounding of pebbles, and wind removes finer sediment. Older, well-established desert pavement typically exhibits varnish, an oxidized surface that occurs with age and fluvial inactivity. It has a state rarity rank of S4 (CDFW 2018d) and is synonymous to the rigid spineflower – hairy desert sunflower (*Chorizanthe rigida – Geraea canescens)* desert pavement sparsely vegetated alliance (Sawyer et. al 2009). It is sparsely vegetated with an intermittent layer of cryptogamic crust. The ground surface is sandy and gravelly mixed alluvium with various rocks and gravel. The shrub layer of creosote bush is extremely sparse. The herb layer, though sparse within this community on the Project site, is slightly larger than the shrub layer, and is characterized by rigid spine flower and desert sunflower. Desert pavement is often interwoven between areas of creosote bush scrub and desert dry wash woodland where it occurs on the Project site, and primarily occurs on the western portion of the Project site. Other occasional plants in the herb layer include annual buckwheat (*Eriogonum* sp.*)* and brittle spineflower (*Chorizanthe brevicornu*).

3.6.4 Wetland and Riparian Vegetation

Several anthropogenic wetlands occur in the Project site (Figure 5). One wetland, created from drainage from the aquaculture farm, is generally in the center of the Project site, on a private parcel. Most of the wetland is outside the Project site boundary. The second wetland is created from drainage from adjacent agricultural activity that allows water to drain through the wetland area into a pond area with no outlet. The wetlands are dominated by herbaceous species, including cosmopolitan bulrush (*Schoenoplectus maritimus*), cattail (*Typha latifolia*), and bearded sprangletop (*Diplachne fusca*), rabbitsfoot grass (*Polypogon monspeliensis*).

Two areas of invasive tamarisk (*Tamarix* spp*.)* riparian vegetation were mapped during the Spring 2022 surveys (Figure 5). The drainage from the aquaculture farm and agricultural activity provides supportive hydrology and soil conditions for the establishment of tamarisk.

4 Methods

4.1 Preliminary Data Review

Prior to conducting field surveys, analysis was performed with Geographic Information Systems (GIS) using the following digital datasets, which include the most current information, data sources, and tools:

- 7.5' US Geological Survey (USGS) topographic quadrangles
- National Agriculture Imagery Program (NAIP) aerial imagery
- National Wetlands Inventory Wetlands Mapper (USFWS 2022)
- USGS Watershed Boundary Dataset Hydrologic Unit Code (HUC) 10 mapping ((USGS 2022))
- USGS National Hydrography Dataset high‐resolution mapping with flowlines ((USGS 2022))
- CNPS Online Inventory of Rare and Endangered Plants (California Native Plant Society (CNPS) 2022)
- The Consortium of California Herbaria Jepson Interchange (Consortium of California Herbaria (CCH) 2022)
- Calflora (CalFlora 2022)
- Manual of California Vegetation and DRECP mapping (Sawyer, Keeler-Wolf, and Evens 2009)
- Natural Resource Conservation Service (NRCS) Web Soil Survey (USDA and NRCS 2022)
- Western Regional Climate Center (WRCC 2022)
- Previous biological resources and delineation reports and permit applications (e.g., Palen, Crimson, Oberon, Arica & Victory Pass Solar Projects)

Landscape features were evaluated using Geographic Information Systems through review of high resolution orthorectified aerial imagery, and relevant digital layers listed above, to determine the potential presence of aquatic resources such as a wetland, stream, other type of watercourse, lake or manmade reservoir. Areas found with potential aquatic resource landform features were identified for further follow-up detailed field investigations as described below.

4.2 Field Investigations

Field investigations (surveys) for aquatic resources, including wetlands and other waters, were conducted between April 5 and April 26-27, 2022 with data for ephemeral washes and vegetation mapping collected between May 23-June 18, 2022. Surveyors included Dave Kesonie, Wendy McBride, Tracy Ridlinghafer, Adam Walters, Art Schaub, and Marina Lavender, all of which were qualified with 40-hour jurisdictional water training and previous experience with jurisdictional resources associated with arid lands of the California deserts. Transects were typically performed perpendicular to flow patterns and conducted within all Project components to obtain sufficient quantity of data points to facilitate GIS digitization of jurisdictional features. Point data were collected at individual features that displayed characteristic sign of episodic flow and, in some cases, upland areas that lacked watercourse features. Data points were taken for each feature that crossed the Project, typically at the center of each feature and the width of the feature was recorded.

4.2.1 Wetland Determination

Once wetlands potentially subject to USACE jurisdiction were identified, follow up site visits were conducted to delineate wetlands based on the *Corps of Engineers Wetlands Delineation Manual* (Environmental Laboratory 1987) and the *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region (*USACE 2010*)*. On April 5, 2022, Emily Thorn, Dave Kesonie, Leigh Rouse, Wendy McBride, Marina Lavender, and Frankie Coburn delineated wetlands and other waters south of the aquaculture farm. On April 26, 2022, Leigh Rouse delineated wetlands and other waters in the southeast area of the Project site, and on April 27, 2022, Leigh Rouse and Marina Lavender delineated wetlands and other waters following USACE guidelines.

Potential wetlands as defined by the USACE 1987 manual were evaluated using a three-parameter approach: dominance of hydrophytic vegetation, hydric soils, and wetland hydrology. The indicator status for vegetation was determined by the most current National Wetland Plant List (USACE 2020) and using the nomenclature offered in the US Department of Agriculture (USDA) NRCS PLANTS Database (NRCS 2022). Hydric soil determinations followed the guidance provided by the *Regional Supplement* and indicators described in *Field Indicators of Hydric Soils in the United States* (NRCS 2018).

The boundaries of wetlands were delineated with ESRI ArcGIS Collector©. A sub-meter geographic positioning system (GPS) was used in the field to map aquatic resource feature boundaries. Data forms for each wetland data point were completed in the field (Appendix A).

4.2.2 Waters Determination

The limits of non-wetland waters potentially subject to state or federal jurisdiction were determined following the methods outlined in *U.S. Army Corps of Engineers Field Guide to the Identification of the Ordinary High Water Mark in the Arid West Region of the Western United States* ("OHWM Field Guide", Lichvar and McColley 2008), *Mapping Episodic Stream Activity* (*MESA*; (Brady and Vyverberg 2013)), *Methods to Describe and Delineate Episodic Stream Processes on Arid Landscapes for Permitting Utility-Scale Solar Power Plan*ts (Brady and Vyverberg 2014), and CDFW's traditional definition of bed, channel, or bank as referenced in § 1602(a) of the California Fish and Game Code. The *MESA* protocol was developed to assist with delineation of streams in dryland environments, specifically within the arid and semi-arid Mojave, Sonoran, Great Basin, and eastern Sierra regions of California, to facilitate project permitting in compliance with California Fish and Game Code.

The OHWM, defined by USACE as the "line on the shore established by the fluctuation of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding area." Ironwood evaluated all linear water features for OHWM indicators to assist with delineation of the lateral extents of waters. Ironwood staff walked apparent stream features and recorded OHWM indicators associated with the primary low flow channel and floodplain at representative cross-sections. Where indicators were apparent, Ironwood recorded GPS points at the transition line between the low flow channel, active floodplain, and low terrace for all linear aquatic features in the Project site.

Field investigations were conducted in spring and did not necessarily coincide with antecedent precipitation events; therefore, Ironwood ecologists relied on fluvial transport and deposition indicators from recent or historic episodic flow, as described in the MESA Guide (Brady and Vyverberg 2013), to identify and delineate channel and watercourse ("waters") features.

Such indicators included:

- Flow lineations
- Cut banks
- Sediment sorting
- Vegetation channel alignment
- Sand/gravel bars
- Mud cracks/curls
- Wrinkle marks
- Drift/wrack lines
- Exposed roots
- Scour
- Sand filled channels

Water features and riparian communities were mapped at a minimum scale of 1:6000, often down to 1:3000, as suggested in the MESA guidance for utility solar projects (Brady and Vyverberg 2013). Where vegetation contained a mixture of upland and wash-dependent indicator species from two or more vegetation communities, the indicator species that appeared with the greatest vegetation coverage (absolute dominance based on percent cover) was used to identify or verify the vegetation community.

Geomorphic indicator data were recorded at each data point location using a field data form specifically developed for this methodology based on the MESA Guide indicators (Brady and Vyverberg 2014). Documentation of physical indicators providing evidence of aquatic resource areas as opposed to upland areas provided a technical basis for: (1) determining the presence or absence of a stream, other types of watercourse, and lake/manmade reservoir and (2) if present, determining if the landform is active, dormant, abandoned, or relict as defined by the following criteria developed by Brady and Vyverberg (2013):

- **Active**: Hydrologically active watercourse. Active channels are subject to CDFW jurisdiction.

The following channels are generally not subject to resource agency jurisdiction:

- **Dormant**: A watercourse isolated from its principal water source by natural causes or human-constructed features such as roads, but that retains its potential for hydrologic reactivation and stream / watercourse function.
- **Abandoned**: A watercourse in which water flow no longer occurs, such as a channel isolated from its water source by faulting or stream capture, or human-constructed features like levees, incised

roadways, and surface flow diversions. The presence of physical indicators of fluvial inactivity is necessary to demonstrate abandonment, and the cause of the abandonment (such as a levee or road berm) should be identified. With time and the absence of flow, an abandoned channel will become a relict landform.

- **Relict**: Surface water flow no longer occurs, as demonstrated by the presence of physical indicators of antiquity, which demonstrate that the channel is a relict landform.

4.3 Post-field analysis

Post-field analysis was conducted by Ironwood ecologists and GIS specialists, in tandem, to code, define, designate, and edit all acquired field data representing jurisdictional waters. Acreages were calculated in ESRI ArcGIS. The linear path and extents of water features were digitized using polylines with an accompanying width measurement, which were used to convert polylines to polygons, or mapped with a GPS unit by walking flow path boundaries in the field. Wetland boundaries were digitized in the field by walking the lateral extents and recording location data with a GPS, which were converted to polygon data in ArcGIS. The resulting features were reviewed and further refined based on the interpretation of high-resolution aerial imagery.

5 Results

The Project site is situated on a low gradient alluvial plain and is intersected by numerous unnamed ephemeral drainages that flow northeast toward Big Wash, near the confluence with Pinto Wash. Big Wash is shown as an intermittent blueline stream on USGS topographic maps (2022) and is identified as an intermittently flooded riverine system by USFWS NWI (2022; USFWS 2022). Potential jurisdictional aquatic resources identified by Ironwood biologists are shown in Figure 6 and summarized in Table 3.

Table 3. Summary of Potentially Jurisdictional Wetland Resources

Wetland ID	Size (acres)	Associated Data Point	Latitude/Longitude	Cowardin Type
Wetland 1	0.0473	EDP01U, EDP02W	33.765269/-115.389195	PEM
Wetland 2	0.1531	NA	33.765283/-115.388397	PEM
Wetland 3a	0.0197	EDP05W, EDP06U	33.765111/-115.386658	PEM
Wetland 3b	0.1529	EDP05W, EDP06U	33.765364/-115.386783	PEM
Wetland 3c	0.1588	EDP05W, EDP06U	33.765374/-115.385701	PEM
Wetland 3d	0.0558	EDP05W, EDP06U	33.765374/-115.384814	PEM
Wetland 4	0.0301	EDP14W, EDP15U	33.772632/-115.384845	PEM
Total	**0.6177**	**NA**	**NA**	**NA**

5.1 Wetlands

The Project site has two areas with anthropogenic wetlands created by adjacent agricultural activities from artificial water sources and berms.

The first area is south of the aquaculture farm where a wetland occurs on both sides of the Project site boundary (Figures 6 and 7). In this area, wetlands occur within a drainage that meanders in and out of the Project site, creating six separate wetland areas that occur within the Project boundary – Wetlands 1, 2, 3a, 3b, 3c, and 3d (Figures 6-8). This drainage had water flowing through the wetland at the time of the site visit. These wetlands are dominated by hydrophytic vegetation including bearded sprangletop (facultative wetland [FACW]), broadleaf cattail (*Typha latifolia,* obligate [OBL]), and rabbitsfoot grass (FACW). Hydric soil indicators were present within the wetland areas. At the downstream end of this wetland system, further from the aquiculture farm, the wetland terminates and transitions to uplands as the supportive hydrology dissipates.

The second area is northeast of the aquaculture farm and has one wetland area that falls within the Project site – Wetland 4 (Figures 6 and 9). Wetland 4 is dominated by sprangletop (FACW), broadleaf cattail (OBL), and rabbitsfoot grass (FACW). Surface water and hydric soil indicators were present within the wetland areas.

Wetlands within the Project site were classified according to the Cowardin classification (Cowardin et al. 1979) The Cowardin classification system is used in the USFWS' National Wetland Inventory (NWI) for describing and categorizing wetlands and deepwater habitats based on a variety of characteristics. Wetlands within the Project site have a Cowardin classification of palustrine emergent (PEM) and totaled 0.6177 acres (Table 3).

5.2 Unvegetated Ephemeral Dry Wash

Unvegetated Ephemeral Dry Washes were mapped consistent with the presence of active channels, primarily within the creosote bush scrub (Figure 6). Unvegetated Ephemeral Dry Washes were not dominated by xeric riparian vegetation such as desert ironwood or blue palo verde, yet irregular and isolated occurrences of wash-dependent shrubs and trees may be found within mapped Unvegetated Ephemeral Dry Wash.

Active channels within the lower alluvial fan, where the Project is situated, showed signs of frequent avulsion (changes in flow direction following surface water flow events) due to patterns of brief, intense surface water flow. The avulsion process results in a network of active and inactive (abandoned) channels. Active channels supported evidence of scour, cut banks, headcuts, flow lineations, sediment sorting, vegetation channel alignment, mud cracks, sand filled channels, wrack lines, and organic drift. Inactive channels and swales were characterized as discontinuous, shallow depressions with no evidence of recent episodic flow. Although some of these features are visible on aerial imagery and may appear to be active, the absence of watercourse indicators, presence of upland indicators (e.g., bioturbation), and isolation from a larger floodplain disqualified these features as being mapped as Unvegetated Ephemeral Dry Wash.

5.3 Riparian Woodland – Desert Dry Wash Woodland and Non-native Riparian Vegetation

Desert dry wash woodland, considered a desert riparian vegetation type, occurs throughout the site (Figure 6). Desert Dry Wash Woodland is a xeric riparian vegetation community (Holland 1986). Areas mapped as Desert Dry Wash Woodland were composed of ephemeral dry wash (streambed) and riparian interfluves within a matrix of dominant wash-dependent vegetation. Holland (1986) describes this community as an open to relatively densely covered, drought-deciduous, microphyll (small compound leaves) riparian scrub woodland. Desert Dry Wash Woodland is characterized by braided wash channels that experience regular avulsion. This

community is synonymous with blue palo verde (*Parkinsonia florida*) - ironwood (*Olneya tesota*) (microphyll) woodland alliance (Sawyer et. al 2009) and *Sonoran - Coloradan Semi Desert Wash Woodland / Scrub* (NVCS). Within the Project site, this vegetation community is dominated by an open tree layer of ironwood, with occasional blue palo verde. The understory typically consisted of creosote bush scrub with big galleta grass (*Pleuraphis rigida*) and desert lavender (Condea [=*Hyptis] emoryii*).

Non-native riparian woodland features are associated with the artificial wetland feature and consist primarily of tamarisk (*Tamarix* spp.). These habitats are likely supported by runoff from the adjacent aquaculture or agricultural facilities and natural overland flow. A total of 741.37 acres of desert dry wash woodland and 1.8554 acres of non-native riparian vegetation occurs within the Project site. The Project will comply with DRECP CMAs by avoiding desert dry wash woodland with a 200 ft setback, with the exception of minor incursions (linear features with minimal ground disturbance) to be determined during final design.

6 Jurisdictional Findings and Recommendations

The following discussion represents the best effort at determining the jurisdictional boundaries of aquatic resources using the most current regulations and guidance from the USACE and CDFW. Table 4 summarizes the acreage of aquatic resources with potential jurisdictional status for the USACE, RWQCB, and CDFW.

Table 4. Summary of Aquatic Resources and Potential Jurisdictional Status

Aquatic Resource	Area (acres)*	U.S. Army Corps of Engineers	RWQCB Waters of the State	CDFW 1602 Resources
Wetland	0.6177	Unlikely to be subject to USACE jurisdiction; recommend requesting an AJD	Likely subject to RWQCB jurisdiction	Subject to CDFW 1602 jurisdiction
Unvegetated Ephemeral Wash (Bank to Bank)	398.191	Unlikely to be subject to USACE jurisdiction	Subject to RWQCB jurisdiction	Subject to CDFW 1602 jurisdiction
Dry Desert Wash Woodland	742.376	Not subject to USACE jurisdiction	Subject to RWQCB jurisdiction	Subject to CDFW 1602 jurisdiction
Non-native Riparian Vegetation	0.4495	Not subject to USACE jurisdiction	Likely subject to RWQCB jurisdiction	Subject to CDFW 1602 jurisdiction

**Acreages represent totals within Project parcel footprints. Actual acreage of impact will be significantly lower and will be determined during final site design.*

6.1 Clean Water Act (§ 401 and § 404)

Aquatic resources delineated within the Project site mostly lack indicators of surface connections to Pinto Wash, an ephemeral riverine feature situated northeast of the Project site. Pinto Wash conveys flows to Palen Lake, an isolated ephemeral lake that lacks a direct or subsurface connection to a known TNW. Palen Lake and the aquatic resources within the Project site do not meet the criteria described for waters of the U.S. described in

section 2.1 - no territorial seas or navigable waters, their tributaries. USACE has determined that no jurisdictional waters of the US were found within other projects in the same basin (Desert Sunlight, Desert Harvest, and Palen Solar Projects, Athos I and II, and Oberon). An Approved Jurisdictional Determination (SPL-2021-00113) was issued by the USACE on April 1, 2021 for the Oberon Renewable Energy Project (Appendix D). The Approved Jurisdictional Determination states the following:

> *Based on the information provided and additional review, it appears the project site does not contain water(s) of the United States pursuant to 33 CFR Part 325.9. The basis for our determination can be found in the enclosed Approved Jurisdictional Determination form. In general, the site has been found to drain entirely to Ford dry Lake, and as such, only contains isolated, intrastate waters, that do not appear to have a connection to interstate commerce. Due to this determination, a Department of the Army permit would not be required for activities on this project site.*

Due to the conclusion drawn in the Oberon Approved Jurisdictional Determination and the federal jurisdictional criteria identified in Section 2.1 of this report, it is assumed that waters of the U.S. do not occur within the Easley Solar Project. Given the absence of a nexus to a federal waters of the U.S., the aquatic resources in the Project site are potentially not subject to federal jurisdiction under CWA Section 404 and Section 401. An approved Jurisdictional Determination for the Easley Project site issued by the USACE is recommended to confirm status of federal jurisdiction.

6.2 California Porter-Cologne Water Quality Act

The RWQCB regulates discharges to jurisdictional waters under the California Porter-Cologne Water Quality Control Act, which is implemented through issuance of National Pollutant Discharge Elimination System permits for point source discharges and WDRs for non-point source discharges.

The California WQCB regulations adopted in 2020 require project proponents to apply to the appropriate RWQCB to obtain authorization for dredge or fill in jurisdictional waters of the State. Based on the findings above, it is likely that the aquatic features within the Project site would fall under the jurisdiction of RWQCB. An application should be submitted to the Colorado River Basin RWQCB, along with the required supplemental material (including precise impact calculations) and fee if there are impacts to waters of the State during final design. CEQA review will be required for the effects on jurisdictional waters of the State.

6.3 California Fish and Game Code §§ 1600–1616

California Fish and Game Code § 1602 requires project proponents to notify CDFW prior to any activity that may substantially modify CDFW-jurisdictional streambeds. Based on the findings above, a Notification of Lake or Streambed Alteration form should be submitted to CDFW, along with the required supplemental material (including precise impact calculations) and fee for areas if there are potential impacts to waters of the State during final design. CEQA review will be required for the effects to CDFW-jurisdictional streambeds and associated riparian habitat. The area estimated to meet the definition of CDFW-jurisdictional waters within the Project site are shown in Table 4.

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Appendix A – Wetland Determination Data Forms

U.S. Army Corps of Engineers
WETLAND DETERMINATION DATA SHEET – Arid West Region
See ERDC/EL TR-07-24; the proponent agency is CECW-CO-R

OMB Control #: 0710-xxxx, Exp: Pending
Requirement Control Symbol EXEMPT:
(Authority: AR 335-15, paragraph 5-2a)

Project/Site: Easley Solar Project | City/County: Riverside | Sampling Date: 4/5/22
Applicant/Owner: Intersect Power | State: CA | Sampling Point: EDP01U
Investigator(s): L.Rouse, E. Thorn, D. Kenosie, M. Laverndar, F. Coburn | Section, Township, Range: S2, T5S, R15E
Landform (hillside, terrace, etc.): Swale | Local relief (concave, convex, none): none | Slope (%): 2
Subregion (LRR): LRR D | Lat: 33.765258 | Long: -115.389203 | Datum: WGS84
Soil Map Unit Name: No Digital Data Available | NWI classification: NA
Are climatic / hydrologic conditions on the site typical for this time of year? Yes x No ____ (If no, explain in Remarks.)
Are Vegetation n, Soil n, or Hydrology No significantly disturbed? Are "Normal Circumstances" present? Yes y No ____
Are Vegetation n, Soil n, or Hydrology No naturally problematic? (If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present?	Yes ____	No X	**Is the Sampled Area within a Wetland?** Yes ____ No X
Hydric Soil Present?	Yes ____	No X	
Wetland Hydrology Present?	Yes X	No ____	

Remarks:
On slight terrace above wetland swale with artificial water source from adjacent fish farm. Upland data point for Wetland 1.

VEGETATION – Use scientific names of plants.

Tree Stratum (Plot size: 30' radius)	Absolute % Cover	Dominant Species?	Indicator Status
1. *Tamarix chinensis*	35	Yes	FAC
2.			
3.			
4.			
	35	=Total Cover	
Sapling/Shrub Stratum (Plot size: ____)			
1. *Not Applicable*			
2.			
3.			
4.			
5.			
		=Total Cover	
Herb Stratum (Plot size: 5" x 10")			
1. *Polypogon monspeliensis*	35	Yes	FACW
2. *Sonchus oleraceous*	15	Yes	UPL
3. *Erigeron canadensis*	15	Yes	FACU
4. *Brassica tournefortii*	10	No	UPL
5. *Datura wrightii*	3	No	UPL
6. *Phalaris aquatica*	2	No	FACU
7. *Lactuca serriola*	5	No	FACU
8.			
	85	=Total Cover	
Woody Vine Stratum (Plot size: ____)			
1. *Not applicable*			
2.			
		=Total Cover	

% Bare Ground in Herb Stratum 0 | % Cover of Biotic Crust 0

Dominance Test worksheet:
Number of Dominant Species That Are OBL, FACW, or FAC: 2 (A)
Total Number of Dominant Species Across All Strata: 4 (B)
Percent of Dominant Species That Are OBL, FACW, or FAC: 50.0% (A/B)

Prevalence Index worksheet:

Total % Cover of:		Multiply by:	
OBL species	0	x 1 =	0
FACW species	35	x 2 =	70
FAC species	35	x 3 =	105
FACU species	22	x 4 =	88
UPL species	28	x 5 =	140
Column Totals:	120 (A)		403 (B)

Prevalence Index = B/A = 3.36

Hydrophytic Vegetation Indicators:
___ Dominance Test is >50%
___ Prevalence Index is ≤3.0[1]
___ Morphological Adaptations[1] (Provide supporting data in Remarks or on a separate sheet)
___ Problematic Hydrophytic Vegetation[1] (Explain)
[1]Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.

Hydrophytic Vegetation Present? Yes ____ No X

Remarks:
Did not pass dominace test or prevalence index test. On slight terrace above swale with artificial water source.

SOIL

Sampling Point: EDP01U

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)

Depth	Matrix		Redox Features					
(inches)	Color (moist)	%	Color (moist)	%	Type[1]	Loc[2]	Texture	Remarks
0-1	10YR 3/2	100					Sandy	LoSa
1-6	10YR 4/3	98	7.5YR 4/6	2	C	PL	Sandy	Prominent redox concentrations
6-16	10YR 4/4	100					Sandy	LoSa

[1]Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains. [2]Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.)

- ___ Histosol (A1)
- ___ Histic Epipedon (A2)
- ___ Black Histic (A3)
- ___ Hydrogen Sulfide (A4)
- ___ Stratified Layers (A5) **(LRR C)**
- ___ 1 cm Muck (A9) **(LRR D)**
- ___ Depleted Below Dark Surface (A11)
- ___ Thick Dark Surface (A12)
- ___ Sandy Mucky Mineral (S1)
- ___ Sandy Gleyed Matrix (S4)
- ___ Sandy Redox (S5)
- ___ Stripped Matrix (S6)
- ___ Loamy Mucky Mineral (F1)
- ___ Loamy Gleyed Matrix (F2)
- ___ Depleted Matrix (F3)
- ___ Redox Dark Surface (F6)
- ___ Depleted Dark Surface (F7)
- ___ Redox Depressions (F8)

Indicators for Problematic Hydric Soils[3]:

- ___ 1 cm Muck (A9) **(LRR C)**
- ___ 2 cm Muck (A10) **(LRR B)**
- ___ Iron-Manganese Masses (F12) **(LRR D)**
- ___ Reduced Vertic (F18)
- ___ Red Parent Material (F21)
- ___ Very Shallow Dark Surface (F22)
- ___ Other (Explain in Remarks)

[3]Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if observed):

Type: _____

Depth (inches): _____

Hydric Soil Present? **Yes** ___ **No** X

Remarks:
Soil did not meet sandy redox indicator

HYDROLOGY

Wetland Hydrology Indicators:

Primary Indicators (minimum of one is required; check all that apply)

- ___ Surface Water (A1)
- ___ High Water Table (A2)
- ___ Saturation (A3)
- ___ Water Marks (B1) **(Nonriverine)**
- ___ Sediment Deposits (B2) **(Nonriverine)**
- ___ Drift Deposits (B3) **(Nonriverine)**
- ___ Surface Soil Cracks (B6)
- ___ Inundation Visible on Aerial Imagery (B7)
- ___ Water-Stained Leaves (B9)
- ___ Salt Crust (B11)
- ___ Biotic Crust (B12)
- ___ Aquatic Invertebrates (B13)
- ___ Hydrogen Sulfide Odor (C1)
- x Oxidized Rhizospheres on Living Roots (C3)
- ___ Presence of Reduced Iron (C4)
- ___ Recent Iron Reduction in Tilled Soils (C6)
- ___ Thin Muck Surface (C7)
- ___ Other (Explain in Remarks)

Secondary Indicators (minimum of two required)

- ___ Water Marks (B1) **(Riverine)**
- ___ Sediment Deposits (B2) **(Riverine)**
- ___ Drift Deposits (B3) **(Riverine)**
- ___ Drainage Patterns (B10)
- ___ Dry-Season Water Table (C2)
- ___ Crayfish Burrows (C8)
- ___ Saturation Visible on Aerial Imagery (C9)
- ___ Shallow Aquitard (D3)
- ___ FAC-Neutral Test (D5)

Field Observations:

Surface Water Present? Yes ___ No x Depth (inches): ___

Water Table Present? Yes ___ No x Depth (inches): ___

Saturation Present? Yes ___ No x Depth (inches): ___

(includes capillary fringe)

Wetland Hydrology Present? **Yes** X **No** ___

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:
On slight terrace above wetland swale, above hydrologic influence

U.S. Army Corps of Engineers
WETLAND DETERMINATION DATA SHEET – Arid West Region
See ERDC/EL TR-07-24; the proponent agency is CECW-CO-R

OMB Control #: 0710-xxxx, Exp: Pending
Requirement Control Symbol EXEMPT:
(Authority: AR 335-15, paragraph 5-2a)

Project/Site: Easley Solar Project | City/County: Riverside | Sampling Date: 4/5/22
Applicant/Owner: Intersect Power | State: CA | Sampling Point: EDP02W
Investigator(s): L.Rouse, E. Thorn, D. Kenosie, M. Laverndar, F. Corburn | Section, Township, Range: S2, T5S, R15E
Landform (hillside, terrace, etc.): Swale | Local relief (concave, convex, none): concave | Slope (%): <1
Subregion (LRR): LRR D | Lat: 33.765269 | Long: -115.389195 | Datum: WGS84
Soil Map Unit Name: No Digital Data Available | NWI classification: PEM
Are climatic / hydrologic conditions on the site typical for this time of year? Yes x No ____ (If no, explain in Remarks.)
Are Vegetation N , Soil N , or Hydrology No significantly disturbed? Are "Normal Circumstances" present? Yes y No ____
Are Vegetation n , Soil n , or Hydrology No naturally problematic? (If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present? Yes X No ____
Hydric Soil Present? Yes x No ____
Wetland Hydrology Present? Yes X No ____

Is the Sampled Area within a Wetland? **Yes** X **No** ____

Remarks:
Wetland swale with artifical water source from adjacent fish farm. Likely excavated in the past for drainage. Wetland data point for Wetland 1. Data point has all three criteria for wetland.

VEGETATION – Use scientific names of plants.

Tree Stratum (Plot size: 30' radius)	Absolute % Cover	Dominant Species?	Indicator Status
1. *Not Applicable*			
2.			
3.			
4.			
		=Total Cover	
Sapling/Shrub Stratum (Plot size: 10' radius)			
1. *Not Applicable*			
2.			
3.			
4.			
5.			
		=Total Cover	
Herb Stratum (Plot size: 5' radius)			
1. *Diplachne fusca*	25	Yes	FACW
2. *Sonchus oleraceus*	5	No	UPL
3. *Lactuca serriola*	3	No	FACU
4. *Polypogon monspeliensis*	1	No	FACW
5.			
6.			
7.			
8.			
	34	=Total Cover	
Woody Vine Stratum (Plot size: ____)			
1. *Not applicable*			
2.			
		=Total Cover	

% Bare Ground in Herb Stratum 0 % Cover of Biotic Crust 45

Dominance Test worksheet:
Number of Dominant Species That Are OBL, FACW, or FAC: 1 (A)
Total Number of Dominant Species Across All Strata: 1 (B)
Percent of Dominant Species That Are OBL, FACW, or FAC: 100.0% (A/B)

Prevalence Index worksheet:

Total % Cover of:	Multiply by:
OBL species ____	x 1 = ____
FACW species ____	x 2 = ____
FAC species ____	x 3 = ____
FACU species ____	x 4 = ____
UPL species ____	x 5 = ____
Column Totals: ____ (A)	____ (B)

Prevalence Index = B/A = ____

Hydrophytic Vegetation Indicators:
X Dominance Test is >50%
____ Prevalence Index is ≤3.0[1]
____ Morphological Adaptations[1] (Provide supporting data in Remarks or on a separate sheet)
____ Problematic Hydrophytic Vegetation[1] (Explain)

[1]Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.

Hydrophytic Vegetation Present? **Yes** X **No** ____

Remarks:
Based on dry vegetation, Diplachne fusca likely has a higher absolute cover later in the growing season. Biotic crust = algae

SOIL

Sampling Point: EDP02W

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)

Depth (inches)	Matrix Color (moist)	%	Redox Features Color (moist)	%	Type[1]	Loc[2]	Texture	Remarks
0-1	10YR 3/2	100					Sandy	Sandy Loam
1-10	10YR 4/1	15	7.5YR 4/6	70	C	M	Sandy	Prominent redox concentrations
10-16	10YR 4/4	95	7.5YR 5/6	5	C	M	Sandy	Distinct redox concentrations

[1]Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains. [2]Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.)

- ___ Histosol (A1)
- ___ Histic Epipedon (A2)
- ___ Black Histic (A3)
- ___ Hydrogen Sulfide (A4)
- ___ Stratified Layers (A5) **(LRR C)**
- ___ 1 cm Muck (A9) **(LRR D)**
- ___ Depleted Below Dark Surface (A11)
- ___ Thick Dark Surface (A12)
- ___ Sandy Mucky Mineral (S1)
- ___ Sandy Gleyed Matrix (S4)
- ___ Sandy Redox (S5)
- ___ Stripped Matrix (S6)
- ___ Loamy Mucky Mineral (F1)
- ___ Loamy Gleyed Matrix (F2)
- ___ Depleted Matrix (F3)
- ___ Redox Dark Surface (F6)
- ___ Depleted Dark Surface (F7)
- ___ Redox Depressions (F8)

Indicators for Problematic Hydric Soils[3]:

- ___ 1 cm Muck (A9) **(LRR C)**
- ___ 2 cm Muck (A10) **(LRR B)**
- ___ Iron-Manganese Masses (F12) **(LRR D)**
- ___ Reduced Vertic (F18)
- ___ Red Parent Material (F21)
- ___ Very Shallow Dark Surface (F22)
- x Other (Explain in Remarks)

[3]Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if observed):

Type: ___

Depth (inches): ___

Hydric Soil Present? **Yes** x **No** ___

Remarks:
Redox features >60% of profile. Did not meet criteria for stripped matrix or sandy redox but surface water present, therefore, hydric soils assumed. Within the 1-10 in depth, matrix also included 10YR 5/2 at 15%.

HYDROLOGY

Wetland Hydrology Indicators:

Primary Indicators (minimum of one is required; check all that apply)

- x Surface Water (A1)
- ___ High Water Table (A2)
- ___ Saturation (A3)
- ___ Water Marks (B1) **(Nonriverine)**
- ___ Sediment Deposits (B2) **(Nonriverine)**
- ___ Drift Deposits (B3) **(Nonriverine)**
- ___ Surface Soil Cracks (B6)
- ___ Inundation Visible on Aerial Imagery (B7)
- ___ Water-Stained Leaves (B9)
- ___ Salt Crust (B11)
- x Biotic Crust (B12)
- ___ Aquatic Invertebrates (B13)
- ___ Hydrogen Sulfide Odor (C1)
- ___ Oxidized Rhizospheres on Living Roots (C3)
- ___ Presence of Reduced Iron (C4)
- ___ Recent Iron Reduction in Tilled Soils (C6)
- ___ Thin Muck Surface (C7)
- ___ Other (Explain in Remarks)

Secondary Indicators (minimum of two required)

- ___ Water Marks (B1) **(Riverine)**
- ___ Sediment Deposits (B2) **(Riverine)**
- ___ Drift Deposits (B3) **(Riverine)**
- ___ Drainage Patterns (B10)
- ___ Dry-Season Water Table (C2)
- ___ Crayfish Burrows (C8)
- x Saturation Visible on Aerial Imagery (C9)
- ___ Shallow Aquitard (D3)
- X FAC-Neutral Test (D5)

Field Observations:

Surface Water Present? Yes x No ___ Depth (inches): 1

Water Table Present? Yes ___ No x Depth (inches): ___

Saturation Present? Yes ___ No x Depth (inches): ___

(includes capillary fringe)

Wetland Hydrology Present? **Yes** X **No** ___

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:
Artifical water source from adjacent fish farm is variable but likely flows into wetland swale daily or multiple times a day.

U.S. Army Corps of Engineers
WETLAND DETERMINATION DATA SHEET – Arid West Region
See ERDC/EL TR-07-24; the proponent agency is CECW-CO-R

OMB Control #: 0710-xxxx, Exp: Pending
Requirement Control Symbol EXEMPT:
(Authority: AR 335-15, paragraph 5-2a)

Project/Site: Easley Solar Project | City/County: Riverside | Sampling Date: 4/5/22
Applicant/Owner: Intersect Power | State: CA | Sampling Point: EDP05W
Investigator(s): L.Rouse, M. Laverndar, F. Corburn | Section, Township, Range: S2, T5S, R15E
Landform (hillside, terrace, etc.): Swale | Local relief (concave, convex, none): concave | Slope (%): <1
Subregion (LRR): LRR D | Lat: 33.765111 | Long: -115.386658 | Datum: WGS84
Soil Map Unit Name: No Digital Data Available | NWI classification: PEM
Are climatic / hydrologic conditions on the site typical for this time of year? Yes x No ____ (If no, explain in Remarks.)
Are Vegetation n, Soil n, or Hydrology No significantly disturbed? Are "Normal Circumstances" present? Yes y No ____
Are Vegetation n, Soil n, or Hydrology No naturally problematic? (If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present? Yes X No ____
Hydric Soil Present? Yes x No ____
Wetland Hydrology Present? Yes X No ____

Is the Sampled Area within a Wetland? **Yes** X **No** ____

Remarks:
Wetland swale created from artificial water source from adjacent fish farm. All three criteria met.

VEGETATION – Use scientific names of plants.

Tree Stratum (Plot size: 30' radius)	Absolute % Cover	Dominant Species?	Indicator Status
1. *Not Applicable*			
2.			
3.			
4.			
	=Total Cover		
Sapling/Shrub Stratum (Plot size: ____)			
1. *Not Applicable*			
2.			
3.			
4.			
5.			
	=Total Cover		
Herb Stratum (Plot size: 5' radius)			
1. *Schoenoplectus maritimus*	60	Yes	OBL
2. *Typha latifolia*	40	Yes	OBL
3. *Erigeron canadensis*	10	No	FACU
4. *Diplachne fusca*	5	No	FACW
5. *Polypogon monspeliensis*	5	No	FACW
6.			
7.			
8.			
	120 =Total Cover		
Woody Vine Stratum (Plot size: ____)			
1. *Not applicable*			
2.			
	=Total Cover		

% Bare Ground in Herb Stratum 0 % Cover of Biotic Crust 0

Dominance Test worksheet:
Number of Dominant Species That Are OBL, FACW, or FAC: 2 (A)
Total Number of Dominant Species Across All Strata: 2 (B)
Percent of Dominant Species That Are OBL, FACW, or FAC: 100.0% (A/B)

Prevalence Index worksheet:

Total % Cover of:	Multiply by:
OBL species ____	x 1 = ____
FACW species ____	x 2 = ____
FAC species ____	x 3 = ____
FACU species ____	x 4 = ____
UPL species ____	x 5 = ____
Column Totals: ____ (A)	____ (B)

Prevalence Index = B/A = ____

Hydrophytic Vegetation Indicators:
X Dominance Test is >50%
____ Prevalence Index is ≤3.0[1]
____ Morphological Adaptations[1] (Provide supporting data in Remarks or on a separate sheet)
____ Problematic Hydrophytic Vegetation[1] (Explain)

[1]Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.

Hydrophytic Vegetation Present? **Yes** X **No** ____

Remarks:
Vegetation meets dominance test.

SOIL

Sampling Point: EDP05W

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)

Depth (inches)	Matrix Color (moist)	%	Redox Features Color (moist)	%	Type[1]	Loc[2]	Texture	Remarks

[1]Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains. [2]Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.)

- ___ Histosol (A1)
- ___ Histic Epipedon (A2)
- ___ Black Histic (A3)
- ___ Hydrogen Sulfide (A4)
- ___ Stratified Layers (A5) **(LRR C)**
- ___ 1 cm Muck (A9) **(LRR D)**
- ___ Depleted Below Dark Surface (A11)
- ___ Thick Dark Surface (A12)
- ___ Sandy Mucky Mineral (S1)
- ___ Sandy Gleyed Matrix (S4)
- ___ Sandy Redox (S5)
- ___ Stripped Matrix (S6)
- ___ Loamy Mucky Mineral (F1)
- ___ Loamy Gleyed Matrix (F2)
- ___ Depleted Matrix (F3)
- ___ Redox Dark Surface (F6)
- ___ Depleted Dark Surface (F7)
- ___ Redox Depressions (F8)

Indicators for Problematic Hydric Soils[3]:

- ___ 1 cm Muck (A9) **(LRR C)**
- ___ 2 cm Muck (A10) **(LRR B)**
- ___ Iron-Manganese Masses (F12) **(LRR D)**
- ___ Reduced Vertic (F18)
- ___ Red Parent Material (F21)
- ___ Very Shallow Dark Surface (F22)
- x Other (Explain in Remarks)

[3]Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if observed):

Type: ___

Depth (inches): ___

Hydric Soil Present? **Yes** x **No** ___

Remarks:
No soil data collected because of the dominace of obligate wetland species and the presence of standing water. Dark matrix and hydric soil assumed based on preponderance of evidence.

HYDROLOGY

Wetland Hydrology Indicators:

Primary Indicators (minimum of one is required; check all that apply)

- X Surface Water (A1)
- ___ High Water Table (A2)
- ___ Saturation (A3)
- ___ Water Marks (B1) **(Nonriverine)**
- ___ Sediment Deposits (B2) **(Nonriverine)**
- ___ Drift Deposits (B3) **(Nonriverine)**
- ___ Surface Soil Cracks (B6)
- ___ Inundation Visible on Aerial Imagery (B7)
- ___ Water-Stained Leaves (B9)
- ___ Salt Crust (B11)
- ___ Biotic Crust (B12)
- ___ Aquatic Invertebrates (B13)
- ___ Hydrogen Sulfide Odor (C1)
- ___ Oxidized Rhizospheres on Living Roots (C3)
- ___ Presence of Reduced Iron (C4)
- ___ Recent Iron Reduction in Tilled Soils (C6)
- ___ Thin Muck Surface (C7)
- ___ Other (Explain in Remarks)

Secondary Indicators (minimum of two required)

- ___ Water Marks (B1) **(Riverine)**
- ___ Sediment Deposits (B2) **(Riverine)**
- ___ Drift Deposits (B3) **(Riverine)**
- ___ Drainage Patterns (B10)
- ___ Dry-Season Water Table (C2)
- ___ Crayfish Burrows (C8)
- ___ Saturation Visible on Aerial Imagery (C9)
- ___ Shallow Aquitard (D3)
- X FAC-Neutral Test (D5)

Field Observations:

Surface Water Present?	Yes x	No ___	Depth (inches): 12
Water Table Present?	Yes ___	No x	Depth (inches): ___
Saturation Present? (includes capillary fringe)	Yes x	No ___	Depth (inches): 0

Wetland Hydrology Present? **Yes** X **No** ___

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:
Wetland hydrology present

U.S. Army Corps of Engineers
WETLAND DETERMINATION DATA SHEET – Arid West Region
See ERDC/EL TR-07-24; the proponent agency is CECW-CO-R

OMB Control #: 0710-xxxx, Exp: Pending
Requirement Control Symbol EXEMPT:
(Authority: AR 335-15, paragraph 5-2a)

Project/Site: Easley Solar Project | City/County: Riverside | Sampling Date: 4/5/22
Applicant/Owner: Intersect Power | State: CA | Sampling Point: EDP06U
Investigator(s): L.Rouse, M. Laverndar, F. Corburn | Section, Township, Range: S2, T5S, R15E
Landform (hillside, terrace, etc.): dry wash | Local relief (concave, convex, none): none | Slope (%):
Subregion (LRR): LRR D | Lat: 33.765364 | Long: -115.386672 | Datum: WGS84
Soil Map Unit Name: No Digital Data Available | NWI classification: NA
Are climatic / hydrologic conditions on the site typical for this time of year? Yes x No (If no, explain in Remarks.)
Are Vegetation n, Soil n, or Hydrology No significantly disturbed? Are "Normal Circumstances" present? Yes y No
Are Vegetation n, Soil n, or Hydrology No naturally problematic? (If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present? Yes No X
Hydric Soil Present? Yes No X
Wetland Hydrology Present? Yes No X

Is the Sampled Area within a Wetland? **Yes** **No** X

Remarks:
Slight terrace above wetland swale. No wetland criteria met.

VEGETATION – Use scientific names of plants.

Tree Stratum (Plot size: 30' radius)	Absolute % Cover	Dominant Species?	Indicator Status
1. *Parleinsonia florida*	5	Yes	UPL
2.			
3.			
4.			
	5	=Total Cover	
Sapling/Shrub Stratum (Plot size: 10' radius)			
1. *Ambrosia dumosa*	3	Yes	UPL
2. *Larrea tridentata*	12	Yes	UPL
3.			
4.			
5.			
	15	=Total Cover	
Herb Stratum (Plot size: 5' radius)			
1. *Schismus barbatus*	5	Yes	UPL
2. *Aphyllon cooperi*	2	Yes	UPL
3. *Brassica tournefortii*	2	Yes	UPL
4. *Hilariia rigida*	1	No	UPL
5. *Palafoxia arida*	1	No	UPL
6.			
7.			
8.			
	11	=Total Cover	
Woody Vine Stratum (Plot size:)			
1. *Not applicable*			
2.			
		=Total Cover	

% Bare Ground in Herb Stratum 75 % Cover of Biotic Crust 0

Dominance Test worksheet:
Number of Dominant Species That Are OBL, FACW, or FAC: 0 (A)
Total Number of Dominant Species Across All Strata: 6 (B)
Percent of Dominant Species That Are OBL, FACW, or FAC: 0.0% (A/B)

Prevalence Index worksheet:

Total % Cover of:		Multiply by:	
OBL species	0	x 1 =	0
FACW species	0	x 2 =	0
FAC species	0	x 3 =	0
FACU species	0	x 4 =	0
UPL species	31	x 5 =	155
Column Totals:	31 (A)		155 (B)
Prevalence Index = B/A =			5.00

Hydrophytic Vegetation Indicators:
___ Dominance Test is >50%
___ Prevalence Index is ≤3.0[1]
___ Morphological Adaptations[1] (Provide supporting data in Remarks or on a separate sheet)
___ Problematic Hydrophytic Vegetation[1] (Explain)
[1]Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.

Hydrophytic Vegetation Present? **Yes** **No** X

Remarks:
No hydrophytic vegetation present.

SOIL

Sampling Point: EDP06U

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)

Depth	Matrix		Redox Features					
(inches)	Color (moist)	%	Color (moist)	%	Type[1]	Loc[2]	Texture	Remarks
1-16	10YR 4/4	100					Sandy	

[1]Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains. [2]Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.)

- ___ Histosol (A1)
- ___ Histic Epipedon (A2)
- ___ Black Histic (A3)
- ___ Hydrogen Sulfide (A4)
- ___ Stratified Layers (A5) **(LRR C)**
- ___ 1 cm Muck (A9) **(LRR D)**
- ___ Depleted Below Dark Surface (A11)
- ___ Thick Dark Surface (A12)
- ___ Sandy Mucky Mineral (S1)
- ___ Sandy Gleyed Matrix (S4)
- ___ Sandy Redox (S5)
- ___ Stripped Matrix (S6)
- ___ Loamy Mucky Mineral (F1)
- ___ Loamy Gleyed Matrix (F2)
- ___ Depleted Matrix (F3)
- ___ Redox Dark Surface (F6)
- ___ Depleted Dark Surface (F7)
- ___ Redox Depressions (F8)

Indicators for Problematic Hydric Soils[3]:

- ___ 1 cm Muck (A9) **(LRR C)**
- ___ 2 cm Muck (A10) **(LRR B)**
- ___ Iron-Manganese Masses (F12) **(LRR D)**
- ___ Reduced Vertic (F18)
- ___ Red Parent Material (F21)
- ___ Very Shallow Dark Surface (F22)
- ___ Other (Explain in Remarks)

[3]Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if observed):

Type: ___

Depth (inches): ___

Hydric Soil Present? **Yes** ___ **No** X

Remarks:
No redox features present

HYDROLOGY

Wetland Hydrology Indicators:

Primary Indicators (minimum of one is required; check all that apply)

- ___ Surface Water (A1)
- ___ High Water Table (A2)
- ___ Saturation (A3)
- ___ Water Marks (B1) **(Nonriverine)**
- ___ Sediment Deposits (B2) **(Nonriverine)**
- ___ Drift Deposits (B3) **(Nonriverine)**
- ___ Surface Soil Cracks (B6)
- ___ Inundation Visible on Aerial Imagery (B7)
- ___ Water-Stained Leaves (B9)
- ___ Salt Crust (B11)
- ___ Biotic Crust (B12)
- ___ Aquatic Invertebrates (B13)
- ___ Hydrogen Sulfide Odor (C1)
- ___ Oxidized Rhizospheres on Living Roots (C3)
- ___ Presence of Reduced Iron (C4)
- ___ Recent Iron Reduction in Tilled Soils (C6)
- ___ Thin Muck Surface (C7)
- ___ Other (Explain in Remarks)

Secondary Indicators (minimum of two required)

- ___ Water Marks (B1) **(Riverine)**
- ___ Sediment Deposits (B2) **(Riverine)**
- ___ Drift Deposits (B3) **(Riverine)**
- ___ Drainage Patterns (B10)
- ___ Dry-Season Water Table (C2)
- ___ Crayfish Burrows (C8)
- ___ Saturation Visible on Aerial Imagery (C9)
- ___ Shallow Aquitard (D3)
- ___ FAC-Neutral Test (D5)

Field Observations:

Surface Water Present?	Yes ___	No x	Depth (inches): ___
Water Table Present?	Yes ___	No x	Depth (inches): ___
Saturation Present? (includes capillary fringe)	Yes ___	No x	Depth (inches): ___

Wetland Hydrology Present? **Yes** ___ **No** X

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:
No wetland hydrology indicators present.

U.S. Army Corps of Engineers
WETLAND DETERMINATION DATA SHEET – Arid West Region
See ERDC/EL TR-07-24; the proponent agency is CECW-CO-R

OMB Control #: 0710-xxxx, Exp: Pending
Requirement Control Symbol EXEMPT:
(Authority: AR 335-15, paragraph 5-2a)

Project/Site: Easley Solar Project | City/County: Riverside | Sampling Date: 4/27/22
Applicant/Owner: Intersect Power | State: CA | Sampling Point: EDP14W
Investigator(s): L.Rouse, M. Lavender | Section, Township, Range: S2, T5S, R15E
Landform (hillside, terrace, etc.): depression | Local relief (concave, convex, none): concave | Slope (%): <1
Subregion (LRR): LRR D | Lat: 33.772632 | Long: -115.384845 | Datum: WGS84
Soil Map Unit Name: No digital data available | NWI classification: PEM
Are climatic / hydrologic conditions on the site typical for this time of year? Yes x No ____ (If no, explain in Remarks.)
Are Vegetation n, Soil n, or Hydrology No significantly disturbed? Are "Normal Circumstances" present? Yes x No ____
Are Vegetation n, Soil n, or Hydrology No naturally problematic? (If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present? Yes X No ____
Hydric Soil Present? Yes X No ____
Wetland Hydrology Present? Yes X No ____

Is the Sampled Area within a Wetland? **Yes** X **No** ____

Remarks:
Water likely comes from adjacent aquaculture farm. Artifical wetland but has all three indicators.

VEGETATION – Use scientific names of plants.

	Absolute % Cover	Dominant Species?	Indicator Status
Tree Stratum (Plot size: ____)			
1. *Not applicable*			
2.			
3.			
4.			
		=Total Cover	
Sapling/Shrub Stratum (Plot size: ____)			
1. *Not applicable*			
2.			
3.			
4.			
5.			
		=Total Cover	
Herb Stratum (Plot size: 5' radius)			
1. *Diplachne fusca*	70	Yes	FACW
2. *Polypogon monspeliensis*	27	Yes	FACW
3. *Sonchus oleraceus*	2	No	UPL
4. *Erigeron canadensis*	1	No	FACU
5.			
6.			
7.			
8.			
	100	=Total Cover	
Woody Vine Stratum (Plot size: ____)			
1.			
2.			
		=Total Cover	

% Bare Ground in Herb Stratum 0 % Cover of Biotic Crust 0

Dominance Test worksheet:
Number of Dominant Species That Are OBL, FACW, or FAC: 2 (A)
Total Number of Dominant Species Across All Strata: 2 (B)
Percent of Dominant Species That Are OBL, FACW, or FAC: 100.0% (A/B)

Prevalence Index worksheet:

Total % Cover of:	Multiply by:
OBL species ____	x 1 = ____
FACW species ____	x 2 = ____
FAC species ____	x 3 = ____
FACU species ____	x 4 = ____
UPL species ____	x 5 = ____
Column Totals: ____ (A)	____ (B)
Prevalence Index = B/A = ____	

Hydrophytic Vegetation Indicators:
X Dominance Test is >50%
____ Prevalence Index is ≤3.0[1]
____ Morphological Adaptations[1] (Provide supporting data in Remarks or on a separate sheet)
____ Problematic Hydrophytic Vegetation[1] (Explain)
[1]Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.

Hydrophytic Vegetation Present? **Yes** X **No** ____

Remarks:
Hydrophytic vegetation present

SOIL

Sampling Point: EDP14W

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)

Depth	Matrix		Redox Features					
(inches)	Color (moist)	%	Color (moist)	%	Type[1]	Loc[2]	Texture	Remarks
0-1	10YR 3/2	100					Loamy/Clayey	
1-2	N 2.5/	85	5YR 5/8	15	c	M	Loamy/Clayey	
2-12	10YR 4/3	90	7.5YR 5/8	10	C	M	Sandy	Prominent redox concentrations

[1]Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains. [2]Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.)

- ___ Histosol (A1)
- ___ Histic Epipedon (A2)
- ___ Black Histic (A3)
- ___ Hydrogen Sulfide (A4)
- ___ Stratified Layers (A5) **(LRR C)**
- ___ 1 cm Muck (A9) **(LRR D)**
- ___ Depleted Below Dark Surface (A11)
- ___ Thick Dark Surface (A12)
- ___ Sandy Mucky Mineral (S1)
- ___ Sandy Gleyed Matrix (S4)
- ___ Sandy Redox (S5)
- x Stripped Matrix (S6)
- ___ Loamy Mucky Mineral (F1)
- ___ Loamy Gleyed Matrix (F2)
- ___ Depleted Matrix (F3)
- ___ Redox Dark Surface (F6)
- ___ Depleted Dark Surface (F7)
- ___ Redox Depressions (F8)

Indicators for Problematic Hydric Soils[3]:

- ___ 1 cm Muck (A9) **(LRR C)**
- ___ 2 cm Muck (A10) **(LRR B)**
- ___ Iron-Manganese Masses (F12) **(LRR D)**
- x Reduced Vertic (F18)
- ___ Red Parent Material (F21)
- ___ Very Shallow Dark Surface (F22)
- ___ Other (Explain in Remarks)

[3]Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if observed):

Type: ___

Depth (inches): ___

Hydric Soil Present? **Yes** X **No** ___

Remarks:
hydric soil indicators present

HYDROLOGY

Wetland Hydrology Indicators:

Primary Indicators (minimum of one is required; check all that apply)

- X Surface Water (A1)
- X High Water Table (A2)
- x Saturation (A3)
- ___ Water Marks (B1) **(Nonriverine)**
- ___ Sediment Deposits (B2) **(Nonriverine)**
- ___ Drift Deposits (B3) **(Nonriverine)**
- x Surface Soil Cracks (B6)
- ___ Inundation Visible on Aerial Imagery (B7)
- ___ Water-Stained Leaves (B9)
- ___ Salt Crust (B11)
- ___ Biotic Crust (B12)
- ___ Aquatic Invertebrates (B13)
- ___ Hydrogen Sulfide Odor (C1)
- x Oxidized Rhizospheres on Living Roots (C3)
- ___ Presence of Reduced Iron (C4)
- ___ Recent Iron Reduction in Tilled Soils (C6)
- ___ Thin Muck Surface (C7)
- ___ Other (Explain in Remarks)

Secondary Indicators (minimum of two required)

- ___ Water Marks (B1) **(Riverine)**
- ___ Sediment Deposits (B2) **(Riverine)**
- ___ Drift Deposits (B3) **(Riverine)**
- ___ Drainage Patterns (B10)
- ___ Dry-Season Water Table (C2)
- ___ Crayfish Burrows (C8)
- ___ Saturation Visible on Aerial Imagery (C9)
- ___ Shallow Aquitard (D3)
- X FAC-Neutral Test (D5)

Field Observations:

Surface Water Present? Yes x No ___ Depth (inches): 1

Water Table Present? Yes x No ___ Depth (inches): 6

Saturation Present? (includes capillary fringe) Yes x No ___ Depth (inches): ___

Wetland Hydrology Present? **Yes** X **No** ___

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:
wetland hydrology present

U.S. Army Corps of Engineers
WETLAND DETERMINATION DATA SHEET – Arid West Region
See ERDC/EL TR-07-24; the proponent agency is CECW-CO-R

OMB Control #: 0710-xxxx, Exp: Pending
Requirement Control Symbol EXEMPT:
(Authority: AR 335-15, paragraph 5-2a)

Project/Site: Easley Solar Project | City/County: Riverside | Sampling Date: 4/27/22
Applicant/Owner: Intersect Power | State: CA | Sampling Point: EDP15U
Investigator(s): L.Rouse, M. Lavender | Section, Township, Range: S2, T5S, R15E
Landform (hillside, terrace, etc.): terrace | Local relief (concave, convex, none): none | Slope (%): <1
Subregion (LRR): LRR D | Lat: 33.772585 | Long: -115.389915 | Datum: WGS84
Soil Map Unit Name: Digital data not available | NWI classification: NA
Are climatic / hydrologic conditions on the site typical for this time of year? Yes x No ____ (If no, explain in Remarks.)
Are Vegetation n , Soil y , or Hydrology y significantly disturbed? Are "Normal Circumstances" present? Yes y No ____
Are Vegetation n , Soil n , or Hydrology No naturally problematic? (If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present? Yes ____ No X
Hydric Soil Present? Yes ____ No ____
Wetland Hydrology Present? Yes X No ____

Is the Sampled Area within a Wetland? **Yes** ____ **No** X

Remarks:
Area disturbed by human activities.

VEGETATION – Use scientific names of plants.

Tree Stratum (Plot size: ____)	Absolute % Cover	Dominant Species?	Indicator Status
1. *Not applicable*			
2.			
3.			
4.			
	=Total Cover		
Sapling/Shrub Stratum (Plot size: 15' radius)			
1. *Ambrosia salsola*	2	No	UPL
2.			
3.			
4.			
5.			
	2 =Total Cover		
Herb Stratum (Plot size: 5' radius)			
1. *Datura wrightii*	40	Yes	UPL
2. *Tidestromia suffruticosa*	10	No	UPL
3. *Cryptantha angustifolia*	2	No	UPL
4. *Brassica tournefortii*	10	No	UPL
5. *Tiquilia plicata*	2	No	UPL
6. *Schismus barbatus*	2	No	UPL
7. *Palafoxia arida*	1	No	UPL
8. *Erigeron canadensis*	1	No	FACU
	68 =Total Cover		
Woody Vine Stratum (Plot size: ____)			
1. *Not applicable*			
2.			
	=Total Cover		

% Bare Ground in Herb Stratum 0 % Cover of Biotic Crust 0

Dominance Test worksheet:
Number of Dominant Species That Are OBL, FACW, or FAC: 0 (A)
Total Number of Dominant Species Across All Strata: 1 (B)
Percent of Dominant Species That Are OBL, FACW, or FAC: 0.0% (A/B)

Prevalence Index worksheet:

Total % Cover of:		Multiply by:	
OBL species	0	x 1 =	0
FACW species	0	x 2 =	0
FAC species	0	x 3 =	0
FACU species	1	x 4 =	4
UPL species	69	x 5 =	345
Column Totals:	70 (A)		349 (B)
Prevalence Index = B/A =			4.99

Hydrophytic Vegetation Indicators:
___ Dominance Test is >50%
___ Prevalence Index is ≤3.0[1]
___ Morphological Adaptations[1] (Provide supporting data in Remarks or on a separate sheet)
___ Problematic Hydrophytic Vegetation[1] (Explain)
[1]Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.

Hydrophytic Vegetation Present? **Yes** ____ **No** X

Remarks:
Hydrophytic vegetation not present

SOIL

Sampling Point: EDP15U

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)

Depth	Matrix		Redox Features					
(inches)	Color (moist)	%	Color (moist)	%	Type[1]	Loc[2]	Texture	Remarks
0-16	10YR 4/3	100					Sandy	

[1]Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains. [2]Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.)

- ___ Histosol (A1)
- ___ Histic Epipedon (A2)
- ___ Black Histic (A3)
- ___ Hydrogen Sulfide (A4)
- ___ Stratified Layers (A5) **(LRR C)**
- ___ 1 cm Muck (A9) **(LRR D)**
- ___ Depleted Below Dark Surface (A11)
- ___ Thick Dark Surface (A12)
- ___ Sandy Mucky Mineral (S1)
- ___ Sandy Gleyed Matrix (S4)
- ___ Sandy Redox (S5)
- ___ Stripped Matrix (S6)
- ___ Loamy Mucky Mineral (F1)
- ___ Loamy Gleyed Matrix (F2)
- ___ Depleted Matrix (F3)
- ___ Redox Dark Surface (F6)
- ___ Depleted Dark Surface (F7)
- ___ Redox Depressions (F8)

Indicators for Problematic Hydric Soils[3]:

- ___ 1 cm Muck (A9) **(LRR C)**
- ___ 2 cm Muck (A10) **(LRR B)**
- ___ Iron-Manganese Masses (F12) **(LRR D)**
- ___ Reduced Vertic (F18)
- ___ Red Parent Material (F21)
- ___ Very Shallow Dark Surface (F22)
- ___ Other (Explain in Remarks)

[3]Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if observed):

Type: _____

Depth (inches): _____

Hydric Soil Present? **Yes** ___ **No** ___

Remarks:
hydric soil indicators not present

HYDROLOGY

Wetland Hydrology Indicators:

Primary Indicators (minimum of one is required; check all that apply)

- X Surface Water (A1)
- X High Water Table (A2)
- x Saturation (A3)
- ___ Water Marks (B1) **(Nonriverine)**
- ___ Sediment Deposits (B2) **(Nonriverine)**
- ___ Drift Deposits (B3) **(Nonriverine)**
- x Surface Soil Cracks (B6)
- ___ Inundation Visible on Aerial Imagery (B7)
- ___ Water-Stained Leaves (B9)
- ___ Salt Crust (B11)
- ___ Biotic Crust (B12)
- ___ Aquatic Invertebrates (B13)
- ___ Hydrogen Sulfide Odor (C1)
- x Oxidized Rhizospheres on Living Roots (C3)
- ___ Presence of Reduced Iron (C4)
- ___ Recent Iron Reduction in Tilled Soils (C6)
- ___ Thin Muck Surface (C7)
- ___ Other (Explain in Remarks)

Secondary Indicators (minimum of two required)

- ___ Water Marks (B1) **(Riverine)**
- ___ Sediment Deposits (B2) **(Riverine)**
- ___ Drift Deposits (B3) **(Riverine)**
- ___ Drainage Patterns (B10)
- ___ Dry-Season Water Table (C2)
- ___ Crayfish Burrows (C8)
- ___ Saturation Visible on Aerial Imagery (C9)
- ___ Shallow Aquitard (D3)
- ___ FAC-Neutral Test (D5)

Field Observations:

Surface Water Present?	Yes x	No ___	Depth (inches): 1
Water Table Present?	Yes x	No ___	Depth (inches): 6
Saturation Present? (includes capillary fringe)	Yes x	No ___	Depth (inches): ___

Wetland Hydrology Present? **Yes** X **No** ___

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:
wetland hydrology present

Appendix B – Photo Log

Photo 1. Wetland 3b near data point EDP03W (4/5/2022).

Photo 2. Wetland 3c (4/5/2022).

Photo 3. Wetland 3d (4/5/2022)

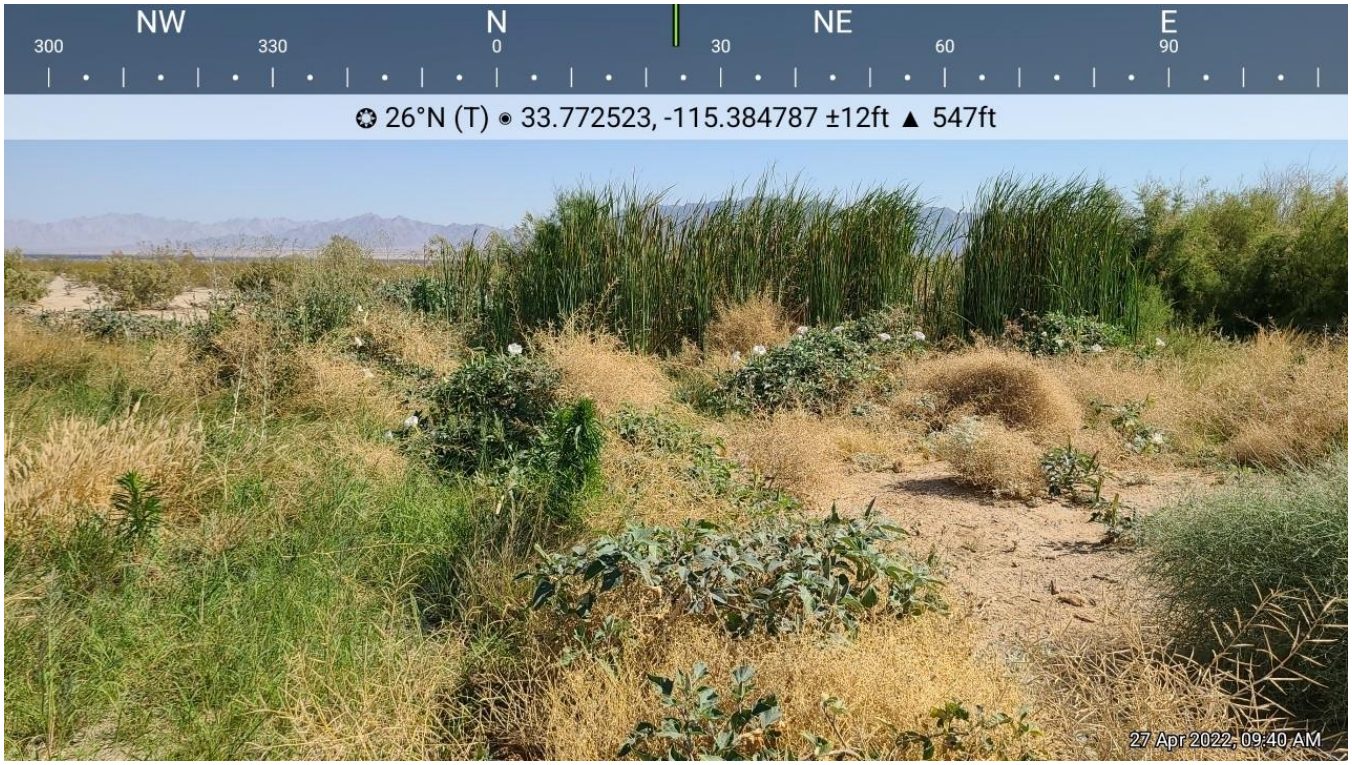


Photo 4. Wetland 4 (4/27/2022).

Appendix C – Figures

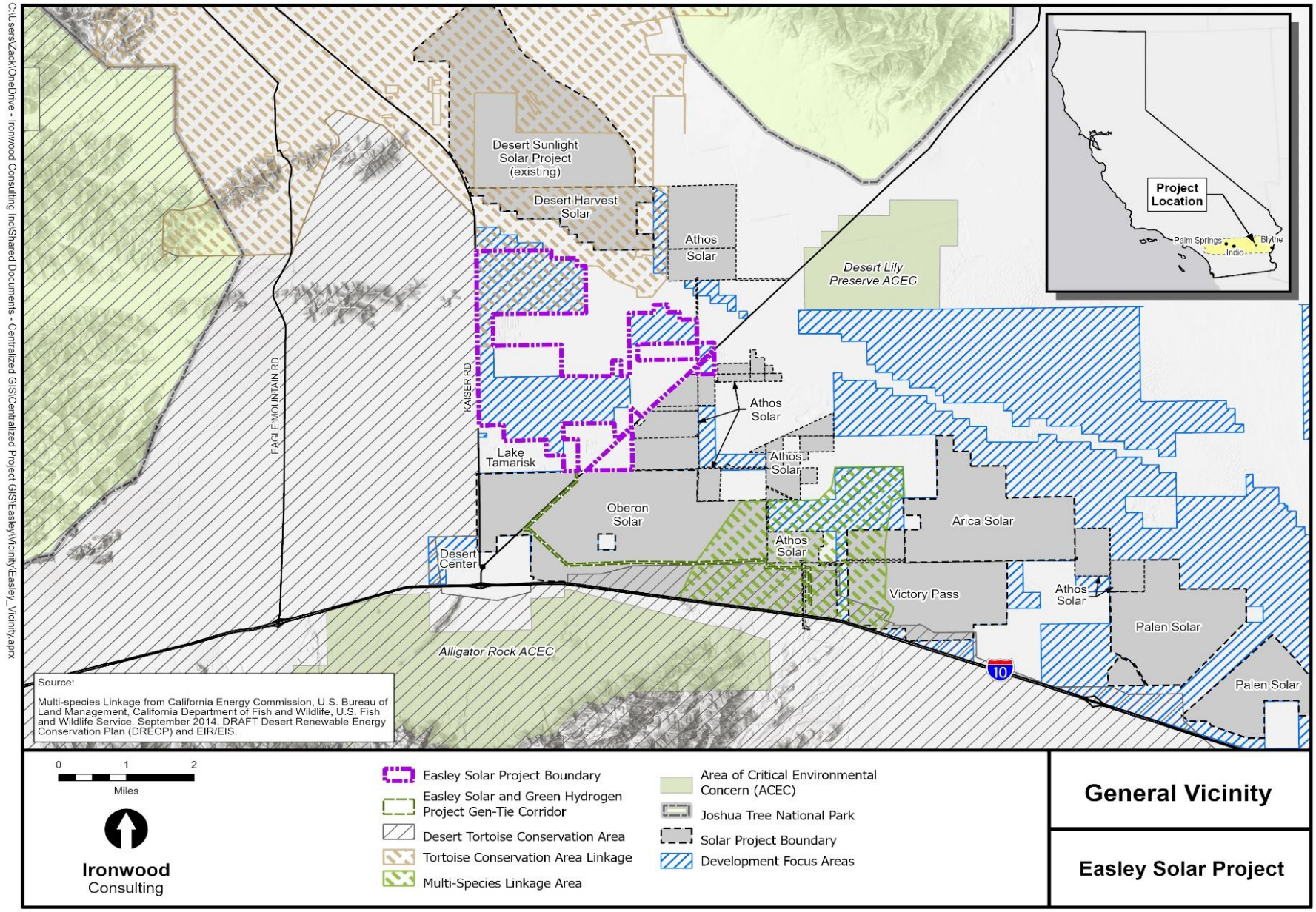


Figure 1. General Vicinity

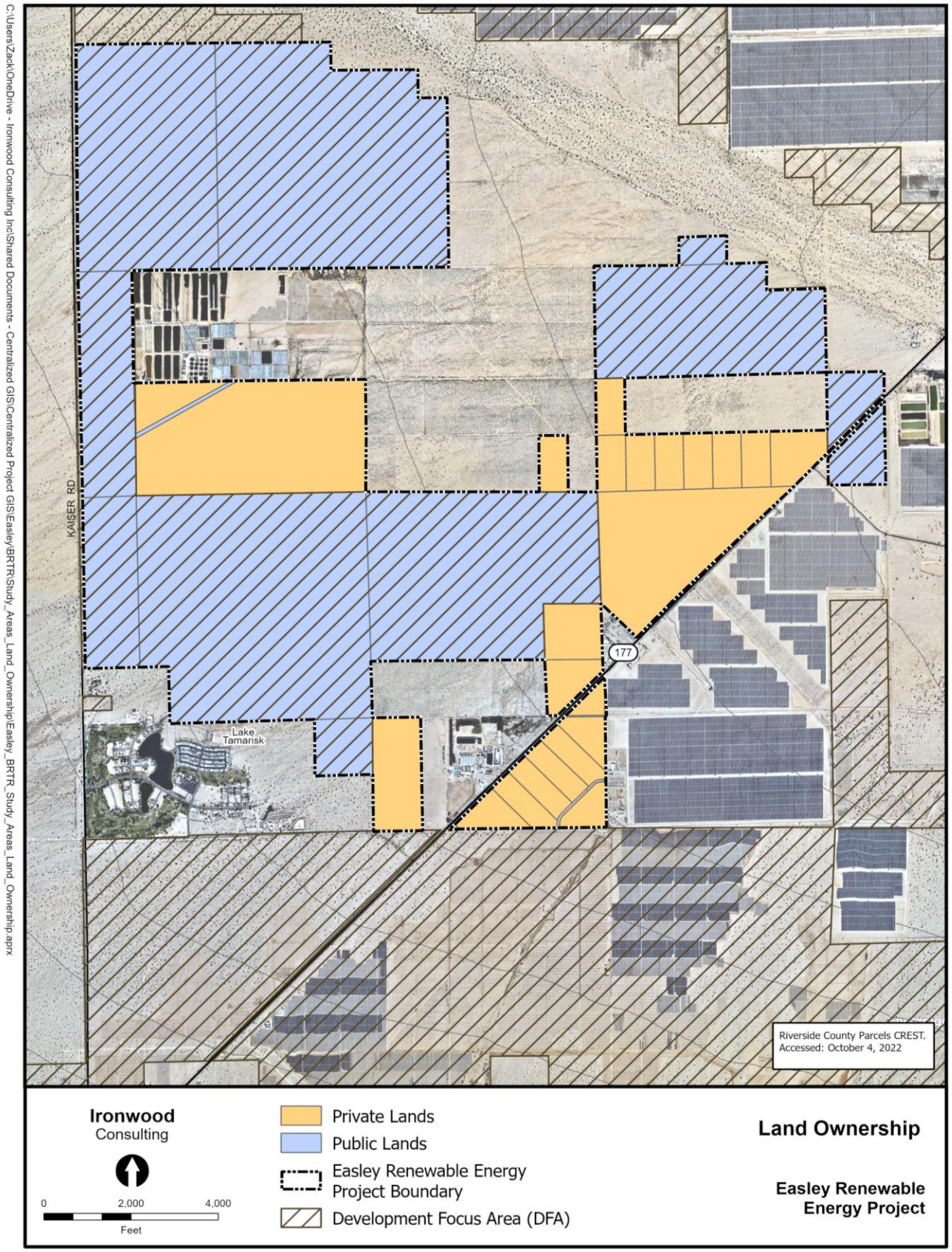


Figure 2. Land Ownership

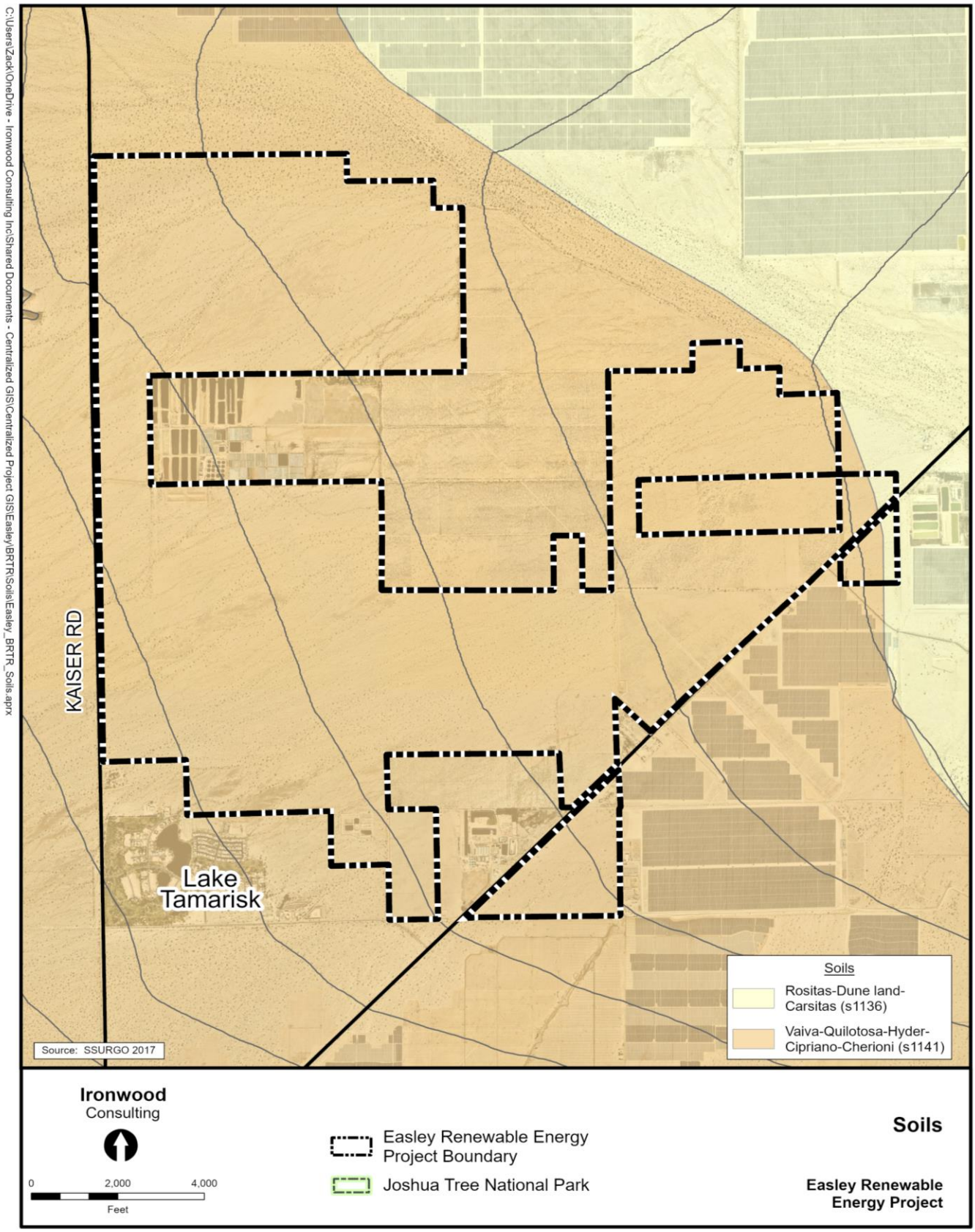


Figure 3. Soils

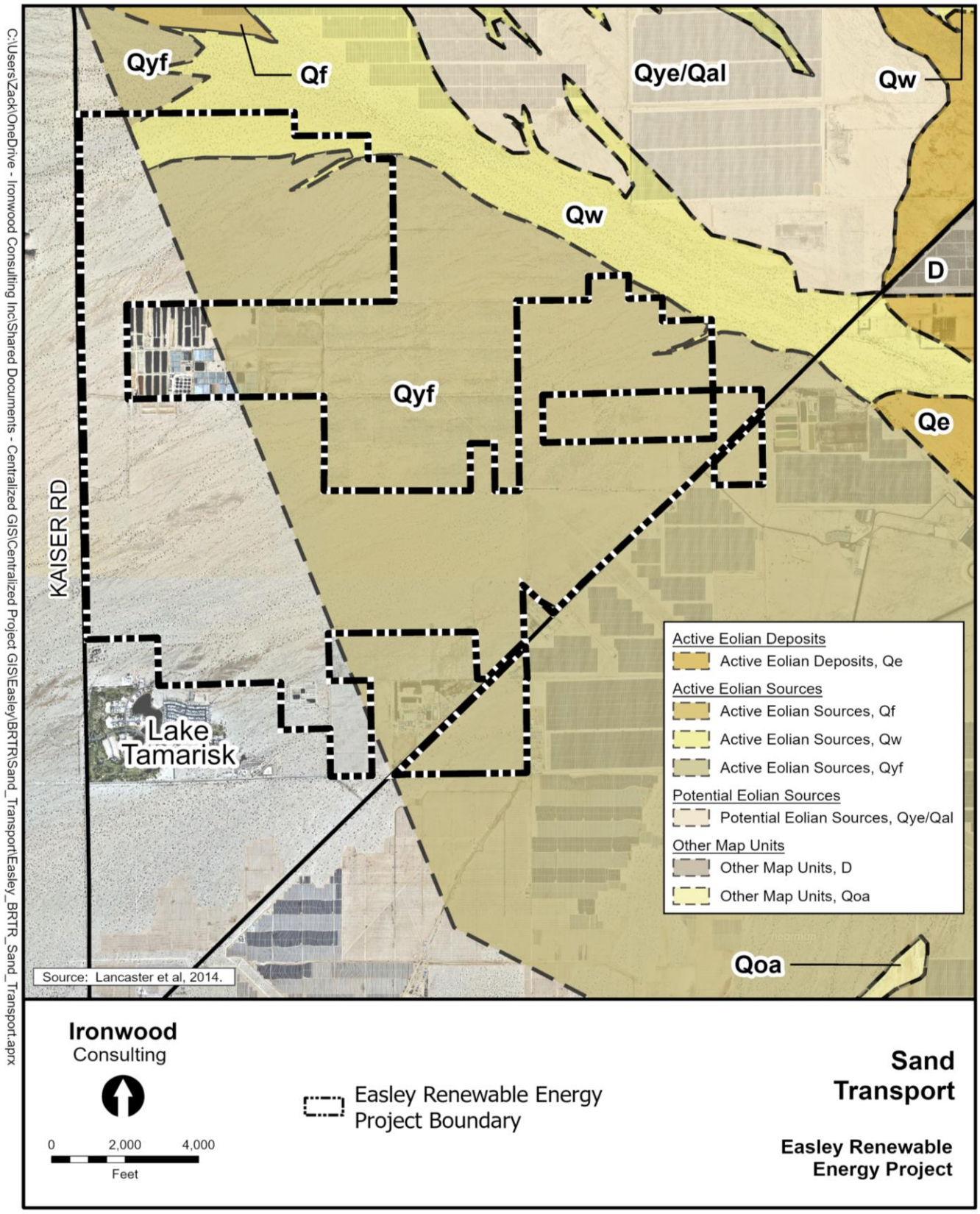


Figure 4. Sand Transport

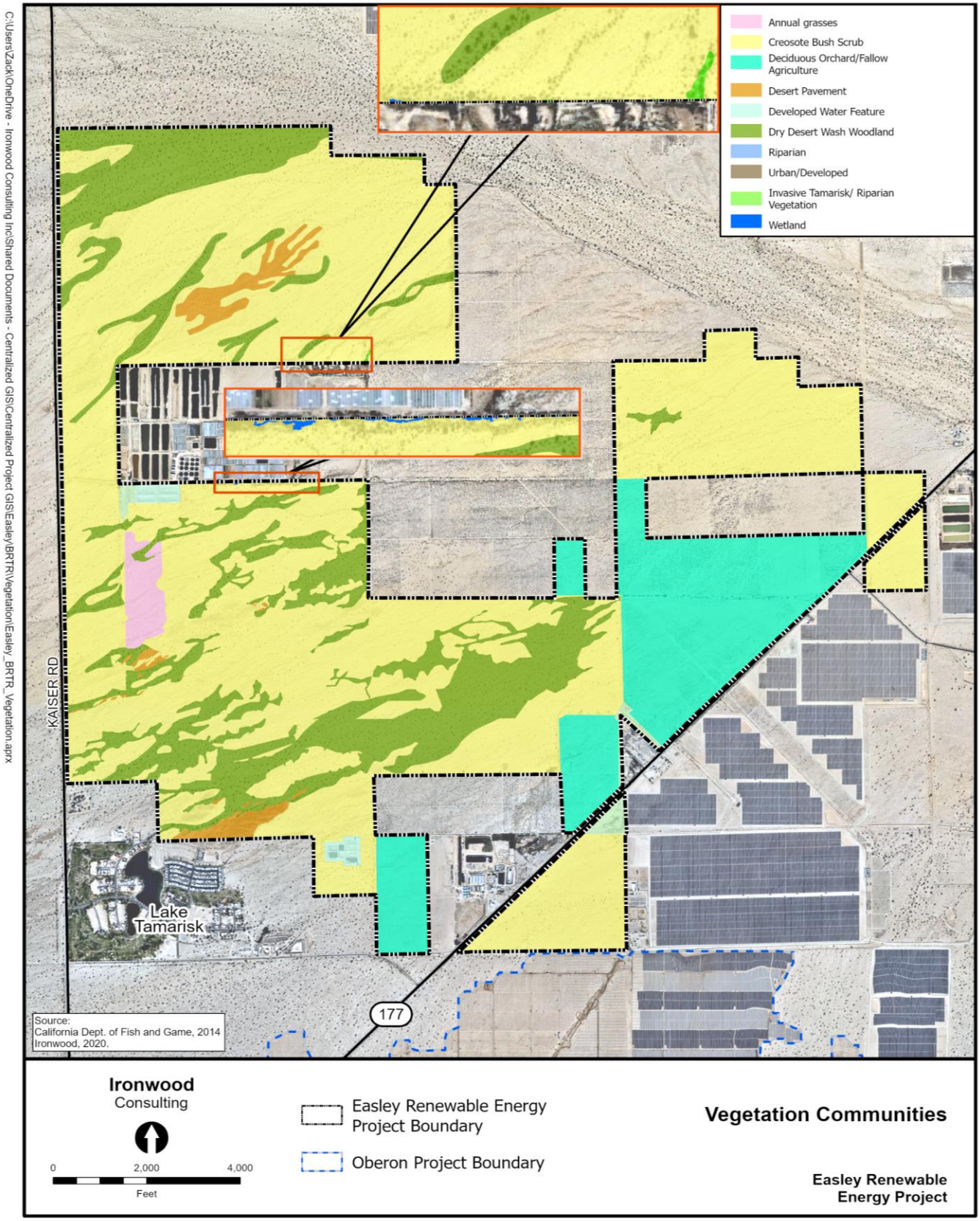


Figure 5. Vegtation Communities

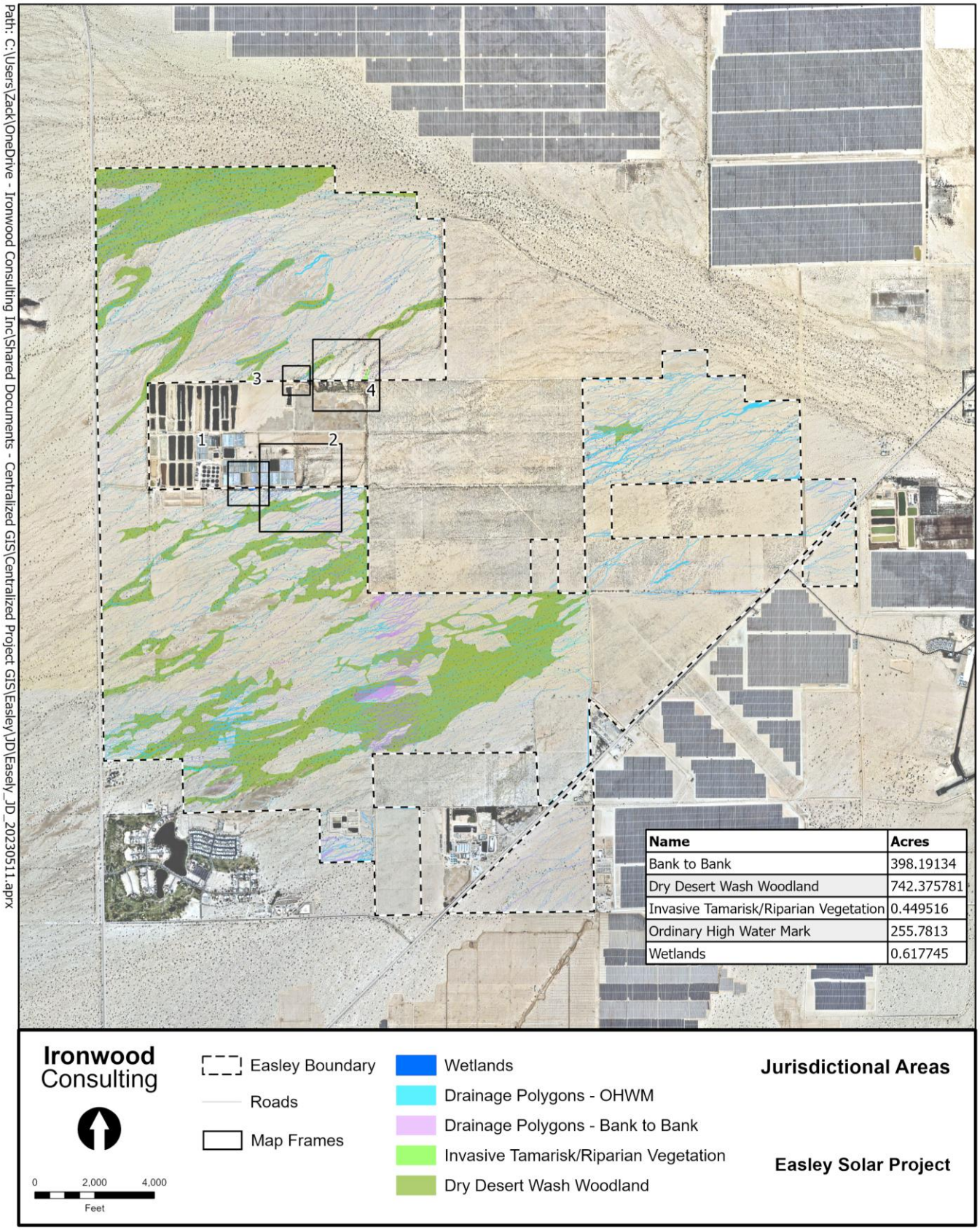


Figure 6. Jurisdictional Areas Index Map

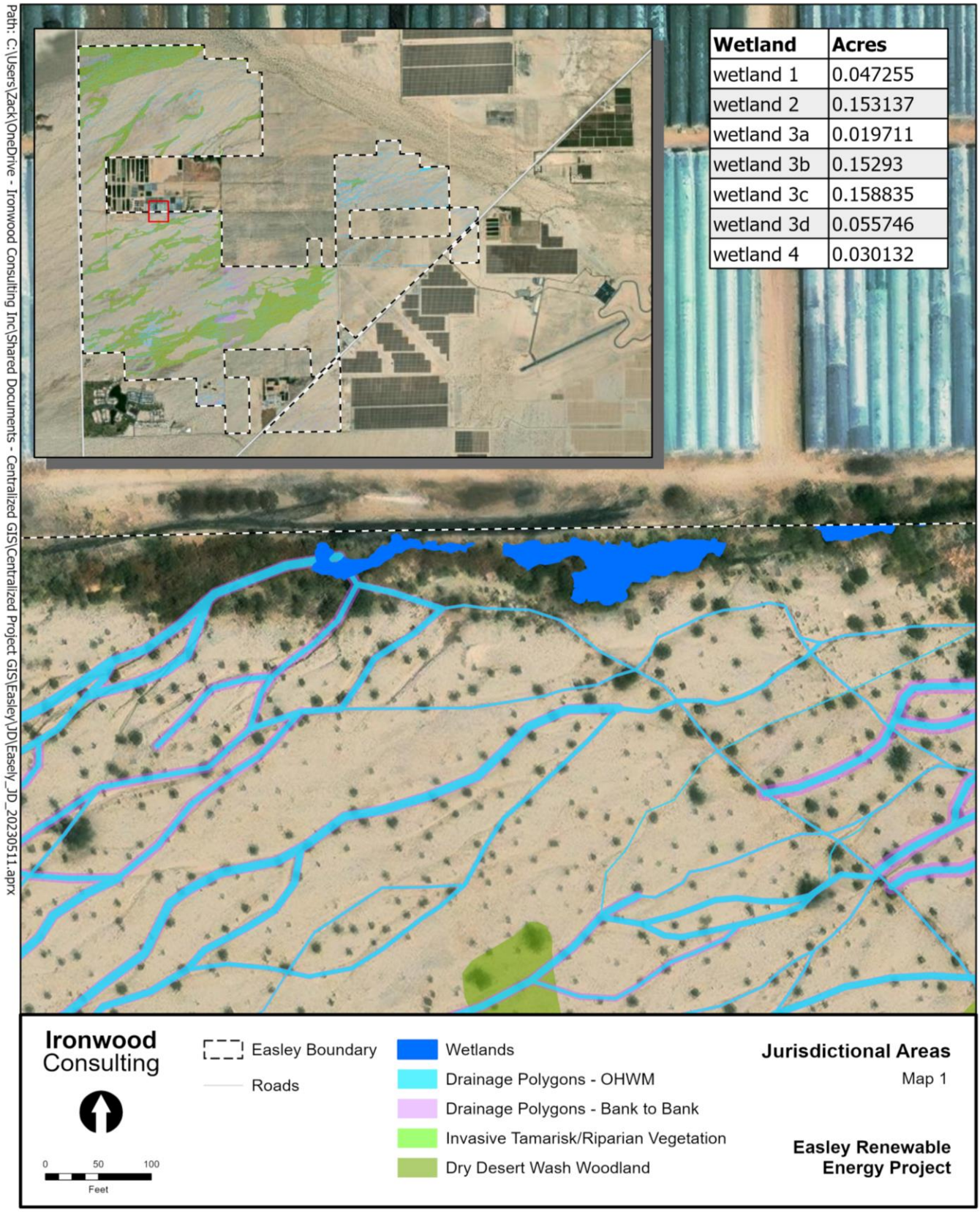


Figure 7. Jurisdictional Areas Map 1

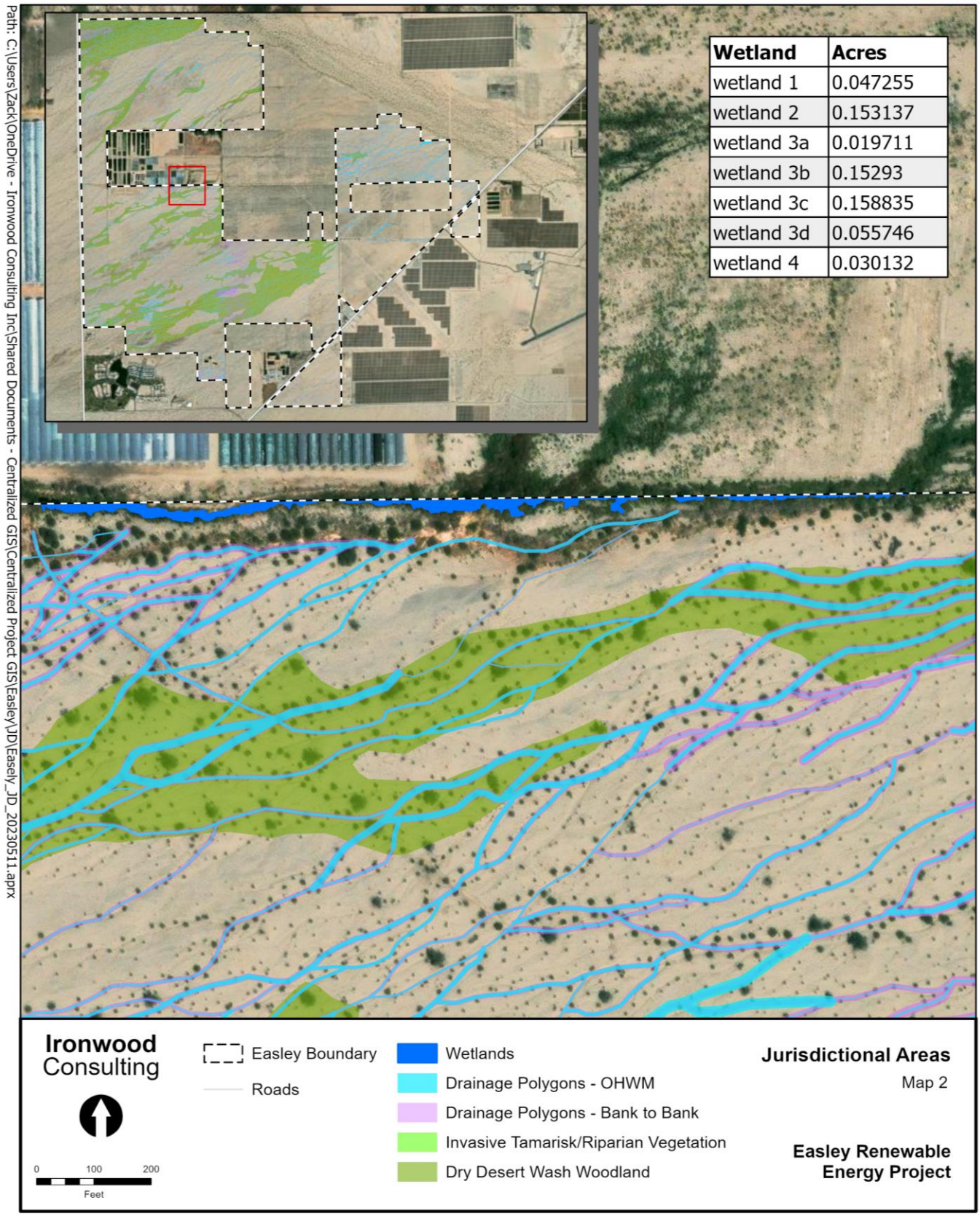


Figure 8. Jurisdictional Areas Map 2

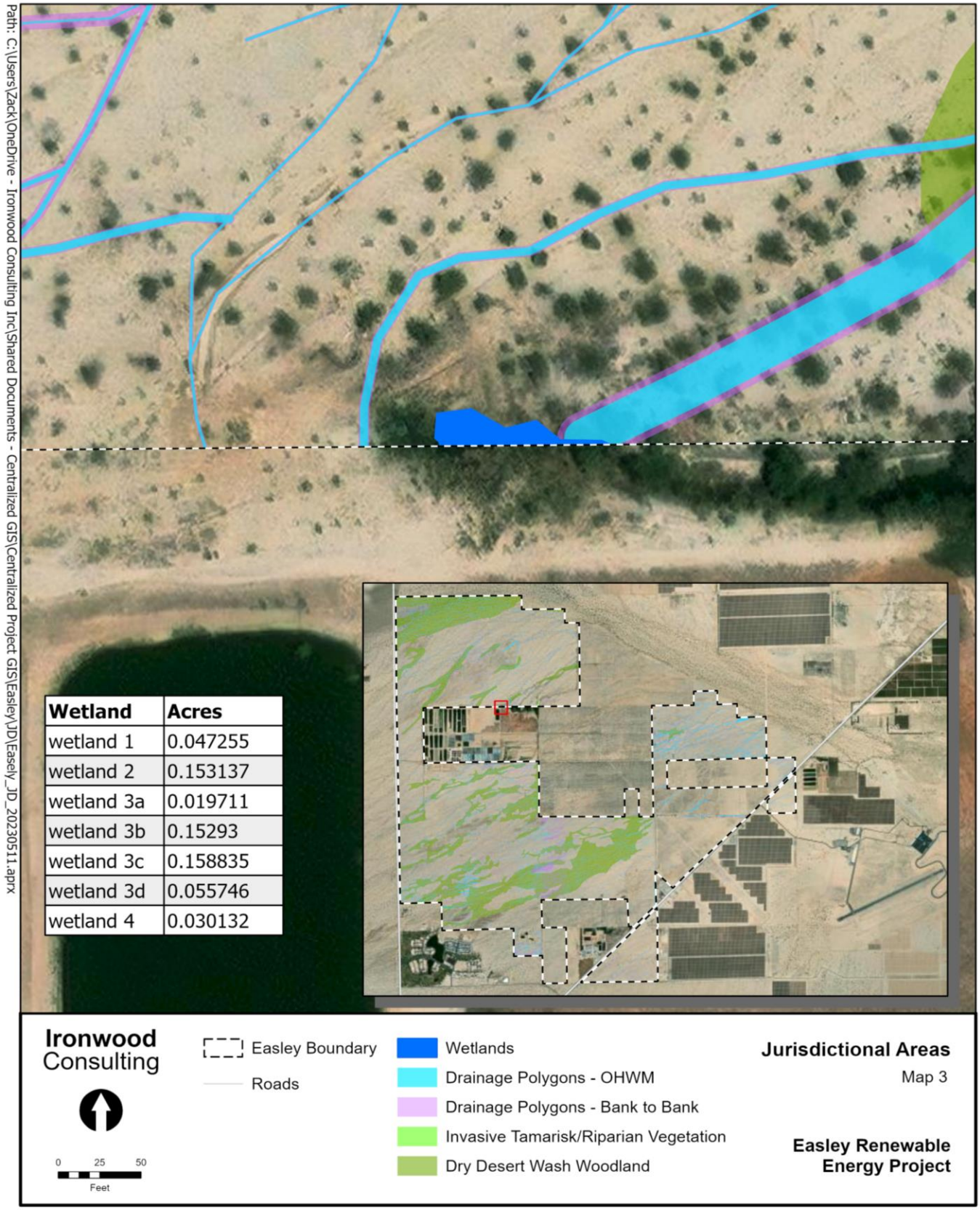


Figure 9. Jurisdictional Areas Map 3

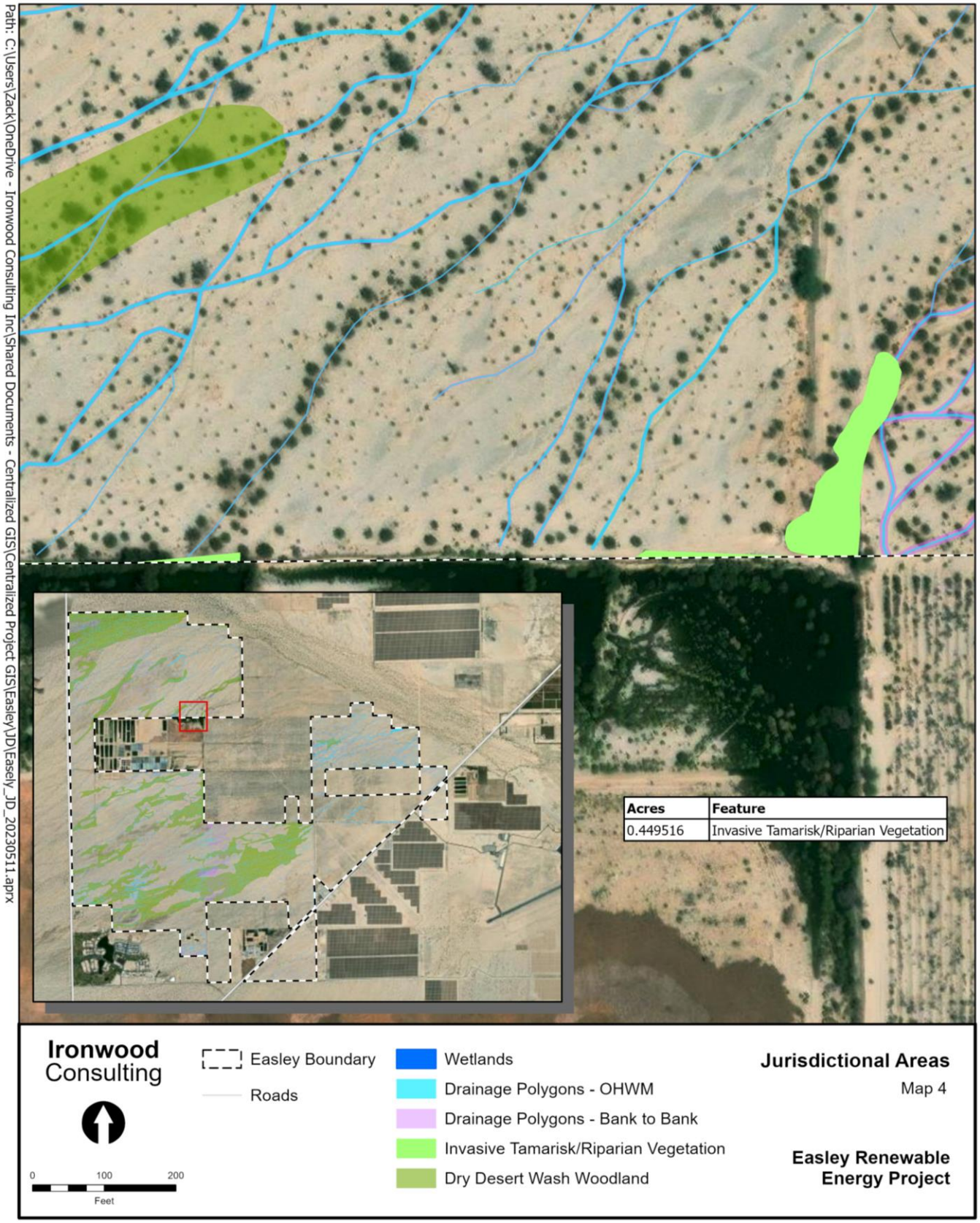


Figure 10. Jurisdictional Areas Map 4

Appendix D – Oberon Approved Jurisdictional Determination

DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
LOS ANGELES DISTRICT
915 WILSHIRE BOULEVARD, SUITE 930
LOS ANGELES, CALIFORNIA 90017

April 1, 2021

SUBJECT: Approved Jurisdictional Determination

Scott D. White
Aspen Environmental Group
615 North Benson Ave., Suite E
Upland, California, 91786

Dear Mr. White:

I am responding to your request, on behalf of IP Oberon, LLC (File No. SPL-2021-00113) dated January 26, 2021, for clarification whether a Department of the Army Permit is required for the Oberon Renewable Energy Project (project) site, located near Desert Center, Riverside County, California. The proposed approximately 91.6-acre project site is centered at approximately lat. 33.746405 °N, long. -115.993963°W.

The Corps' evaluation process for determining whether or not a Department of the Army permit is needed involves two tests. If both tests are met, a permit would likely be required. The first test determines whether the proposed project is located within the Corps' geographic jurisdiction (i.e., it is within a water of the United States). The second test determines whether or not the proposed project is a regulated activity under Section 10 of the Rivers and Harbors Act or Section 404 of the Clean Water Act. This evaluation pertains only to geographic jurisdiction.

Based on the information provided and additional review, it appears the project site does not contain water(s) of the United States pursuant to 33 CFR Part 325.9. The basis for our determination can be found in the enclosed Approved Jurisdictional Determination form. In general, the site has been found to drain entirely to Ford Dry Lake, and as such, only contains isolated, intrastate waters, that do not appear to have a connection to interstate commerce. Due to this determination, a Department of the Army permit would not be required for activities on this project site.

This letter includes an approved jurisdictional determination for the project site. If you wish to submit new information regarding this jurisdictional determination, please do so within 60 days. We will consider any new information so submitted and respond within 60 days by either revising the prior determination, if appropriate, or reissuing the prior determination. If you object to this or any revised or reissued jurisdictional determination, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. Enclosed you will find a Notification of Appeal Process (NAP) and Request for Appeal (RFA) form. If you wish to

appeal this decision, you must submit a completed RFA form within 60 days of the date on the NAP to the Corps South Pacific Division Office at the following address:

Tom Cavanaugh
Administrative Appeal Review Officer
U.S. Army Corps of Engineers
South Pacific Division, CESPD-PDO
450 Golden Gate Ave.
San Francisco, CA 94102

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR Part 331.5 (see below), and that it has been received by the Division Office by **May 31, 2021**.

This determination has been conducted to identify the extent of the Corps' Clean Water Act jurisdiction on the particular project site identified in your request, and is valid for five years from the date of this letter, unless new information warrants revision of the determination before the expiration date. This determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985. If you or your tenant are USDA program participants, or anticipate participation in USDA programs, you should request a certified wetland determination from the local office of the Natural Resources Conservation Service prior to starting work.

Thank you for participating in the regulatory program. If you have any questions, please contact Nicole "Nickie" Cammisa, of my team, at 213-280-6653 or via e-mail at Nicole.Cammisa@usace.army.mil. Please help me to evaluate and improve the regulatory experience for others by completing the customer survey form at http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey.

Sincerely,

James E. Mace
Lead, Orange and Riverside Counties Team
South Coast Branch
Regulatory Division

Enclosure(s)

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL		
Applicant: Agent, Scott D. White, Aspen Environmental Group	File Number: SPL-2021-00113	Date: APRIL 1, 2021
Attached is:		See Section below
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
	PERMIT DENIAL	C
X	APPROVED JURISDICTIONAL DETERMINATION	D
	PRELIMINARY JURISDICTIONAL DETERMINATION	E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at http://www.usace.army.mil/cecw/pages/reg_materials.aspx or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.

- OBJECT: If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.

- APPEAL: If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- ACCEPT: You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.

- APPEAL: If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:

Nicole Cammisa
U.S. Army Corps of Engineers
Los Angeles District
915 WILSHIRE BOULEVARD, SUITE 930
LOS ANGELES, CALIFORNIA 90017

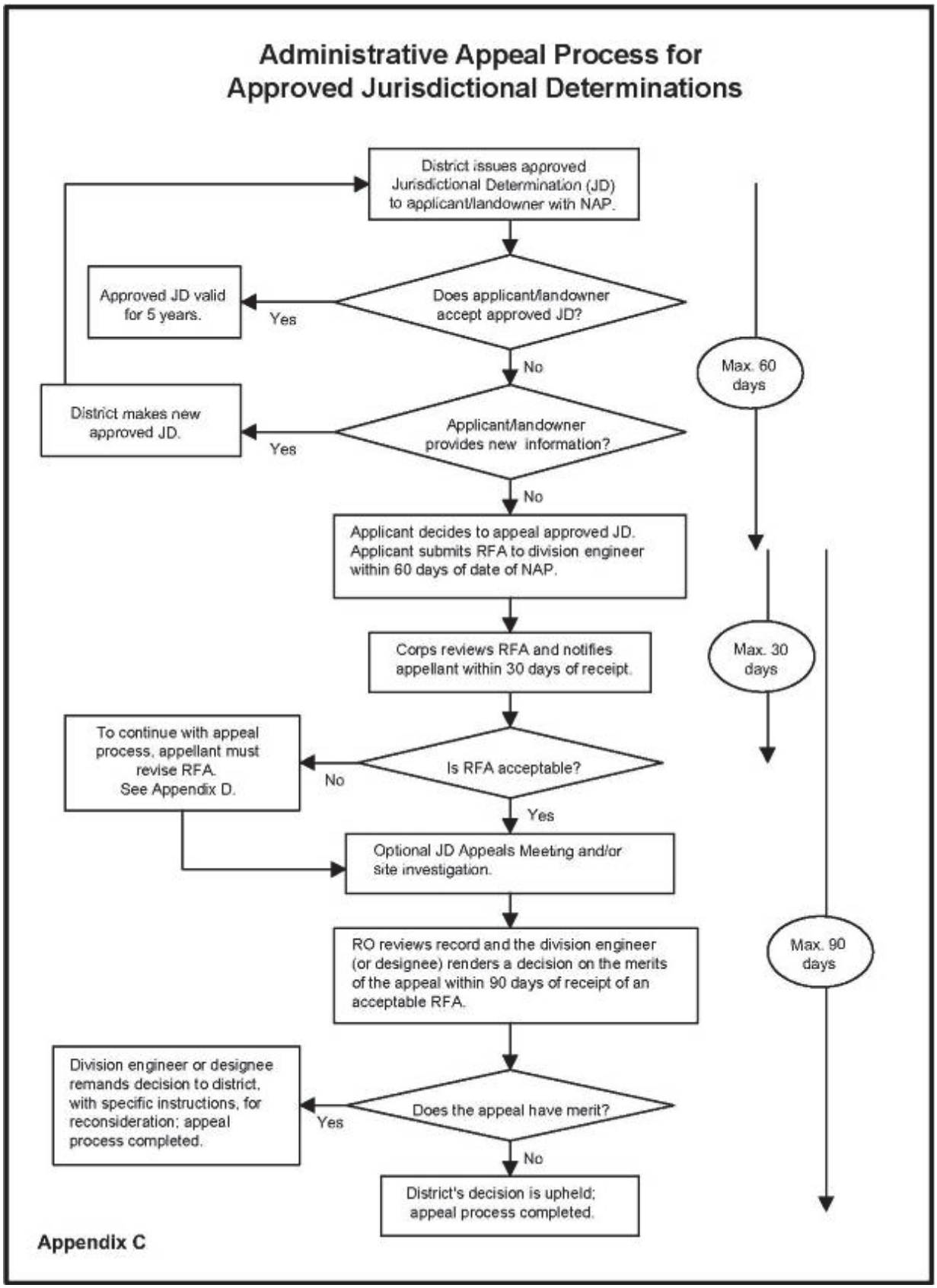
Phone: 213-280-6653
Email: Nicole.Cammisa@usace.army.mil

If you only have questions regarding the appeal process you may also contact: Thomas J. Cavanaugh

Administrative Appeal Review Officer
U.S. Army Corps of Engineers
South Pacific Division
450 Golden Gate Ave.
San Francisco, CA 94102
Phone: (415) 503-6574 Fax: (415) 503-6646
Email: thomas.j.cavanaugh@usace.army.mil

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

_____ Signature of appellant or agent.	Date:	Telephone number:


Administrative Appeal Process for
Approved Jurisdictional Determinations
District issues approved Jurisdictional Determination (JD) to applicant/landowner with NAP.
Does applicant/landowner accept approved JD?
Yes
Approved JD valid for 5 years.
No
Applicant/landowner provides new information?
Yes
District makes new approved JD.
No
Max. 60 days
Applicant decides to appeal approved JD. Applicant submits RFA to division engineer within 60 days of date of NAP.
Corps reviews RFA and notifies appellant within 30 days of receipt.
Max. 30 days
Is RFA acceptable?
No
To continue with appeal process, appellant must revise RFA. See Appendix D.
Yes
Optional JD Appeals Meeting and/or site investigation.
RO reviews record and the division engineer (or designee) renders a decision on the merits of the appeal within 90 days of receipt of an acceptable RFA.
Max. 90 days
Does the appeal have merit?
Yes
Division engineer or designee remands decision to district, with specific instructions, for reconsideration; appeal process completed.
No
District's decision is upheld; appeal process completed.
Appendix C

§ 331.5 Criteria.

(a) *Criteria for appeal* —(1) *Submission of RFA.* The appellant must submit a completed RFA (as defined at §331.2) to the appropriate division office in order to appeal an approved JD, a permit denial, or a declined permit. An individual permit that has been signed by the applicant, and subsequently unilaterally modified by the district engineer pursuant to 33 CFR 325.7, may be appealed under this process, provided that the applicant has not started work in waters of the United States authorized by the permit. The RFA must be received by the division engineer within 60 days of the date of the NAP.

(2) *Reasons for appeal.* The reason(s) for requesting an appeal of an approved JD, a permit denial, or a declined permit must be specifically stated in the RFA and must be more than a simple request for appeal because the affected party did not like the approved JD, permit decision, or the permit conditions. Examples of reasons for appeals include, but are not limited to, the following: A procedural error; an incorrect application of law, regulation or officially promulgated policy; omission of material fact; incorrect application of the current regulatory criteria and associated guidance for identifying and delineating wetlands; incorrect application of the Section 404(b)(1) Guidelines (see 40 CFR Part 230); or use of incorrect data. The reasons for appealing a permit denial or a declined permit may include jurisdiction issues, whether or not a previous approved JD was appealed.

(b) *Actions not appealable.* An action or decision is not subject to an administrative appeal under this part if it falls into one or more of the following categories:

(1) An individual permit decision (including a letter of permission or a standard permit with special conditions), where the permit has been accepted and signed by the permittee. By signing the permit, the applicant waives all rights to appeal the terms and conditions of the permit, unless the authorized work has not started in waters of the United States and that issued permit is subsequently modified by the district engineer pursuant to 33 CFR 325.7;

(2) Any site-specific matter that has been the subject of a final decision of the Federal courts;

(3) A final Corps decision that has resulted from additional analysis and evaluation, as directed by a final appeal decision;

(4) A permit denial without prejudice or a declined permit, where the controlling factor cannot be changed by the Corps decision maker (e.g., the requirements of a binding statute, regulation, state Section 401 water quality certification, state coastal zone management disapproval, etc. (See 33 CFR 320.4(j));

(5) A permit denial case where the applicant has subsequently modified the proposed project, because this would constitute an amended application that would require a new public interest review, rather than an appeal of the existing record and decision;

(6) Any request for the appeal of an approved JD, a denied permit, or a declined permit where the RFA has not been received by the division engineer within 60 days of the date of the NAP;

(7) A previously approved JD that has been superceded by another approved JD based on new information or data submitted by the applicant. The new approved JD is an appealable action;

(8) An approved JD associated with an individual permit where the permit has been accepted and signed by the permittee;

(9) A preliminary JD; or

(10) A JD associated with unauthorized activities except as provided in §331.11.