

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

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

**SECTION I: BACKGROUND INFORMATION**

**A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD):** April 2, 2012

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER:**

Denver Regulatory Office, Erickson Subdivision Plat (formerly Bowen Farms), 200480597

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

State: CO County/parish/borough: Douglas City: Littleton

Center coordinates of site (lat/long in degree decimal format): Lat. 39.565492 Long. -105.028149

Universal Transverse Mercator:

Name of nearest waterbody: McLellen Reservoir, 2,500 feet to the NE

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: N/A

Name of watershed or Hydrologic Unit Code (HUC): 10190002

Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.

Check if other sites (e.g., offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form.

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

Office (Desk) Determination. Date: February 16, 2012

Field Determination. Date(s): February 16, 2012

**SECTION II: SUMMARY OF FINDINGS**

**A. RHA SECTION 10 DETERMINATION OF JURISDICTION.**

There **Are no** "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [Required]

Waters subject to the ebb and flow of the tide.

Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

Explain: .

**B. CWA SECTION 404 DETERMINATION OF JURISDICTION.**

There **Are no** "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [Required]

**1. Waters of the U.S.**

**a. Indicate presence of waters of U.S. in review area (check all that apply):<sup>1</sup>**

- TNWs, including territorial seas
- Wetlands adjacent to TNWs
- Relatively permanent waters<sup>2</sup> (RPWs) that flow directly or indirectly into TNWs
- Non-RPWs that flow directly or indirectly into TNWs
- Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
- Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
- Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
- Impoundments of jurisdictional waters
- Isolated (interstate or intrastate) waters, including isolated wetlands

**b. Identify (estimate) size of waters of the U.S. in the review area:**

Non-wetland waters: linear feet: width (ft) and/or acres.

Wetlands: acres.

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

Elevation of established OHWM (if known): .

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

Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: The Bowen Farms pond is isolated with no nexus to interstate commerce.

**SECTION III: CWA ANALYSIS**

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

<sup>1</sup> Boxes checked below shall be supported by completing the appropriate sections in Section III below.

<sup>2</sup> For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).

<sup>3</sup> Supporting documentation is presented in Section III.F.

- If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
- Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
  - Prior to the Jan 2001 Supreme Court decision in "SWANCC," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).
- Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain: .
- Other: (explain, if not covered above):

The Bowen Farms pond, originally a farm pond used for irrigation for an onsite tree farm, is now abandoned and acting as a de facto stormwater detention facility. It is located within an area immediately surrounded by roads and commercial development, with the primary source of hydrology supplied by runoff from local precipitation events. All historic irrigation ditches on site have been abandoned and are now populated by upland vegetation.

Adjacent to the pond is a grated concrete outlet spillway drop box 5.5 feet above the ordinary high water mark. The spillway drop box was constructed for a 100-year event, and has no relatively permanent flows. This drop box outlets to a road side ditch which flows into a storm drain that flows to a western detention pond south of C-470. This western detention pond outlets into an underground stormwater sewer system that most likely flows to the South Platte River, 3,200 feet to the west.

At the SW area of the pond there is a 16-inch concrete outlet pipe located in the pond berm, 4 feet above the OHWM. This 16-inch pipe goes underground for 217 feet then outlets into an abandoned irrigation ditch that terminates at an upland area. There is no evidence of flow from the Bowen Farms pond into the 16-inch pipe located in the Bowen Farms pond berm, as this outlet likely has not been used since the pond was abandoned.

This pond is effectively isolated, as no water is diverted into or out of the pond. The pond has virtually no flow to a waters of the US.

There is no information available to show that this pond 1) are or could be used by interstate or foreign travelers for recreational or other purposes, 2) produces fish or shellfish which are or could be taken and sold in interstate or foreign commerce, or 3) are or could be used for industrial purposes by industries in the interstate commerce.

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):

- Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
- Lakes/ponds: 0.45 acres.
- Other non-wetland waters: acres. List type of aquatic resource: .
- Wetlands: 1 acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):

- Non-wetland waters (i.e., rivers, streams): linear feet, width (ft).
- Lakes/ponds: acres.
- Other non-wetland waters: acres. List type of aquatic resource: .
- Wetlands: acres.

#### **SECTION IV: DATA SOURCES.**

**A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):**

- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: Mark Kerslake
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
  - Office concurs with data sheets/delineation report.
  - Office does not concur with data sheets/delineation report.
- Data sheets prepared by the Corps: .
- Corps navigable waters' study: .
- U.S. Geological Survey Hydrologic Atlas: .
  - USGS NHD data.
  - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: 1:24000, Littleton`
- USDA Natural Resources Conservation Service Soil Survey. Citation: .
- National wetlands inventory map(s). Cite name: .
- State/Local wetland inventory map(s): .
- FEMA/FIRM maps: .
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs:  Aerial (Name & Date): project site

- or  Other (Name & Date):
- Previous determination(s). File no. and date of response letter:
  - Applicable/supporting case law: **Rapanos and Carabell cases.**
  - Applicable/supporting scientific literature:
  - Other information (please specify):

**B. ADDITIONAL COMMENTS TO SUPPORT JD:**

