

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): June 5, 2012

B. DISTRICT OFFICE, FILE NAME, AND NUMBER:

Denver Regulatory Office, Split Rail Fence and Supply Company, NWO-2010-65-DEN

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Spring Gulch

State: Co County/parish/borough: Douglas City:

Center coordinates of site (lat/long in degree decimal format): Lat. 39.545436 N; Long. -105.039621 W
Universal Transverse Mercator:

Name of nearest waterbody: South Platte River

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: South Platte River

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: June 5, 2012
 Field Determination. Date(s): October 18, 2011

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** "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [Required]

1. Waters of the U.S.

a. Indicate presence of waters of U.S. in review area (check all that apply):¹

- TNWs, including territorial seas
 Wetlands adjacent to TNWs
 Relatively permanent waters² (RPWs) that flow directly or indirectly into TNWs
 Non-RPWs that flow directly or indirectly into TNWs
 Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
 Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
 Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
 Impoundments of jurisdictional waters
 Isolated (interstate or intrastate) waters, including isolated wetlands

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

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

Wetlands: Total acres of wetland in the Spring Gulch complex abutting the east embankment of the Chatfield Reservoir Dam is approximately 5 acres. Area of wetland within the review area for Split Rail Fence Supply Company is approximately 0.85 acres.

c. Limits (boundaries) of jurisdiction based on: 1987 Delineation Manual

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

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

Elevation of established OHWM (if known): .

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

- Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: .

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

1. TNW

Identify TNW: **Chatfield Reservoir.**

Summarize rationale supporting determination: **The South Platte River is a traditionally navigable water that was historically used for commerce, as cited in the 1974 navigability study prepared by Donald Spritzer, USACE. The South Platte River also hosts at least four known commercial outfitters offering rentals, shuttles and guided trips. In addition, the South Platte River is an interstate waters.**

Chatfield Reservoir is an impoundment of the South Platte River and is within a Colorado State Park, which charges a park entrance fee and hosts numerous public boat ramps, a marina and commercial recreational operations on-site.

2. Wetland adjacent to TNW

Summarize rationale supporting conclusion that wetland is "adjacent": **Spring Gulch is a wetland/pond complex that begins in uplands to the southeast of Chatfield Reservoir, a TNW. The gulch flows into/abuts the downstream side of the Chatfield Reservoir dam embankment. The Spring Gulch wetland/pond and Chatfield Reservoir OHWM are separated by the dam embankment, which is approximately 1000 feet wide.**

Historically, Spring Gulch flowed into Plum Creek. Chatfield Reservoir was constructed at the confluence of Plum Creek and the South Platte River. This wetland is directly separated from a TNW by a manmade berm, and considered adjacent.

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: **Iris Mitigation and Design Inc.**
- 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: **1:24,000 Littleton Quads.**
- USDA Natural Resources Conservation Service Soil Survey. Citation: .
- National wetlands inventory map(s). Cite name: .
- State/Local wetland inventory map(s): .
- FEMA/FIRM maps: .
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date):
or Other (Name & Date): **October 18, 2011**
- Previous determination(s). File no. and date of response letter: .
- Applicable/supporting case law:**Rapanos and Carabell cases.**
- Applicable/supporting scientific literature: .

³ Supporting documentation is presented in Section III.F.

Other information (please specify): .

B. ADDITIONAL COMMENTS TO SUPPORT JD: