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 13, 2012

B. DISTRICT OFFICE, FILE NAME, AND NUMBER:

Denver Regulatory Office, Sterling Ranch, NWO-2012-1125-DEN

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

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

Center coordinates of site (lat/long in degree decimal format): Lat. 39.486837 N; Long.-105.060719 W

Name of nearest waterbody: Willow Creek

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: June 5, 2012

Field Determination. Date(s): May 3, 2012

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There Ar	re no "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the
review ar	rea. [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.

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.

Explain:

a.	Indica	ite presence of waters of U.S. in review area (check all that apply): 1
		TNWs, including territorial seas
		Wetlands adjacent to TNWs
		Relatively permanent waters ² (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):³

Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: These wetlands are at the upper end of an upland drainage approximately 7,900 feet up-gradient from the Highline Canal and are not in close proximity to any irrigation ditches or other tributaries. No channel or tributary OHWM features exist down-gradient. The adjacent land is dry, sandy upland soil, vegetated with upland species. These wetlands are isolated.

SECTION III: CWA ANALYSIS

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

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

³ Supporting documentation is presented in Section III.F.

F.		N-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY): If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements. Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce. Prior to the Jan 2001 Supreme Court decision in "SWANCC," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR). Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain: Other: (explain, if not covered above): These resources are not used by interstate or foreign travelers for recreational or other purposes, do not support fish or shellfish, and are not used for industrial purposes by industries in interstate commerce [33 CFR 328.3(a)(i)(i-iii)].
	fact	wide acreage estimates for non-jurisdictional waters in the review area, where the <u>sole</u> potential basis of jurisdiction is the MBR ors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional gment (check all that apply): Non-wetland waters (i.e., rivers, streams): Lakes/ponds: acres. Other non-wetland waters: acres. List type of aquatic resource: Wetlands: acres.
		vide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such ading 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.
	SUP	ON IV: DATA SOURCES. PORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked requested, appropriately reference sources below):
		Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: ERO Resources Corps 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, Kassle and 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 Geodectic Vertical Datum of 1929) Photographs: ☒ Aerial (Name & Date): Google and ERO Photos 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 Information. Area map