

**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):** September 6, 2012

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

Denver Regulatory Office  
Kerr-McGee Sarchet Production facility  
NWO-2012-2167-DEN

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

Wetlands created by a leaking man-made irrigation impoundment at the Sarchet Facility SE of Platteville

State: CO County/parish/borough: Weld City: Platteville  
Center coordinates of site (lat/long in degree decimal format): Lat. 40.206476 Long. -104.784353  
Universal Transverse Mercator:

Name of nearest waterbody: Spear Canal

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: none

Name of watershed or Hydrologic Unit Code (HUC): 10190003

- 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: September 6, 2012  
 Field Determination. Date(s):

**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): .

<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).

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: **Reference is made to the November 13, 1986 Federal Register (Page 41217), Part 328 (b) artificially irrigated areas which would revert to upland if the irrigation ceased. The Corps of Engineers generally does not consider these types of aquatic resources waters of the U.S. except on a case-by-case basis. The hydrology for this wetland is supplied by a leaking berm surrounding a irrigation impoundment that was created in uplands. As such, the wetland is considered to be artificially irrigated and not jurisdictional.**

**SECTION III: CWA ANALYSIS**

**F. NON-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): **Reference is made to the November 13, 1986 Federal Register (Page 41217), Part 328 (b) artificially irrigated areas which would revert to upland if the irrigation ceased. The Corps of Engineers generally does not consider these types of aquatic resources waters of the U.S. except on a case-by-case basis. The hydrology for this wetland is supplied by a leaking berm surrounding a irrigation impoundment that was created in uplands. As such, the wetland is considered to be artificially irrigated and not jurisdictional.**

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:          acres.
- Other non-wetland waters:          acres. List type of aquatic resource: .
- Wetlands:          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: **OtterTail**
- 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, Platteville**
- 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) **project site**
- Previous determination(s). File no. and date of response letter: .
- Applicable/supporting case law: **Rapanos and Carabell cases.**

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

- Applicable/supporting scientific literature: .
- Other information (please specify): .

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