

**DRY LAND APPROVED JURISDICTIONAL DETERMINATION FORM<sup>1</sup>**  
**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):**

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Albuquerque District, Falcon Project, SPA-2022-00204**

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

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

Center coordinates of site (lat/long in degree decimal format): Lat. 38.174168 °, Long. -104.605534°

Universal Transverse Mercator: 534551.06 W, 4225213.12 N, Zone 13

Name of nearest waterbody: Saint Charles River

Name of watershed or Hydrologic Unit Code (HUC): Upper Arkansas 11020002

- Check if map/diagram of review area is 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: August 19, 2022
- 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.

**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.

**SECTION III: 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:
- 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:
- U.S. Geological Survey Hydrologic Atlas: Arkansas-White-Red Region
- USGS NHD data.
- USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: 1:24K; Southeast Pueblo
- USDA Natural Resources Conservation Service Soil Survey. Citation:
- National wetlands inventory map(s). Cite name: Southeast Pueblo
- 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):
- Previous determination(s). File no. and date of response letter:
- Applicable/supporting case law:
- Applicable/supporting scientific literature:
- Other information (please specify):

**B. REQUIRED ADDITIONAL COMMENTS TO SUPPORT JD. EXPLAIN RATIONALE FOR DETERMINATION THAT THE REVIEW AREA ONLY INCLUDES DRY LAND:** The wetland delineation conducted on March 4, 2022 determined that wetlands are not present on the site. Additionally, the swales are dominated by upland species and did not contain bed and bank features. Therefore, we have determined that the site does not contain waters of the United States that are subject to regulation under Section 404 of the Clean Water Act.

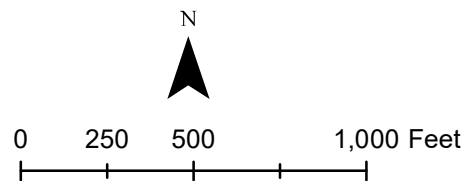
<sup>1</sup> This form is for use only in recording approved JDs involving dry land. It extracts the relevant elements of the longer approved JD form in use since 2007 for aquatic areas and adds no new fields.

P:\Projects\Falcon\Pueblo CO\GIS\Mxd\ADJ Figure 1 - Desktop Wetlands and Waters2.mxd



Base Map adapted from the ESRI USGS Map Server; National Wetlands Inventory from the US Fish and Wildlife Service; NHD from the US Geological Survey; Desktop wetlands digitized by Tetra Tech using aerial imagery; Field data collected by Tetra Tech.

- Project Area (Review Area)
- Desktop Wetlands
- National Wetlands Inventory (NWI)
- National Hydrography Dataset (NHD)
- Historical NWI
- Photo Location
- X Photo Number



**FIGURE 1 - SITE FEATURES**  
**PROJECT FALCON -- PUEBLO, COLORADO SITE**  
**PUEBLO COUNTY, COLORADO**

**NOTIFICATION OF  
ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND  
REQUEST FOR APPEAL**

Applicant: Project Falcon (Megan Davis, Agent)		File Number: SPA-2022-00204	Date: August 25, 2022
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://usace.army.mil/inet/functions/cw/cecwo/reg> 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 (not district) ENGINEER (address on reverse). 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 (not district) ENGINEER. This form must be received by the DIVISION (not district) 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 (not district) ENGINEER (address on reverse). This form must be received by the DIVISION ENGINEER within 60 days of the date of this notice. Exception: JD appeals based on new information must be submitted to the DISTRICT ENGINEER within 60 days of the date of this notice.

**EXCEPTION:** Appeals of Approved Jurisdictional Determinations based on new information must be submitted to the District 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:

**DISTRICT ENGINEER**

Albuquerque District, Corps of Engineers  
Attn: Kelly Allen, Regulatory Division Chief  
4101 Jefferson Plaza NE  
Albuquerque, New Mexico 87109-3435  
Phone: 505-342-3216, Fax: 505-342-3668  
[Kelly.E.Allen@usace.army.mil](mailto:Kelly.E.Allen@usace.army.mil)

If you only have questions regarding the appeal process you may also contact:

**DIVISION ENGINEER**

Army Engineer Division, South Pacific, CESP-D-PDS-O, 2052B  
Attn: Travis Morse, Administrative Appeal Review Officer  
P.O. Box 36023, 450 Golden Gate Ave.  
San Francisco, CA 94102  
Phone: 415-503-6574, Fax: 415-503-6646  
[w.travis.morse@usace.army.mil](mailto:w.travis.morse@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: