

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): DRAFT

B. ALBUQUERQUE DISTRICT OFFICE, FILE NAME, AND NUMBER: Parkdale Quarry AJD SPA-2021-00397

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Colorado County/parish/borough: Fremont City: Parkdale

Center coordinates of site (lat/long in degree decimal format): Lat. 38.50476° N, Long. -105.391334° W.

Universal Transverse Mercator: 13S, 465878.37 mE, 4261818.25 mN

Name of nearest waterbody: Tallahassee Creek

Name of watershed or Hydrologic Unit Code (HUC):

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: July 13, 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.

1. Waters of the U.S.: N/A

2. Non-regulated waters/wetlands (check if applicable):¹

Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: **The 690-acre review area for this jurisdictional determination contains one aquatic resource feature that exhibits an ordinary high water mark (Unnamed Drainage 9). Unnamed Drainage 9 is a 2,501 linear-foot channel that does not exhibit indicators of wetland vegetation or hydric soils, but does have ephemeral flow and a discontinuous ordinary high water mark (OHWM) in areas where the channel is topographically confined. Unnamed Drainage 9 is depicted as an intermittent stream on the USGS Gribble Mountain, Colorado 2022, 7.5' quad map, however, aerial photos and the aquatic delineation report prepared by Pinyon Environmental identified this channel as ephemeral. Based on a review of the National Hydrography Dataset (NHD), the nearest mapped potential relatively permanent water (RPW) is perennial Tallahassee Creek, approximately 0.83 miles south of the downstream limits of Unnamed Drainage 9. In 1999, grading occurred within upland portion of Unnamed Drainage 9 for the Parkdale Quarry which severed a surface connection between Unnamed Drainage 9 and Tallahassee Creek. Based on this information, Unnamed Drainage 9 is not a water of the U.S. because it 1) has a broken surface connection or shallow sub-surface connection to Tallahassee Creek, 2) is physically separated from Tallahassee Creek by upland features, and 3) lacks proximity to a jurisdictional water since it's downstream limit is located over 0.83 mile from Tallahassee Creek.**

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs: N/A

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY): N/A

C. SIGNIFICANT NEXUS DETERMINATION: N/A

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY): N/A

¹ Supporting documentation is presented in Section III.F.

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY): N/A

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):

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): **acres** 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): **2,501** linear feet, **6** 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: **Biological Resources Report, Pinyon Environmental, Inc., March 18, 2022; Supplemental Information for an Approved Jurisdictional Determination for Unnamed Drainage 9, Parkdale Quarry Project, Fremont County, Colorado (DA# 2021-397), April 27, 2022.**
- 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: **1:24K, Gribble Mountain, Colorado 1983; McIntyre Hills, Colorado 1980**
- USDA Natural Resources Conservation Service Soil Survey. Citation:
- National wetlands inventory map(s). Cite name: **USFWS National Wetland Inventory**
- 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 Earth: 1985, 1999, 2019**
or Other (Name & Date): **Supplemental Information for Unnamed Drainage 9 Photographic Log, Pinyon Environmental, March 18, 2022**
- Previous determination(s). File no. and date of response letter:
- Applicable/supporting case law:
- Applicable/supporting scientific literature:
- Other information (please specify): **USGS StreamStats Custom Report, accessed July 13, 2022**

B. ADDITIONAL COMMENTS TO SUPPORT JD: The Pinyon Environmental Report, dated March 18, 2022, identified that the review area did not contain any areas that met the USACE wetland criteria and all

drainages except, Unnamed Drainage 9, lacked an OHWM. Unnamed Drainage 9 does not support a link to interstate or foreign commerce; it is not known to be used by interstate or foreign travelers for recreation or other purposes; it does not produce fish or shellfish that could be taken and sold in interstate or foreign commerce; and it is not known to be used for industrial purposes by industries in interstate commerce. Additionally, Unnamed Drainage 9 does not have an unbroken surface connection or shallow sub-surface connection to Tallahassee Creek; is physically separated from Tallahassee Creek by upland features; and lacks proximity to a jurisdictional water since it's downstream limit is located over 0.83 mile from Tallahassee Creek. Therefore, the Corps has determined that Unnamed Drainage 9 is not regulated by the Corps under Section 404 of the Clean Water Act.