

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): July 20, 2022

**B. ALBUQUERQUE DISTRICT, FILE NAME, AND NUMBER: Eagleview Residential Subdivision
AJD, SPA-2022-00202**

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Colorado County/parish/borough: El Paso City: Falcon

Center coordinates of site (lat/long in degree decimal format): Lat. 38.981190° N, Long. -104.638240° W. Universal

Transverse Mercator: 13

Name of nearest waterbody: Unnamed Tributary to Black Squirrel Creek

Name of watershed or Hydrologic Unit Code (HUC): 11020004-Chico

- 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 27, 2022
 Field Determination. Date(s): June 8, 2022

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 review area for this determination is comprised of three individual Wetlands (identified as W-1, W-2, W-3) totaling 1.58 acres and three reaches of ephemeral waterway (identified as Tributary 1, 2, 3) totaling 0.42 miles located on the approximately 121-acre tract. The National Wetland Inventory (NWI) and National Hydrography Dataset (NHD) shows four mapped wetland drainages and one mapped stream present in the review area. Based on a review of the NHD, the nearest mapped potential relatively permanent water is an unnamed tributary to Black Squirrel Creek and extends to approximately 1/4 mile south of the review area near Stapleton Road. On June 8, 2022, Corps staff completed a field visit to review the April 29, 2002, Bristlecone Ecology Wetland Delineation Report (Delineation Report) and assessed whether a surface connection was present between the delineated aquatic resources and the mapped potential relatively permanent water. During this field visit, Corps staff determined that the aquatic resource boundaries contained within the Delineation Report were accurate, however, no surface connection was observed between the delineated aquatic resources and any downstream water south of the review area. Specifically, Corps staff reviewed the unnamed mapped waterway located approximately 1/4 mile south of the review area near Stapleton Road which is the confluence of all delineated aquatic resources within the review area. Corps staff noted a remnant dry channel north of Stapleton Road near a stormwater pond, however, the channel ended immediately south of Stapleton Road and all surface flow becomes overland runoff leading towards an existing pond/berm. No defined channel or waterway was noted south of the existing pond/berm that could provide a surface connection to a downstream relatively permanent water. Due to their small size and/or disturbed characteristics, Wetlands W-1, W-2, W-3 and Tributaries 1, 2, 3, provide limited habitat functions to surrounding areas and exhibit tenuous ecological connections to nearby surface waters. The Corps has determined that Wetlands W-1, W-2, W-3 and Tributaries 1, 2, 3 are isolated features with no surface or shallow subsurface hydrologic connection or ecological connection to a RPW or TNW. Wetlands W-1, W-2, W-3 and Tributaries 1, 2, 3 do not border, neighbor, nor are contiguous with another**

¹ Supporting documentation is presented in Section III.F.

water of the U.S. Wetlands W-1, W-2, W-3 and Tributaries 1, 2, 3, are not separated from other WOUS by man-made dikes, barriers, or berms. Wetlands W-1, W-2, W-3 and Tributaries 1, 2, 3 do not support a link to interstate or foreign commerce; they are not known to be used by interstate or foreign travelers for recreation or other purposes; They do not produce fish or shellfish that could be taken and sold in interstate or foreign commerce; and they are not known to be used for industrial purposes by industries in interstate commerce. Therefore, the Corps has determined that Wetlands W-1, W-2, W-3 and Tributaries 1, 2, 3 are not regulated by the Corps under Section 404 of the Clean Water Act.

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

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): **2,218** linear feet **7** width (ft).
- Lakes/ponds: acres.
- Other non-wetland waters: acres. List type of aquatic resource: .
- Wetlands: **1.58** 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: April 29, 2022, Bristlecone Ecology Wetland Delineation Report
- 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 Falcon NW
- USDA Natural Resources Conservation Service Soil Survey. Citation: El Paso County Soil Survey
- 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 Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): Google Earth: 2020, 2018, 2017, 2015, 2013, 2010 2008, 2006, 2005, 2000, 1994
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. ADDITIONAL COMMENTS TO SUPPORT JD: