

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): March 4, 2015

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: CESPA-RD-NM-LC; SPA-2014-00501-LCO; Evaluation of Wetlands and Other Waters at Holloman Air Force Base (AFB) Relative to Jurisdictional Criteria

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Holloman Air Force Base (HAFB) has requested an approved jurisdictional determination (AJD) for all of the land encompassed within Holloman Air Force Base and the Boles Acres portion of the Water Well Field, (the study area), totaling approximately 53,740, acres located in Otero County New Mexico (1, 2). Maps of the delineated area are provided as a reference (22). This JD request is not linked to a permit application.

State: New Mexico

County/parish/borough: Otero

City: Alamogordo

Center coordinates of site (lat/long in degree decimal format): Lat. 32.84052° **N**, Long. -106.07718° **W**.

Universal Transverse Mercator:

Name of nearest waterbody: Lake Holloman

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

Name of watershed or Hydrologic Unit Code (HUC): 13050003

☒ 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: December 18, 2014

☒ Field Determination. Date(s): September 08, 2010 (SPA-2009-00758-ELP)

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):¹

- ☐ TNWs, including territorial seas
- ☐ Wetlands adjacent to TNWs
- ☐ Relatively permanent waters² (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: **Not Applicable.**

Elevation of established OHWM (if known): .

2. Non-regulated waters/wetlands (check if applicable):³

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).

- ☒ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.
Explain: **The study area includes isolated wetlands and other waters as described in Section III.F and IV.**

³ Supporting documentation is presented in Section III.F.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

1. TNW

Identify TNW: .

Summarize rationale supporting determination: .

2. Wetland adjacent to TNW

Summarize rationale supporting conclusion that wetland is “adjacent”: .

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

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under *Rapanos* have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are “relatively permanent waters” (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody⁴ is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

1. Characteristics of non-TNWs that flow directly or indirectly into TNW

(i) General Area Conditions:

Watershed size: **Pick List**

Drainage area: **Pick List**

Average annual rainfall: inches

Average annual snowfall: inches

(ii) Physical Characteristics:

(a) Relationship with TNW:

☐ Tributary flows directly into TNW.

☐ Tributary flows through **Pick List** tributaries before entering TNW.

Project waters are **Pick List** river miles from TNW.

Project waters are **Pick List** river miles from RPW.

Project waters are **Pick List** aerial (straight) miles from TNW.

Project waters are **Pick List** aerial (straight) miles from RPW.

Project waters cross or serve as state boundaries. Explain: .

Identify flow route to TNW⁵: .

Tributary stream order, if known: .

⁴ Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

⁵ Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

(b) General Tributary Characteristics (check all that apply):

Tributary is: ☐ Natural
☐ Artificial (man-made). Explain: .
☐ Manipulated (man-altered). Explain: .

Tributary properties with respect to top of bank (estimate):

Average width: feet
Average depth: feet
Average side slopes: **Pick List**.

Primary tributary substrate composition (check all that apply):

<input type="checkbox"/> Silts	<input type="checkbox"/> Sands	<input type="checkbox"/> Concrete
<input type="checkbox"/> Cobbles	<input type="checkbox"/> Gravel	<input type="checkbox"/> Muck
<input type="checkbox"/> Bedrock	<input type="checkbox"/> Vegetation. Type/% cover:	
<input type="checkbox"/> Other. Explain: .		

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: .

Presence of run/riffle/pool complexes. Explain: .

Tributary geometry: **Pick List**

Tributary gradient (approximate average slope): %

(c) Flow:

Tributary provides for: **Pick List**

Estimate average number of flow events in review area/year: **Pick List**

Describe flow regime: .

Other information on duration and volume: .

Surface flow is: **Pick List**. Characteristics: .

Subsurface flow: **Pick List**. Explain findings: .

☐ Dye (or other) test performed: .

Tributary has (check all that apply):

<input type="checkbox"/> Bed and banks	
<input type="checkbox"/> OHWM ⁶ (check all indicators that apply):	
<input type="checkbox"/> clear, natural line impressed on the bank	<input type="checkbox"/> the presence of litter and debris
<input type="checkbox"/> changes in the character of soil	<input type="checkbox"/> destruction of terrestrial vegetation
<input type="checkbox"/> shelving	<input type="checkbox"/> the presence of wrack line
<input type="checkbox"/> vegetation matted down, bent, or absent	<input type="checkbox"/> sediment sorting
<input type="checkbox"/> leaf litter disturbed or washed away	<input type="checkbox"/> scour
<input type="checkbox"/> sediment deposition	<input type="checkbox"/> multiple observed or predicted flow events
<input type="checkbox"/> water staining	<input type="checkbox"/> abrupt change in plant community
<input type="checkbox"/> other (list):	
<input type="checkbox"/> Discontinuous OHWM. ⁷ Explain: .	

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):

<input checked="" type="checkbox"/> High Tide Line indicated by:	<input checked="" type="checkbox"/> Mean High Water Mark indicated by:
<input type="checkbox"/> oil or scum line along shore objects	<input type="checkbox"/> survey to available datum;
<input type="checkbox"/> fine shell or debris deposits (foreshore)	<input type="checkbox"/> physical markings;
<input type="checkbox"/> physical markings/characteristics	<input type="checkbox"/> vegetation lines/changes in vegetation types.
<input type="checkbox"/> tidal gauges	
<input type="checkbox"/> other (list):	

(iii) **Chemical Characteristics:**

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).

Explain: .

Identify specific pollutants, if known: .

⁶A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.

⁷Ibid.

(iv) **Biological Characteristics. Channel supports (check all that apply):**

- ☐ Riparian corridor. Characteristics (type, average width): .
- ☐ Wetland fringe. Characteristics: .
- ☐ Habitat for:
 - ☐ Federally Listed species. Explain findings: .
 - ☐ Fish/spawn areas. Explain findings: .
 - ☐ Other environmentally-sensitive species. Explain findings: .
 - ☐ Aquatic/wildlife diversity. Explain findings: .

2. **Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW**

(i) **Physical Characteristics:**

(a) General Wetland Characteristics:

Properties:

Wetland size: acres

Wetland type. Explain: .

Wetland quality. Explain: .

Project wetlands cross or serve as state boundaries. Explain: .

(b) General Flow Relationship with Non-TNW:

Flow is: **Pick List**. Explain: .

Surface flow is: **Pick List**

Characteristics: .

Subsurface flow: **Pick List**. Explain findings: .

☐ Dye (or other) test performed: .

(c) Wetland Adjacency Determination with Non-TNW:

☐ Directly abutting

☐ Not directly abutting

☐ Discrete wetland hydrologic connection. Explain: .

☐ Ecological connection. Explain: .

☐ Separated by berm/barrier. Explain: .

(d) Proximity (Relationship) to TNW

Project wetlands are **Pick List** river miles from TNW.

Project waters are **Pick List** aerial (straight) miles from TNW.

Flow is from: **Pick List**.

Estimate approximate location of wetland as within the **Pick List** floodplain.

(ii) **Chemical Characteristics:**

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: .

Identify specific pollutants, if known: .

(iii) **Biological Characteristics. Wetland supports (check all that apply):**

- ☐ Riparian buffer. Characteristics (type, average width): .
- ☐ Vegetation type/percent cover. Explain: .
- ☐ Habitat for:
 - ☐ Federally Listed species. Explain findings: .
 - ☐ Fish/spawn areas. Explain findings: .
 - ☐ Other environmentally-sensitive species. Explain findings: .
 - ☐ Aquatic/wildlife diversity. Explain findings: .

3. **Characteristics of all wetlands adjacent to the tributary (if any)**

All wetland(s) being considered in the cumulative analysis: **Pick List**

Approximately () acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

Directly abuts? (Y/N)

Size (in acres)

Directly abuts? (Y/N)

Size (in acres)

Summarize overall biological, chemical and physical functions being performed: .

C. SIGNIFICANT NEXUS DETERMINATION

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Draw connections between the features documented and the effects on the TNW, as identified in the *Rapanos* Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

Note: the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:

1. **Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D: .
2. **Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: .
3. **Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: .

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

1. **TNWs and Adjacent Wetlands.** Check all that apply and provide size estimates in review area:

☐ TNWs: linear feet width (ft), Or, acres.

☐ Wetlands adjacent to TNWs: acres.

2. **RPWs that flow directly or indirectly into TNWs.**

☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial: .

☐ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally: .

Provide estimates for jurisdictional waters in the review area (check all that apply):

- ☐ Tributary waters: linear feet width (ft).
☐ Other non-wetland waters: acres.
Identify type(s) of waters: .

3. Non-RPWs⁸ that flow directly or indirectly into TNWs.

- ☐ Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional waters within the review area (check all that apply):

- ☐ Tributary waters: linear feet width (ft).
☐ Other non-wetland waters: acres.
Identify type(s) of waters: .

4. Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.

- ☐ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.
☐ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: .
☐ Wetlands directly abutting an RPW where tributaries typically flow “seasonally.” Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: .

Provide acreage estimates for jurisdictional wetlands in the review area: acres.

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.

- ☐ Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetlands in the review area: acres.

6. Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.

- ☐ Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional wetlands in the review area: acres.

7. Impoundments of jurisdictional waters.⁹

As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.

- ☐ Demonstrate that impoundment was created from “waters of the U.S.,” or
☐ Demonstrate that water meets the criteria for one of the categories presented above (1-6), or
☐ Demonstrate that water is isolated with a nexus to commerce (see E below).

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):¹⁰

- ☐ which are or could be used by interstate or foreign travelers for recreational or other purposes.
☐ from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
☐ which are or could be used for industrial purposes by industries in interstate commerce.
☐ Interstate isolated waters. Explain: .
☐ Other factors. Explain: .

Identify water body and summarize rationale supporting determination: .

⁸See Footnote # 3.

⁹To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.

¹⁰Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.

Provide estimates for jurisdictional waters in the review area (check all that apply):

- ☐ Tributary waters: linear feet width (ft).
- ☐ Other non-wetland waters: acres.
Identify type(s) of waters: .
- ☐ Wetlands: acres.

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): **235,410** linear feet ~**30** width (ft).
- ☒ Lakes/ponds: 140.19 acres.
- ☒ Other non-wetland waters: 396.46 ephemeral/intermittent playas acres. List type of aquatic resource: upland sheet flow, ephemeral, intermittent, and perennial riverine and palustrine bottom.
- ☒ Wetlands: 33.03 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: u.
- ☐ 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: reports submitted by Holloman AFB as of November 14, 2014.
- ☒ 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: .
- ☐ 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: Not a Floodplain (National Geodetic Vertical Datum of 1929)
- ☒ Photographs: ☐ Aerial (Name & Date): .
or ☒ Other (Name & Date): Multiple photos of water resources on Holloman AFB and prepared Oct 2014.
- ☐ Previous determination(s). File no. and date of response letter: .
- ☐ Applicable/supporting case law: .
- ☐ Applicable/supporting scientific literature: .
- ☒ Other information (please specify): References listed below, ORM2, and land use data and internet searches.

B. ADDITIONAL COMMENTS TO SUPPORT JD:

The Corps conducted a jurisdictional analysis of waters within the study area as follows:

ISOLATED WATERS

The study area is located within a closed basin, called the Tularosa Basin. The study area contains, ephemeral arroyos, intermittent and perennial streams, playas, riparian areas, wetlands and open waters. There is no physical surface water connection between the waters within the study area and a Traditional Navigable Water (TNW) (1,2). The closest TNW is the Rio Grande which is approximately 50 miles from the study site (11). There is no known ground water connection between the study area and the Rio Grande. The waters within the study area are therefore determined to be 'isolated waters' (1,2).

INTERSTATE COMMERCE CONNECTION

HAFB evaluated the potential for an interstate commerce connection in its 'Addendum on Interstate Commerce' (the addendum) received by the Corps on December 23, 2014 (4). In summary:

1. The only body of water that is not inside the restricted area of the base is a desert playa, the northern half of which is known as Lake Holloman and the southern end as Stinky Playa (4).
2. Lake Holloman sometimes dries up during summer months and went completely dry during the summer of 2013. Stinky Playa only contains water following large rain events (4).
3. Maintaining public access to the desert playa is required by a 1995 Congressional transfer of land from the Bureau of Land Management (BLM) to HAFB. No entry fee is charged for access to the playa, no services are provided to visitors, no swimming or boating is allowed in Lake Holloman, and there are no fish in the lake because of poor water quality (4).
4. Waterfowl hunting occurs at Lake Holloman, and Lagoon G which is a man-made lake consisting of stormwater and effluent discharges from the base's wastewater treatment plant (4, 20). Lagoon G is located inside the base restricted area and not accessible by the public without authorization. Hunting at Holloman Lake or Lagoon G requires authorized access and is primarily provided for airmen stationed at the base (4, 21). HAFB maintains records of hunters and has no records of out-of-state hunters (4, 7). HAFB indicates that New Mexico Department of Game and Fish game wardens have not encountered out-of-state hunters in this area (7). (The Corps verified this information directly with NM Game and Fish) (5).
5. Lake Holloman is visited by bird watchers from the Las Cruces area. HAFB contacted the Las Cruces Chapter of the Audubon Society. Audubon does not keep records of out-of-state bird watchers visiting Lake Holloman (4).
6. Lake Holloman will continue to be protected and managed as a wetland in accordance with the Executive Order 11990 for the protection of wetlands, and in accordance with the Holloman AFB Integrated Natural Resource Management Plan (10).

The only water within the study area that potentially has an interstate commerce connection is Lake Holloman, a desert playa open water, riparian complex which is used for recreation (waterfowl hunting and bird watching) (4). The Corps independently investigated Lake Holloman and determined that it does not have an interstate commerce connection. The information gathered by the Corps is summarized as follows:

1. The Corps contacted Audubon New Mexico to obtain information regarding out-of-state bird watchers visiting Lake Holloman. Audubon New Mexico provided the following information:
 - a. Lake Holloman, including its adjoining wetlands, is an Audubon Important Bird Area (6, 9).
 - b. Data from the eBird database indicates that out-of-state bird watchers visit Lake Holloman. Of the 370 checklists entered into eBird, 18 can be attributed to out-of-state bird watchers (8).
 - c. The Texas Ornithological Society held its winter meeting in El Paso in January 2015. One of the scheduled field trips was to Lake Holloman (13).
 - d. Lake Holloman is featured in the New Mexico Bird Finding Guide, a publication of the New Mexico Ornithological Society. Given the site's proximity to White Sands National Monument and Oliver Lee Memorial State Park, it could be on the agenda of out-of-state birders passing through the region. Lake Holloman is within the range of the El Paso, Texas birding community and reports of rarities seen at Lake Holloman may attract birders from El Paso (17, 23).

The information gathered regarding out-of-state bird watchers visiting Lake Holloman is not sufficient to support an interstate commerce connection.

2. The Lake Holloman Wildlife Area Special Waterfowl Hunt Regulations state that hunters are authorized to retrieve downed waterfowl by non-motorized boat (21). However, no documentation was found to indicate hunters have used boats to retrieve waterfowl from Lake Holloman. Corps staff contacted the local game warden from New Mexico Department of Game and Fish, and he had no records of out-of-state hunter use at Lake Holloman (5).

The information gathered regarding out-of-state waterfowl hunter use at Lake Holloman does not support an interstate commerce connection.

3. A draft "Lake Holloman Recreational Area Development Environmental Assessment (EA)" was prepared by HAFB in January 2009, which included a proposal for increasing recreation at Lake Holloman (19).
 - a. As quoted from the draft EA "The proposal would involve the construction of camping, beach, and picnic areas; nature trails; restrooms and recreational vehicle (RV) facilities; and would allow for additional activities such as boating, fishing, and all-terrain vehicle (ATV) use, as well as enhance existing bird watching and currently authorized quail, dove, and water fowl hunting opportunities. The recreation area would be accessible to both Holloman-based personnel and members of the surrounding community" (19).
 - b. The draft Environmental Assessment was not finalized, a Finding of No Significant Impact (FONSI) was not prepared by HAFB, and the entire proposed action was abandoned by HAFB (4).
 - c. The proposal for "Lake Holloman Recreational Area Development" was dropped by HAFB primarily because the water quality in Lake Holloman does not support human contact activities (4).

The information gathered regarding proposed recreation use at Lake Holloman does not support an interstate commerce connection.

4. Other out-of-state uses:

- a. Corps staff attempted to contact the BLM regarding out-of-state visitor use at Lake Holloman prior to the 1995 land transfer from BLM to HAFB. BLM did not return calls or emails.
- b. An internet search revealed several on-line blogs posted by out-of-state visitors to Lake Holloman (15, 16, 18).

The information gathered regarding other out-of-state land uses at Lake Holloman does not support an interstate commerce connection.

References:

- (1) AMEC Environment & Infrastructure report, "Preliminary Wetlands and Other Waters of the United States Delineation Holloman Air Force Base, New Mexico" July 2014.
- (2) AMEC Environment & Infrastructure report, "Evaluation of Wetlands at Holloman Air Force Base New Mexico" October 2014.
- (3) David Griffin letter, December 02, 2014, subject, extent of Approved JD.
- (4) David Griffin letter, December 18, 2014, subject, interstate commerce addendum to "Evaluation of Wetlands at Holloman Air Force Base Relative to Jurisdictional Criteria."
- (5) SGT Jason Kline email, January 5, 2015, subject, absence of documentation of out of state hunters for Lake Holloman in the last 6 years.
- (6) Carol Beidleman email, January 6, 2015 subject, profile on importance of Lake Holloman as a valuable birding area used by local birders.
- (7) David Griffin email, January 9, 2015 subject, 2013 hunting record maintained by Holloman AFB.
- (8) Christopher Rustay email, January 20, 2015, subject, data entered in ebird by out-of-state birders.
- (9) Kayrn Stockdale letter, July 10, 2009 subject, Lake Holloman as an important birding area.
- (10) David Griffin email, February 2, 2015, subject purpose for the Holloman AFB request for an Approved Jurisdictional Determination and discussion of how Lake Holloman is not at risks for degradation or destruction or loss of habitat.
- (11) AMEC Environment & Infrastructure letter, February 4, 2015 subject, tabulated delineation data and statement of relative distance between Holloman AFB and the closest TNW.
- (12) <http://www.dodpif.org/installations/checklists.php>, Checklist of birds found on Lake Holloman.
- (13) http://www.texasbirds.org/images/meetings/registration_tos_winter%2015_rev4.pdf, Texas Ornithological Society's winter meeting and Lake Holloman tour site.
- (14) pw:\\SPA-PW2ALB.spa.ds.usace.army.mil:spa-pw2alb.spa.ds.usace.army.mil\\Documents\\SPA Team Data\\CESPA_RD\\CESPA-RD-NM\\Files\\Holloman_AFB\\199650097_Holloman Mapping.pdf, USACE historical regulatory data on Holloman AFB to include 1996 delineation.
- (15) <http://www.van-tramp.com/wp/holloman-afb-and-lakes/>, Blog on Lake Holloman.
- (16) <http://www.bogan.ca/photos/index.php?showimage=18>, Blog on Lake Holloman.
- (17) <http://nm.audubon.org/priority-ibas-new-mexico>, Audubon identifies Lake Holloman as an important birding area.
- (18) <http://wheres-liz-2014.blogspot.com/2014/03/lake-holloman-and-white-sands-nm.html>, Blog on Lake Holloman.
- (19) <http://www.holloman.af.mil/shared/media/document/AFD-090127-074.pdf>, Draft Lake Holloman Recreational Area Development Environmental Assessment
- (20) <http://www.holloman.af.mil/news/story.asp?id=123371419>, duck hunting on Holloman AFB.
- (21) <http://www.holloman.af.mil/library/factsheets/factsheet.asp?id=17399>, Lake Holloman Wildlife Area Special Waterfowl Hunt Regulations.
- (22) AMEC Environment & Infrastructure email, February 10, 2015, Maps of Holloman AFB for the approved JD.
- (23) Nancy Stotz email, December 31, 2014, subject, bird watching question - related to CWA jurisdiction at Lake Holloman.