



DEPARTMENT OF THE ARMY  
U.S. ARMY CORPS OF ENGINEERS ALBUQUERQUE DISTRICT REGULATORY DIVISION  
SOUTHERN COLORADO BRANCH, FORT CARSON OFFICE  
6082 MAGRATH, BLDG 1359  
FORT CARSON, CO 80913

March 11, 2026

Regulatory Division

SUBJECT: Jurisdictional Determination (SPA-2025-00105)

Grant Langdon  
Antler Range, LLC  
PO Box 38939  
Colorado Springs, CO 80937  
[gl@glangdon.com](mailto:gl@glangdon.com)

Dear Mr. Langdon:

**This letter supersedes the January 23, 2026, approved jurisdictional determination (JD) letter.** We are responding to your request for a JD for aquatic resources within the 244-acre review area located northeast of the intersection of Meridian Road and Ayer Road at an approximate center of latitude 39.0092°, longitude -104.5970°; El Paso County Parcel No. 4218000022; Section 18, Township 12 South, Range 64 West, in El Paso County, Colorado.

We have determined that wetlands W2, W3-A, W3-B, W3-C, W3-D, W4, W5, W6-A, W6-B, and W7-Wetland are not waters of the United States because they are not adjacent to any (a)(1) through (a)(3) water, and OHWM-1, OHWM-2, and W7-Stockpond are excluded from regulation as they are considered artificial lakes or ponds created by excavating or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing ((b)(5)).

We are enclosing a copy of the Approved Jurisdictional Determination Memorandum for Record for your review area (Enclosure 2). A copy of this JD is also available at <http://www.spa.usace.army.mil/reg/JD>. This approved JD is valid for 5 years from the date of this letter unless new information warrants revision of the determination before the expiration date. If you intend to conduct work that could result in a discharge of dredged or fill material into waters of the United States, please contact this office for a determination of Department of the Army permit requirements.

The delineation included herein has been conducted to identify the location and extent of the aquatic resources for purposes of the Clean Water Act for the particular

site identified in this request. This delineation may not be valid for the Wetland Conservation Provisions of the Food Security Act of 1985, as amended. If you or your tenant are USDA program participants, or anticipate participation in USDA programs, you should discuss the applicability of an NRCS Certified Wetland Determination with the local USDA service center, prior to starting work.

You may accept or appeal this approved JD or provide new information in accordance with the attached Notification of Administrative Appeal Options and Process and Request for Appeal (Enclosure 3). If you elect to appeal this approved JD, you must complete Section II of the form and return it to the Army Engineer Division, South Pacific, CESPDPDS-O, Attn: Travis Morse, Administrative Appeal Review Officer, by email at [w.travis.morse@usace.army.mil](mailto:w.travis.morse@usace.army.mil) within 60 days of the date of this notice. 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.

Please refer to Department of the Army file number SPA-2025-00105 in any correspondence concerning this project. If you have any questions, please contact me by email at [Daniel.i.Delgado@usace.army.mil](mailto:Daniel.i.Delgado@usace.army.mil), or telephone at (719) 457-0918.

Sincerely,

Daniel Delgado  
Senior Project Manager  
Southern Colorado Branch

Enclosures

cc:

Dan Maynard, Bristlecone Ecology, [dmaynard@bristleconeecology.com](mailto:dmaynard@bristleconeecology.com)



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CESPA-RDS

3 MARCH 2026

MEMORANDUM FOR RECORD

SUBJECT: US Army Corps of Engineers (Corps) Approved Jurisdictional Determination in accordance with the "Revised Definition of 'Waters of the United States'"; (88 FR 3004 (January 18, 2023) as amended by the "Revised Definition of 'Waters of the United States'; Conforming" (8 September 2023),<sup>1</sup> Antler Range, LLC – Antler Ridge Development Project (SPA-2025-00105) (MFR 1 of 1)<sup>2</sup>

BACKGROUND. An Approved Jurisdictional Determination (AJD) is a Corps document stating the presence or absence of waters of the United States on a parcel or a written statement and map identifying the limits of waters of the United States on a parcel. AJDs are clearly designated appealable actions and will include a basis of JD with the document.<sup>3</sup> AJDs are case-specific and are typically made in response to a request. AJDs are valid for a period of five years unless new information warrants revision of the determination before the expiration date or a District Engineer has identified, after public notice and comment, that specific geographic areas with rapidly changing environmental conditions merit re-verification on a more frequent basis.<sup>4</sup>

On January 18, 2023, the Environmental Protection Agency (EPA) and the Department of the Army ("the agencies") published the "Revised Definition of 'Waters of the United States,'" 88 FR 3004 (January 18, 2023) ("2023 Rule"). On September 8, 2023, the agencies published the "Revised Definition of 'Waters of the United States'; Conforming", which amended the 2023 Rule to conform to the 2023 Supreme Court decision in *Sackett v. EPA*, 598 U.S., 143 S. Ct. 1322 (2023) ("*Sackett*").

This Memorandum for Record (MFR) constitutes the basis of jurisdiction for a Corps AJD as defined in 33 CFR §331.2. For the purposes of this AJD, we have relied on

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<sup>1</sup> While the Revised Definition of "Waters of the United States"; Conforming had no effect on some categories of waters covered under the CWA, and no effect on any waters covered under RHA, all categories are included in this Memorandum for Record for efficiency.

<sup>2</sup> When documenting aquatic resources within the review area that are jurisdictional under the Clean Water Act (CWA), use an additional MFR and group the aquatic resources on each MFR based on the TNW, the territorial seas, or interstate water that they are connected to. Be sure to provide an identifier to indicate when there are multiple MFRs associated with a single AJD request (i.e., number them 1, 2, 3, etc.).

<sup>3</sup> 33 CFR 331.2.

<sup>4</sup> Regulatory Guidance Letter 05-02.

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Section 10 of the Rivers and Harbors Act of 1899 (RHA),<sup>5</sup> the 2023 Rule as amended, as well as other applicable guidance, relevant case law, and longstanding practice in evaluating jurisdiction.

1. SUMMARY OF CONCLUSIONS.

- a. Provide a list of each individual feature within the review area and the jurisdictional status of each one (i.e., identify whether each feature is/is not a water of the United States and/or a navigable water of the United States).
  - i. OHWM-1 (0.01-acre/89-linear feet), excluded/non-jurisdictional, Section 404
  - ii. OHWM-2 (0.04-acre/129-linear feet), excluded /non-jurisdictional, Section 404
  - iii. W2 (0.24-acre), non-jurisdictional, Section 404
  - iv. W3-A (0.66-acre), excluded/non-jurisdictional, Section 404
  - v. W3-B (0.55-acre), non-jurisdictional, Section 404
  - vi. W3-C (0.10-acre), non-jurisdictional, Section 404
  - vii. W3-D (0.002-acre), non-jurisdictional, Section 404
  - viii. W4 (0.16-acre), non-jurisdictional, Section 404
  - ix. W5 (0.15-acre), non-jurisdictional, Section 404
  - x. W6-A (0.55-acre), non-jurisdictional, Section 404
  - xi. W6-B (0.21-acre), non-jurisdictional, Section 404
  - xii. W7-Wetland (0.97-acre), non-jurisdictional, Section 404
  - xiii. W7-Stockpond (0.27), excluded/non-jurisdictional, Section 404

2. REFERENCES.

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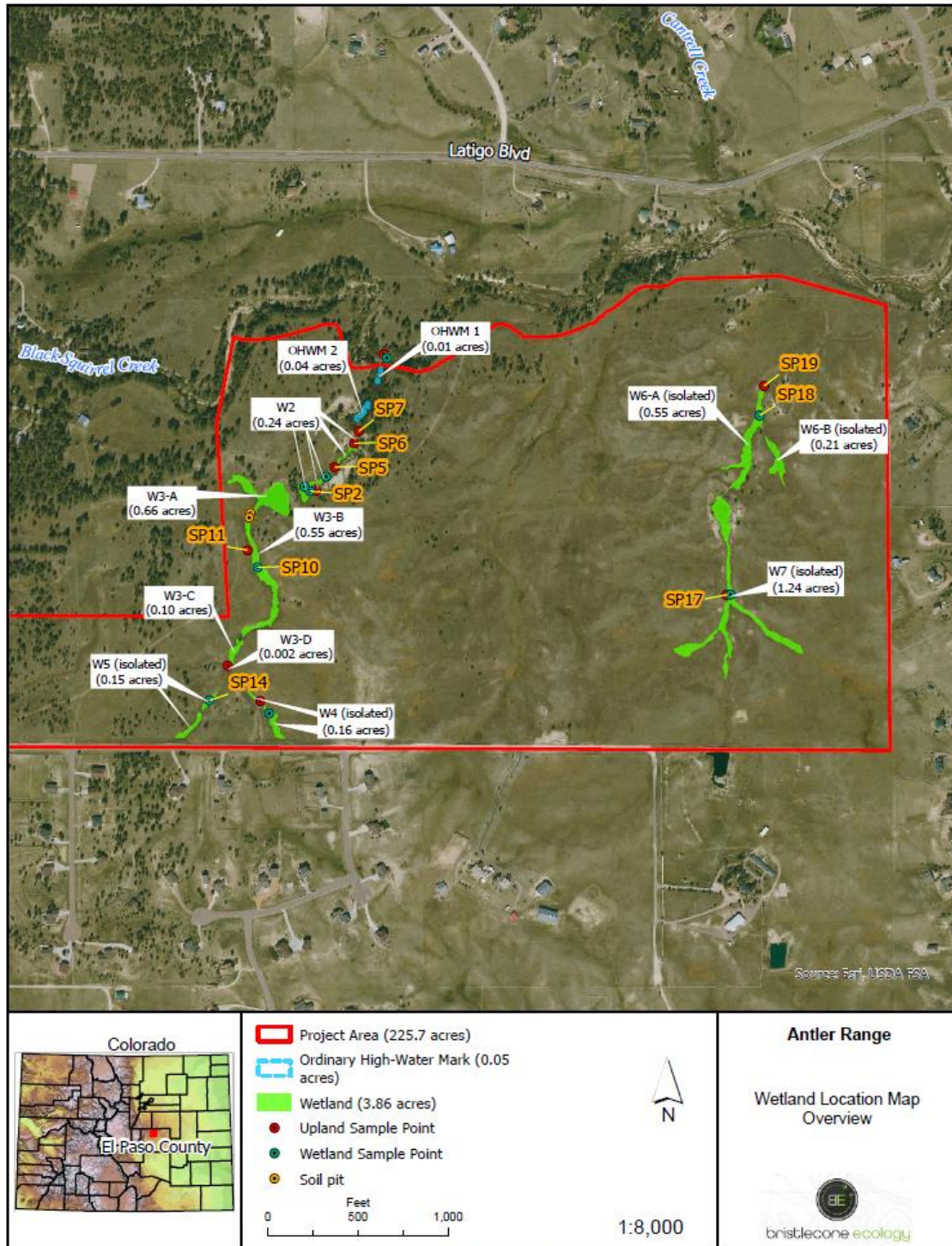
<sup>5</sup> USACE has authority under both Section 9 and Section 10 of the Rivers and Harbors Act of 1899 but for convenience, in this MFR, jurisdiction under RHA will be referred to as Section 10.

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- a. "Revised Definition of 'Waters of the United States,'" 88 FR 3004 (January 18, 2023) ("2023 Rule")
  - b. "Revised Definition of 'Waters of the United States'; Conforming" 88 FR 61964 (September 8, 2023)
  - c. *Sackett v. EPA*, 598 U.S. 651, 143 S. Ct. 1322 (2023)
  - d. Memorandum To The Field Between The U.S. Department Of The Army, U.S. Army Corps Of Engineers And The U.S. Environmental Protection Agency Concerning The Proper Implementation Of "Continuous Surface Connection" Under The Definition Of "Waters Of The United States" Under The Clean Water Act (March 12, 2025).
3. REVIEW AREA. The review area consists of a 244-acre undeveloped parcel (Figure 1, Review Area) located northeast of the intersection of Meridian Road and Ayer Road at an approximate center of latitude 39.0092°, longitude -104.5970°; El Paso County Parcel No. 4218000022; Section 18, Township 12 South, Range 64 West, in El Paso County, Colorado. Site topography generally consists of rolling hills with a gentle downgradient sloping northward. Historic uses of the site included cattle ranching which is still practiced today.

Figure 1-Review Area



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4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), THE TERRITORIAL SEAS, OR INTERSTATE WATER TO WHICH THE AQUATIC RESOURCE IS CONNECTED. The onsite aquatic resources have no connection to a downstream TNW.<sup>6</sup>
5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, THE TERRITORIAL SEAS, OR INTERSTATE WATER. N/A
6. SECTION 10 JURISDICTIONAL WATERS<sup>7</sup>: Describe aquatic resources or other features within the review area determined to be jurisdictional in accordance with Section 10 of the Rivers and Harbors Act of 1899. Include the size of each aquatic resource or other feature within the review area and how it was determined to be jurisdictional in accordance with Section 10.<sup>8</sup> N/A
7. SECTION 404 JURISDICTIONAL WATERS: Describe the aquatic resources within the review area that were found to meet the definition of waters of the United States in accordance with the 2023 Rule as amended, consistent with the Supreme Court's decision in *Sackett*. List each aquatic resource separately, by name, consistent with the naming convention used in section 1, above. Include a rationale for each aquatic resource, supporting that the aquatic resource meets the relevant category of "waters of the United States" in the 2023 Rule as amended. The rationale should also include a written description of, or reference to a map in the administrative record that shows, the lateral limits of jurisdiction for each aquatic resource, including how that limit was determined, and incorporate relevant references used. Include the size of each aquatic resource in acres or linear feet and attach and reference related figures as needed.
  - a. Traditional Navigable Waters (TNWs) (a)(1)(i): N/A
  - b. The Territorial Seas (a)(1)(ii): N/A

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<sup>6</sup> This MFR should not be used to complete a new stand-alone TNW determination. A stand-alone TNW determination for a water that is not subject to Section 9 or 10 of the Rivers and Harbors Act of 1899 (RHA) is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where upstream or downstream limits or lake borders are established.

<sup>7</sup> 33 CFR 329.9(a) A waterbody which was navigable in its natural or improved state, or which was susceptible of reasonable improvement (as discussed in § 329.8(b) of this part) retains its character as "navigable in law" even though it is not presently used for commerce, or is presently incapable of such use because of changed conditions or the presence of obstructions.

<sup>8</sup> This MFR is not to be used to make a report of findings to support a determination that the water is a navigable water of the United States. The district must follow the procedures outlined in 33 CFR part 329.14 to make a determination that water is a navigable water of the United States subject to Section 10 of the RHA.

- c. Interstate Waters (a)(1)(iii): N/A
- d. Impoundments (a)(2): N/A
- e. Tributaries (a)(3): N/A
- f. Adjacent Wetlands (a)(4): N/A
- g. Additional Waters (a)(5): N/A

## 8. NON-JURISDICTIONAL AQUATIC RESOURCES AND FEATURES

- a. Describe aquatic resources and other features within the review area identified in the 2023 Rule as amended as not “waters of the United States” even where they otherwise meet the terms of paragraphs (a)(2) through (5). Include the type of excluded aquatic resource or feature, the size of the aquatic resource or feature within the review area and describe how it was determined to meet one of the exclusions listed in 33 CFR 328.3(b).<sup>9</sup>
  - i. W3-A, is a 0.66-acre excavated feature. W3-A was excavated in an upland area that is part of a vegetated swale system. The feature retains flows within the excavated feature as a large berm was constructed at the northern extent and shows no signs of flows bypassing the berm and connecting to any downstream aquatic resource. The feature is considered a manmade stock pond constructed by excavating or diking dry land to collect and retain water for the purpose of providing water to livestock. W3-A is located in a feature that is considered dryland as the feature is a vegetative swale. W3-A meets the definition of a non-jurisdictional excluded (b)(5) water.
  - ii. W7-Stockpond, 0.27-acre excavated feature. W7-Stockpond was excavated in an upland area that is part of a vegetated swale system. The feature retains flows within the excavated feature as a large berm was constructed at the northern extent. However, the berm breached during a high-flow event, but surface water generally remains in the stock pond due to its excavated depth. No indicators of relatively permanent flow or an OHWM are visible downstream of the berm. The feature is considered a manmade stock pond constructed specifically for the purpose of providing water to livestock which is evident by current and historic livestock use in

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<sup>9</sup> 88 FR 3004 (January 18, 2023)

the area. W7-Stockpond is located in a feature that is considered dryland as the feature is a vegetative swale. The area is considered dryland as the feature is a vegetative swale. W7-Stockpond meets the definition of a non-jurisdictional excluded (b)(5) water.

- iii. OHWM-1 is a small stream feature located at and upstream of the confluence with Black Squirrel Creek. OHWM-1 exhibits marginal indicators of surface water flow and does not exhibit clear indicators of an ordinary high-water mark (OHWM). Vegetation within OHWM-1 suggest flows within the feature do not occur frequently and occur at low velocities. Vegetation within and immediately surrounding OHWM-1 consist of ponderosa pine (*Pinus ponderosa*-UPL) and within the channel consist of patches of grass (*Poaceae spp.*) and common mullein (*Verbascum thapsus*-UPL). The amount of vegetation establishment suggests low velocity flows and in-frequent events. Further confirmation of infrequent flows is evident through the absence of a discernable OHWM. Based on this information, OHWM-1 is considered an excluded (b)(8) swale characterized by low volume, infrequent, or short duration flow.
  - iv. OHWM-2 is a small stream feature located up gully of OHWM-1. OHWM-2 exhibits marginal indicators of surface water flow and does not exhibit clear indicators of an ordinary high-water mark (OHWM). Vegetation within OHWM-2 suggest flows within the feature do not occur frequently and occur at low velocities. Vegetation within and immediately surrounding OHWM-2 consist of ponderosa pine (*Pinus ponderosa*-UPL) and within the channel consist of patches of grass (*Poaceae spp.*) and common mullein (*Verbascum thapsus*-UPL). The amount of vegetation establishment suggests low velocity flows and in-frequent events. Further confirmation of infrequent flows is evident through the absence of a discernable OHWM. Based on this information, OHWM-2 is considered an excluded (b)(8) swale characterized by low volume, infrequent, or short duration flow.
- b. Describe aquatic resources and features within the review area that were determined to be non-jurisdictional because they do not meet one or more categories of waters of the United States under the 2023 Rule as amended (e.g., tributaries that are non-relatively permanent waters; non-tidal wetlands that do not have a continuous surface connection to a jurisdictional water).
- i. W2 is a palustrine emergent wetland (PEM) located below the earthen berm of W3-A (i.e., stock pond). W2 is located in a vegetative swale that does not exhibit indicators of an OHWM or indicators of relatively

permanent flow upstream or downstream of W2. Based on this information, W2 does not contain a continuous surface connection to a relatively permanent water (RPW) and therefore does not meet the definition of an adjacent (a)(4) wetland.

- ii. W3-B, W3-C, and W3-D are PEM wetlands located within a vegetative swale upstream of W3-A (i.e., stockpond). The swale terminates at W3 and does not exhibit indicators of an OHWM upstream or downstream, or indicators of relatively permanent flow. Based on this information, W2 does not contain a continuous surface connection to a relatively permanent water (RPW) and does not meet the definition of an adjacent (a)(4) wetland.
- iii. W4 is a mixed PEM and palustrine scrub-shrub (PSS) wetland located within a vegetative swale upstream of W3-A (i.e., stockpond) and W3-B through D. The vegetative swale does not exhibit indicators of an ordinary high-water mark (OHWM) or indicators of relatively permanent flow upstream or downstream of W4. Based on this information, W4 does not contain a continuous surface connection to a relatively permanent water (RPW) and does not meet the definition of an adjacent (a)(4) wetland.
- iv. W5, is a mixed PEM and PSS wetland located within a vegetative swale upstream of W3-A (i.e., stockpond) and W3-B through D. The vegetative swale does not exhibit indicators of an ordinary high-water mark (OHWM) or indicators of relatively permanent flow upstream or downstream of W5. Based on this information, W5 does not contain a continuous surface connection to a relatively permanent water (RPW) and does not meet the definition of an adjacent (a)(4) wetland.
- v. W6-A is a PSS wetland located within a vegetative swale. The vegetative swale does not exhibit indicators of an ordinary high-water mark (OHWM) or indicators of relatively permanent flow upstream or downstream of W6-A. Based on this information, W6-A does not contain a continuous surface connection to a relatively permanent water (RPW) and does not meet the definition of an adjacent (a)(4) wetland.
- vi. W6-B is a PEM wetland located within a vegetative swale immediately east of W6-A. The vegetative swale does not exhibit indicators of an ordinary high-water mark (OHWM) or indicators of relatively permanent flow upstream or downstream of W6-B. Based on this information, W6-A does not contain a continuous surface connection to a relatively

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permanent water (RPW) and does not meet the definition of an adjacent (a)(4) wetland.

- vii. W7-Wetland is a PEM wetland located immediately upstream of the stock pond at W7-Stock pond. W7-Stock pond does not connect to any downstream RPWs or TNWs. Based on this information, W7-Wetland does not contain a surface water connection to a relatively permanent water (RPW) and does not meet the definition of an adjacent (a)(4) wetland.

9. DATA SOURCES. List sources of data/information used in making determination. Include titles and dates of sources used and ensure that information referenced is available in the administrative record.

- a. *Wetland Delineation Report for Antler Range Development El Paso County, Colorado*. Prepared by Bristlecone Ecology. Dated May 20, 2025.
- b. USACE Site visit conducted on August 22, 2025.

10. OTHER SUPPORTING INFORMATION. A site visit by USACE personnel was conducted along with the applicant's agent on August 22, 2025. During the site visit, each aquatic resource within the review area was examined.

11. NOTE: The structure and format of this MFR were developed in coordination with the EPA and Department of the Army. The MFR's structure and format may be subject to future modification or may be rescinded as needed to implement additional guidance from the agencies; however, the approved jurisdictional determination described herein is a final agency action.

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

Applicant: Antler Range, LLC, Attn: Mr. Grant Langdon	File No.: SPA-2025-00105	Date: March 11, 2026
Attached is:		See Section below
<input type="checkbox"/>	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
<input type="checkbox"/>	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
<input type="checkbox"/>	PERMIT DENIAL	C
X	APPROVED JURISDICTIONAL DETERMINATION	D
<input type="checkbox"/>	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://www.usace.army.mil/cecw/pages/reg\\_materials.aspx](http://www.usace.army.mil/cecw/pages/reg_materials.aspx) 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 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 engineer (address on reverse). This form must be received by the division 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 engineer (address on reverse). This form must be received by the division 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:

Daniel Delgado  
Senior Project Manager  
Southern Colorado Branch  
U.S. Army Corps of Engineers  
Southern Colorado Branch  
Phone: (719) 457-0918  
Email: Daniel.i.Delgado@usace.army.mil

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

Travis Morse  
Administrative Appeal Review Officer  
U.S. Army Corps of Engineers  
South Pacific Division  
450 Golden Gate Avenue  
San Francisco, CA 94102-1455  
Phone: (213) 452-3146  
Email: 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: