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): 12 October 2010

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: LOS ANGELES DISTRICT, BADLANDS LANDFILL, 2010-00890-RJV

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: CA County/parish/borough: Riverside City: Moreno Valley
Center coordinates of site (lat/long in degree decimal format): Lat. 33.954785° **N**, Long. -117.122828° **W**.
Universal Transverse Mercator:
Name of nearest waterbody: Mystic Lake
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: NA
Name of watershed or Hydrologic Unit Code (HUC): Santa Ana
☒ 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: 12 October 2010
☒ Field Determination. Date(s): 30 September 2010

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 waters[2] (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]
   ☒ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.
   Explain: **A site visit was conducted on 30 Sept 2010 to determine the downstream connectivity and significant nexus potential of the 5 drainages (drainages 1-5 or D1-D5) within the review area (Badlands Landfill soil stockpiling site just**

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[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).
[3] Supporting documentation is presented in Section III.F.

west of the Badlands landfill). Within the project site the drainages were determined to have minimal, if any, signs of a OHWM. They showed characteristics of a swale rather than a well defined channel/drainage. The drainages were vegetated with upland grasses and showed no signs of a bed and bank, drift deposits, fine sediments, water stains, or any other indicator of an OHWM (see pictures 1-3 taken by Corps during JD site visit on 30 Sept 2010). The only drainage that did show signs of a bed and bank and channelization was drainage 5 (D5). However, the only reason D5 was well defined is due to the fact that it abuts the old Ironwood Ave that has been abandoned. The presence of the old street has caused an erosional feature to develop immediately against the south side of the road and scour and erode away the sediment. It is very likey that without the old road the drainage either would not be present or it would be significantly less pronounced (see pictures 13-14 taken by Corps during site visit).

The five drainages were followed further downstream of the project site to their confluence, approximately 1/4 mile from the edge of the project site. Not until all the drainages converged was a OHWM visible. In addition, about 1/2 acre of mulefat was located in a lowlying area. Likely part of the reason there was a large amount of Mulefat present is due to a concrete swale that drains Ironwood Ave into the low lying area (see pictures 7-9 taken by the Corps during site visit). Altough there was an OHWM and wetland vegetation present, this area was outside of the project site and is not under consideration for jurisdiction under section 404 of the Clean Water Act.

From the confluence of drainges 1-5, the drainage continues in a southerly direction across HWY 60, between Theodore Street and Gilman Springs Road (~ 33.938649 N, -117.133121 W). The drainage then crosses under a bridge just north of Eucalyptus Street, crosses Eucalyptus Street and continues south to Allessandro Blvd (see pictures 5-6 taken by Corps during site visit), between Davis Rd and Virginia St. From Allessandro Rd, the drainage continues about 3/4 of a mile into an agricultural field. The drainage looses definition within the agriculture field (located south of Gato del Sol Ave, west of Virginia St., east of David Rd., and north of Air Forbes Ave.), due to the fact that the fields are disced regularily and are still active. North of the agricultural fields the drainage still exhibits an OHWM, however within the fields all signs of an OHWM are lost, except for some remants of fine sediment. It appears that the drainage fans out and sheetflows across the area. There is very little vegetation except for the remains of a disced field containing dry dead agricultural crops (appeared to be hay) (see pictures 4,11,12,15 taken by Corps during site visit; see Figure 5 and 6a in report titled "Investigation of Jurisdictional Wetlands and Waters of the U.S - Badlands Landfill", prepared by PCR and dated June 2010). During normal storm flows, water would likely reach the agricultural fields and sheet flow and dissipate into the fields and would not connect to any drainage or channel. However, during large storm events, velocities could reach high enough rates that storm water would not only sheet flow across the agricultural field, but reach the defined channel (1-3 feet wide), about 500 meters south of where the original drainge loses definition. This is evident by the presence of some Mulefat within the defined channel, south of the disced agricultural field (see pictures 10-12 taken by the Corps during site visit). The presence of Mulefat gives evidence that there is still enough water reaching the channel south of Air Forbes (likely in large storm events) to sustain wetland flora. However, it is very unlikely that normal flows and rain events produce enough water to fan across the agricultural field and reach the defined drainage.

In the event of large flows sheetflowing across the agricultural field and reaching the downstream channel, water would continue in a southerly direction past Air Forbes Rd. and travel for about 3/5 mile where, due to the presence of a horse ranch, the channel turns in a south-easterly direction and continues inbetween part of the San Jacinto Wildlife Preserve (Preserve) and a horse ranch. As the 1-2 ft wide drainage passes the Preserve it loses definition for the second time. North of the point where it loses definition there is minimal signs of an OHWM, with a small bed and bank, and a few small, dying wetland plants; however, just south of that point where the channel loses definition there is no signs of an OHWM. In addition, the area is dominated by a large amount of upland vegetation. The drainage terminates with a loss of connectivity to a downstream drainage or channel and sheetflows into an upland area. The drainage is not able to connect to the ponds of the San Jacinto Preserve due the presence of a 6-12 inch tall berm between the channel and the ponds. It is possible that in extreme storm events water may reach the pond adjacent to the defined channel, but normal storm events wouldn't produce enough water to reach the ponds and flows would travel 1/2 mile south to other ponds in the Preserve. Even if water was able to reach the ponds in the Preserve, they contain no connection to a downstream water and are seperated by levees and elevated roads.

Evidence from file 199915289-YJC from conversations with Tom Paulek and Scott Sewell of CDFG (and referenced in file 2006-00436-FBV) explains that water which reaches the ponds does not connect to the San Jacinto River or any other water body. In order for water to leave the ponds, they would have to receive a large amount of runoff and rain water, and would overflow into Mystic Lake. Once water reached Mystic Lake, it too would have to overflow in order for water to reach the San Jacinto River, which would eventually lead to a TNW. Normal, and even large storm events, would not produce enough water to overflow into Mystic Lake and then Mystic Lake into the San Jacinto. It would take an extremely large and infrequent storm event for water from the drainages in review to reach a TNW.

Due to the fact that the drainages (drainges 1-5) in the project site contain minimal to no signs of an OHWM, the downstream drainage loses definition and connectivity in the disced agricultural field, and again loses definition between the horse ranch and Preserve, the Corps has concluded that the potentially jurisdictional features (drainges 1-5) are isolated waters and are therefore non-jurisdictional under section 404 of the Clean Water Act.

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 waterbody[4] 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: 235,505 **acres**
Drainage area: 30 **acres**
Average annual rainfall: 12 inches
Average annual snowfall: 0 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 **20-25** river miles from TNW.
Project waters are **5-10** river miles from RPW.
Project waters are **20-25** aerial (straight) miles from TNW.
Project waters are **5-10** aerial (straight) miles from RPW.
Project waters cross or serve as state boundaries. Explain: .

Identify flow route to TNW[5]: Drainges in review do not flow into a TNW.
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: Some of the drainages are fed by street runoff and drainage 5 is altered due to the presence of the old Ironwood Ave.

Tributary properties with respect to top of bank (estimate):
Average width: 3 feet
Average depth: 2 feet
Average side slopes: **Vertical (1:1 or less).**

Primary tributary substrate composition (check all that apply):

☒ Silts	☒ Sands	☐ Concrete
☒ Cobbles	☒ Gravel	☐ Muck
☐ Bedrock	☒ Vegetation. Type/% cover: Approx 15% non-native mustard (Brassica sp.)	
☐ Other. Explain: .		

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: eroding.
Presence of run/riffle/pool complexes. Explain: No.
Tributary geometry: **Relatively straight**
Tributary gradient (approximate average slope): 2-4 %

(c) Flow:
Tributary provides for: **Ephemeral flow**
Estimate average number of flow events in review area/year: **6-10**
Describe flow regime: ephemeral.
Other information on duration and volume: .

Surface flow is: **Discrete and confined.** Characteristics: .

Subsurface flow: **Unknown**. Explain findings: .
☐ Dye (or other) test performed: .

Tributary has (check all that apply):
☐ Bed and banks
☐ OHWM[6] (check all indicators that apply):

☐ clear, natural line impressed on the bank	☐ the presence of litter and debris
☐ changes in the character of soil	☐ destruction of terrestrial vegetation
☐ shelving	☐ the presence of wrack line
☐ vegetation matted down, bent, or absent	☐ sediment sorting
☐ leaf litter disturbed or washed away	☐ scour
☐ sediment deposition	☐ multiple observed or predicted flow events
☐ water staining	☐ abrupt change in plant community
☐ other (list):	

☒ Discontinuous OHWM.[7] Explain: All the drainages, except for drainage 5, exhibit no clear OHWM. They do not contain a clear bed and back, fine sediments, drift deposits, pool and riffle complexes, shevling, scour lines etc. They are also dominated by upland mustard (Brassica sp.) and are more clearly described as swales. Drainge 5 is the only channel in the review are that does contain a clear bed and bank, however, it is due to the fact that it directly abuts the old Ironwood Ave. The presence of the asphalt road has caused water to travel downhill directly against the road, scouring and eroding the sediment. Without the presence of the road, drainage 5 would likely not show signs of an OHWM and might not even exist. The defined bed and bank is due to a man-made feature causing atypical erosional patterns and producing an OHWM where there likely would not be one. Therefore, although drainage 5 does contain signs of an OHWM, it is considered discontinuous and manipulated.

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

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

[6]A 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.
[7]Ibid.

(iii) Chemical Characteristics:

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

Explain: Ephemeral drainage - water quality is expected to be good.

Identify specific pollutants, if known: .

(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-RPWs[8] 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 jurisidictional. 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: .

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[8] See Footnote # 3.
[9] To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.
[10] Prior 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): 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): 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: Maps contained in "Investigation of Jurisdictional Wetlands and Waters of the U.S. - Badlands Landfill", prepared by PCR Services Corporation, dated June 2010.
☐ 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: (National Geodectic Vertical Datum of 1929)
☒ Photographs: ☒ Aerial (Name & Date): Google Earth, aerials submitted by consultant.
or ☒ Other (Name & Date): On-site photos submitted by consultant, on-site phots taken by the Corps during 30 Sept 2010 JD site visit .
☒ Previous determination(s). File no. and date of response letter:199915289-YJC, 2006-00436-FBV.
☐ Applicable/supporting case law: .
☐ Applicable/supporting scientific literature: .
☐ Other information (please specify): .

B. ADDITIONAL COMMENTS TO SUPPORT JD: see Section II.B.2.