

**INFORMATION SHEET**  
**DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE WATERS**  
**RESULTING FROM U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF NORTHERN COOK**  
**COUNTY V. U.S. ARMY CORPS OF ENGINEERS**

**DISTRICT OFFICE:** Walla Walla District

**FILE NUMBER:** NWW No. 040600057

**REGULATORY PROJECT MANAGER:** Duane E. Mitchell **Date:** September 28, 2004

**PROJECT REVIEW/DETERMINATION COMPLETED:** **In the office (Y/N)** N **Date:** \_\_\_\_\_  
**At the project site (Y/N)** Y **Date:** August 24, 2004

**PROJECT LOCATION INFORMATION:**

**State:** Idaho

**County:** Idaho

**Center coordinates of site by latitude & longitudinal coordinates:** Zone:11 North:5113545 East:576519

**Approximate size of site/property (including uplands & in acres):** 2 acres

**Name of waterway or watershed:** near the Clearwater River

**SITE CONDITIONS:**

Type of aquatic resource <sup>1</sup>	0-1 ac	1-3 ac	3-5 ac	5-10 ac	10-25 ac	25-50 ac	> 50 ac	Linear feet	Unknown
Lake									
River									
Stream									
Dry Wash									
Mudflat									
Sandflat									
Wetlands	X								
Slough									
Prairie pothole									
Wet meadow									
Playa lake									
Vernal pool									
Natural pond									
Other water (identify type)									
_____									

<sup>1</sup>Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area.

Migratory Bird Rule Factors <sup>1</sup> :	If Known		If Unknown Use Best Professional Judgment		
	Yes	No	Predicted to Occur	Not Expected to Occur	Not Able To Make Determination
Is or would be used as habitat for birds protected by Migratory Bird Treaties?	X				
Is or would be used as habitat by other migratory birds that cross state lines?	X				
Is or would be used as habitat for endangered species?		X			
Is used to irrigate crops sold in interstate commerce?		X			

<sup>1</sup>Check appropriate boxes that best describe potential for applicability of the Migratory Bird Rule to apply to onsite, non-jurisdictional, isolated, non-navigable, intra-state aquatic resource area.

**TYPE OF DETERMINATION:** Preliminary \_\_\_\_\_ Or Approved X

**ADDITIONAL INFORMATION SUPPORTING NJD (e.g., paragraph 1 – site conditions; paragraphs 2-3 – rationale used to determine NJD, including information reviewed to assess potential navigation or interstate commerce connections; and paragraph 4 – site information on waters of the U.S. occurring onsite):**

Wetland is a very small (~0.01 acre) depressional feature located within a residential subdivision. The site is located on the side of a hill adjacent to an unimproved roadway. The wetland was likely formed from the construction of the road embankment. Sedges and teasel dominate the vegetation on the site. There is no apparent surface or hydrologic connection to any other surface water. Storm water and snow melt sheetflow through the area. This wetland area is not boatable. These wetlands are not bordering or contiguous with the unnamed drainage ditch and there is no apparent interstate commerce use of these wetlands, except they are likely used by migratory birds. Based on Solid Waste Agency of Northern Cook County v U.S. Army Corps of Engineers, 531 U.S. 159 (2001), where the United States Supreme Court held that isolated, non-navigable, intrastate waters are not jurisdictional under the Clean Water Act, if the sole interstate commerce nexus is the use of such waters by migratory birds, these wetlands are not subject to CWA jurisdiction. An approved JD has been prepared for the project.