

**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. 042100025

**REGULATORY PROJECT MANAGER:** Gregory J. Martinez **Date:** April 13, 2004

**PROJECT REVIEW/DETERMINATION COMPLETED:** **In the office (Y/N)** N **Date:** \_\_\_\_\_  
**At the project site (Y/N)** Y **Date:** March 17, 2004

**PROJECT LOCATION INFORMATION:**

**State:** Idaho

**County:** Gem

**Center coordinates of site by latitude & longitudinal coordinates:** 43° 55' by 116°24'

**Approximate size of site/property (including uplands & in acres):** 1,100

**Name of waterway or watershed:** Wetlands in Anderson Creek watershed

**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., discussion may include information reviewed to assess potential navigation or interstate commerce connections - 1 to 3 paragraphs):** This form documents our determination to not assert jurisdiction on four separate isolated, intrastate wetland areas totaling 0.78 acres and located completely on the 1,110-acre project site. The applicant is not currently proposing to fill any of these areas. The four wetland areas are natural springs that have been diked to form stock or irrigation ponds or are natural springs that subside into the ground with no apparent surface connection to any other water of the U.S. These wetland areas are located from 0.25-0.50 miles from Anderson Creek and there is no apparent hydrologic connection between them. In addition, these wetland areas do not appear to be large or deep enough to be used by boats and are not likely to be used by the public because they are located completely on private property. They are used by migratory waterfowl and other migratory birds that cross state lines and water from these areas is used to irrigate hay

fields. However, based on the U.S. Supreme Court SWANCC decision in 2001, these isolated, intrastate wetlands and ponds are not subject to jurisdiction under the Clean Water Act.

The project site also includes Black Canyon Reservoir (an impoundment of the Payette River), Anderson Creek, Spring Gulch, two unnamed tributaries to Black Canyon Reservoir, two wetland areas adjacent to Black Canyon Reservoir, and one wetland area adjacent to Anderson Creek, all of which have been determined to be jurisdictional. The size of these waters on the project site is roughly estimated to be as follows: Black Canyon Reservoir (4.0 miles), Anderson Creek (2.1 miles), Spring Gulch (0.75 miles), two unnamed tributaries to Black Canyon Reservoir (0.7 and 0.9 miles), two wetland areas adjacent to Black Canyon Reservoir (1.04 and 0.61 acres), and one wetland area adjacent to Anderson Creek (0.32 acres). An approved JD was completed for this project site.