

**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. 043300004

**REGULATORY PROJECT MANAGER:** James M. Joyner **Date:** July 20, 2004

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

**PROJECT LOCATION INFORMATION:**

**State:** Idaho

**County:** Teton

**Center coordinates of site by latitude & longitudinal coordinates:** Zone:12 North:4825432 East:486279

**Approximate size of site/property (including uplands & in acres):** 85 acres

**Name of waterway or watershed:** Little Pine Creek

**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):**

The non-jurisdictional wetlands are located completely on the project site. The size of the two non-jurisdictional wetlands is approximately 0.14-acres. At this time there is no plan to fill these areas, i.e. there is no pending permit action. Both of the wetlands are approximately equal in size, i.e. 0.07-acres. Both wetlands are palustrine emergent wetlands.

The wetlands have no apparent surface or subsurface connection to another water of the U.S. These wetlands are located approximately 175-feet from an unnamed tributary to Little Pine Creek. There is no boating use or potential for boating use in these wetlands. The water may be habitat for birds protected by the Migratory Bird Species; however, their use is likely limited since the areas are used to grow alfalfa. These wetlands are not known to be used in any type of interstate commerce. Based on the U.S. Supreme Court SWANCC decision in 2001 these wetlands are not subject to jurisdiction under the Clean Water Act.

Other wetlands and waters on the project site include two intermittent streams and their associated wetland riparian corridors. These wetlands are composed of a dense tangle of shrubs and trees. There is also another wetland located just to the north of one of the creeks. This wetland is fed by a spring and appears to be connected subsurface, via the water table, to the creek to the south. Approximately, 5-acres of jurisdictional waters are located on the 85-acre project site. This jurisdictional determination is approved.