

**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. 061100013

REGULATORY PROJECT MANAGER: Michael T. Doherty **Date:** March 10, 2006

PROJECT REVIEW/DETERMINATION COMPLETED: **In the office (Y/N)** N **Date:** _____
At the project site (Y/N) Y **Date:** November 28, 2005

PROJECT LOCATION INFORMATION:

State: Idaho

County: Bonner

Center coordinates of site by latitude & longitudinal coordinates: N 48 deg 25.592' W 116 deg 30.107'

Approximate size of site/property (including uplands & in acres): 80 Acres

Name of waterway or watershed: Two Isolated Wetlands (A and B in report)

SITE CONDITIONS:

Type of aquatic resource ¹	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 (B)							
Slough									
Prairie pothole									
Wet meadow									
Playa lake									
Vernal pool									
Natural pond		X (A)							
Other water (identify type)									

¹Check 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 ¹ :	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			

¹Check 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 para a graph 4 – site information on waters of the U.S. occurring onsite):

Wetlands A and B are not jurisdictional because they are isolated, non-navigable intrastate waters with no nexus to interstate commerce. Wetland A is a 1.6-acre open water pond fringed by emergent vegetation. Wetland B is 1.3 acres in size consisting of a mosaic of open water, emergent, and scrub shrub/forested wetlands. They both have no apparent surface water connection to and do not flow into any other water of the United States. However, the surface water elevation of both areas closely mirrors that of Walsh Lake, indicating some type of a sub-surface connection. In addition, these wetlands are seasonally flooded depressions, do not support a fishery, and there is no public access. Based on this, they are not subject to boating, fishing, or other

recreational use by interstate travelers. Migratory birds use these wetlands. However, there is no other evidence of their use in interstate or foreign commerce. Based on *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers* (531 U.S. 159 (2001)), 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 or other factors in the Migratory Bird Rule.