

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. 063300192

REGULATORY PROJECT MANAGER: James M. Joyner **Date:** September 13, 2006

PROJECT REVIEW/DETERMINATION COMPLETED: **In the office (Y/N)** Y **Date:** September 13, 2006
At the project site (Y/N) N **Date:** _____

PROJECT LOCATION INFORMATION:

State: Idaho

County: Madison

Center coordinates of site by latitude & longitudinal coordinates: Zone:12 North:4857726 East:435180

Approximate size of site/property (including uplands & in acres): 11.4 acres

Name of waterway or watershed: near the Consolidated Farmers Canal

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 | | | | | | | | | |
| Slough | | | | | | | | | |
| Prairie pothole | | | | | | | | | |
| Wet meadow | X | | | | | | | | |
| Playa lake | | | | | | | | | |
| Vernal pool | | | | | | | | | |
| Natural pond | | | | | | | | | |
| 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 paragraph 4 – site information on waters of the U.S. occurring onsite):

The site is located in a relatively flat area that currently and has historically seen heavy agricultural use. The area in and around the project location is latticed with irrigation canals, ditches, and channels. There are also many small isolated wetland pockets that result from application of irrigation water and or natural run-off/snowmelt pooling in depressional areas. A small wetland (approximately 100 square feet) was identified by the applicant's consultant on the site.

The wetland identified by the applicant's consultant is not jurisdictional because it is an isolated, non-navigable intrastate water with no nexus to interstate commerce. It has no apparent surface water connection to and does not flow into any other water of the United States. In addition, it is not subject to boating and is not open to the general public for use. Migratory birds may use this wetland. However, there is no other evidence of its 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.

There are no other waters of the U.S. occurring on the site with the exception of possibly the Consolidated Farmers Canal.