

**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: «2006-834-B03

REGULATORY PROJECT MANAGER: Eric Gerke **Date:** 1/25/2007

PROJECT REVIEW/DETERMINATION COMPLETED: **In the office (Y/N)** Y **Date:** 1/25/2007
At the project site (Y/N) N **Date:** _____

PROJECT LOCATION INFORMATION:

State: Idaho

County: Ada

Center coordinates of site by latitude & longitudinal coordinates: Jamison Lateral (4823980/545980)

Approximate size of site/property (including uplands & in acres): <50

Name of waterway or watershed: «Boise River

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									
Playa lake									
Vernal pool									
Natural pond									
Other water (identify type) <u>Jamison Lateral</u>	X								

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 X Or Approved _____

ADDITIONAL INFORMATION SUPPORTING NJD

The Jamison Lateral terminates in an agricultural field, south of Amity Road (Northwest ¼ of the Northeast ¼ of Section 27, Township 3 North, Range 1 West, Boise Meridian). See attached photograph. Jamison Lateral only source of water is from the Rawson Canal, and it has no apparent source of hydrology. Consequently, if irrigation water was no longer diverted into this ditch it would revert to uplands. Also, it is not subject to boating. Migratory birds probably use the ditch and it is most likely used to irrigate croplands sold in interstate commerce. However, there is no other evidence of its use in interstate commerce. Based on Solid Waste Agency of Northern Cook County (SWANNC) v. US Army Corps of Engineers (531 US 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. Therefore, the Jamison is not a waters of the United States.