

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: 2007-368-B03

REGULATORY PROJECT MANAGER: Eric Gerke **Date:** 05/29/2007

PROJECT REVIEW/DETERMINATION COMPLETED: **In the office (Y/N)** Y **Date:** 05/29/2007
At the project site (Y/N) Y **Date:** 05/11/2007

PROJECT LOCATION INFORMATION:

State: Idaho

County: Elmore

Center coordinates of site by latitude & longitudinal coordinates: _____

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

Name of waterway or watershed: Bowns Creek

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)	X								
Gravel Outwash									

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

An unnamed drainage (outwash) is not jurisdictional because it is an isolated, non-navigable intrastate water with no nexus to interstate commerce. {Legal Description: Southwest ¼ of Section 18, Township 1 South, Range 5 East, Boise Meridian} 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 use this waterway. However, there is no other evidence of its use in interstate or foreign commerce. Based on Solid Waste Agency of Northern Cook County 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.