

**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-2007-90-B01

REGULATORY PROJECT MANAGER: Greg Martinez **Date:** 1/26/2007

PROJECT REVIEW/DETERMINATION COMPLETED: **In the office (Y/N)** N **Date:** _____
At the project site (Y/N) Y **Date:** 9/22/2007

PROJECT LOCATION INFORMATION:

State: Idaho

County: Valley

Center coordinates of site by latitude & longitudinal coordinates: 4950170/577661

Approximate size of site/property (including uplands & in acres): 25 acres

Name of waterway or watershed: «Gold Fork 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	X								
Slough									
Prairie pothole									
Wet meadow									
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: The pocket wetland and wetland drainage are located at the toe of a bench. Water is from springs located along the toe of the bench but from property located to the northeast. Water settles into the wetlands and ponds during the spring and early summer. The wetlands dry out by late fall, no standing water is present but the soil is still moist and saturated to the surface in spots. However, these wetland features have no apparent connection to any other surface water. Also, they are not subject to boating. Migratory birds probably use these wetlands. However, there is no other evidence of their use in interstate 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. Based on the above, these wetlands are isolated and therefore not regulated under Section 404 of the Clean Water Act.