

**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: Omaha District
FILE NUMBER: 200460359

REGULATORY PROJECT MANAGER: May **Date:** 28 May 2004

PROJECT REVIEW/DETERMINATION COMPLETED: In the office Y (Y/N) **Date:** 21 May 2004
 At the project site N (Y/N) **Date:**

PROJECT LOCATION INFORMATION:
 State: North Dakota
 County: Ward County
 Center coordinates of site by latitude & longitudinal coordinates: Lat 48-23-04.7382
 Lon 101-36-07.2801
 Approximate size of site/property (including uplands & in acres): 115 acres (estimated road right of way)
 Name of waterway or watershed: Des Lacs 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	16 ea	1 ea							
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 (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):

Based on the information provided by the NDDOT, wetland impacts are within the road right of way. Most of the road ditch wetlands appear to connect (some directly, other through culverts) to a natural drainage, but several of the road ditch wetlands appear to be a closed basin. The flattening of the roadway inslope will impact some of the ditch wetlands. Those basins that appear not to connect to any tributary to the Des Lacs River are considered not jurisdictional based on the SWANCC ruling.