

**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: 200460362

REGULATORY PROJECT MANAGER: May **Date:** 25 May 2004

PROJECT REVIEW/DETERMINATION COMPLETED: In the office Y (Y/N) **Date:** 25 May 2004
 At the project site N (Y/N) **Date:**

PROJECT LOCATION INFORMATION:

State: North Dakota
County: Foster County
Center coordinates of site by latitude & longitudinal coordinates: Location 1 – Lat 47-33-30.4923, Lon 99-8-18.5096; Location 2 - Lat 47-32-38.1621 Lon 99-08-17.8162
Approximate size of site/property (including uplands & in acres): Unknown road ditch
Name of waterway or watershed: Upper James

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	1 ea Site								
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 Agent for Foster County and NWI maps, the ditch wetlands are not a tributary to waters of the United States. The basin is not jurisdictional based on the SWANCC ruling.