

**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: 200460529

REGULATORY PROJECT MANAGER: Erhardt **Date:** 8/2/04

PROJECT REVIEW/DETERMINATION COMPLETED: In the office Y (Y/N) **Date:** 8/2/04
 At the project site __ (Y/N) **Date:** _____

PROJECT LOCATION INFORMATION:
 State: North Dakota
 County: Sargent
 Center coordinates of site by latitude & longitudinal coordinates: Lat 46-12-45.7798 Long 97-27-23.7789
 Approximate size of site/property (including uplands & in acres): 320 acres
 Name of waterway or watershed: Western Wild Rice

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	7								
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): Seven isolated wetland basins (0.27-acre, 0.33-acre, 0.56-acre, 0.41-acre, 0.43-acre, 0.27-acre and 0.29-acre) were identified by the NRCS. The property owner has requested authorization from the NRCS to convert all seven basins in the S½ of Section 28 and create one basin to offset the losses in the NE¼ of Section 35. Based on information received from the NRCS, soil

surveys and USGS Quad maps, these isolated basins are intrastate and non-navigable. No tie to interstate commerce can be made other than through migratory birds. The basins are not jurisdictional based on the SWANCC ruling.