

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, South Dakota Regulatory Office
FILE NUMBER: 200430083

REGULATORY PROJECT MANAGER: Carolyn Kutz **Date:** 4/27/2004

PROJECT REVIEW/DETERMINATION COMPLETED: In the office Y (Y/N) **Date:** 4/27/2004
 At the project site N (Y/N) **Date:** _____

PROJECT LOCATION INFORMATION:

State: South Dakota
County: Hughes
Center coordinates of site by latitude & longitudinal coordinates: Lat 44-25-48.8857 Long 100-10-10.1134
Approximate size of site/property (including uplands & in acres): 5 acres
Name of waterway or watershed: wetland

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	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/2		
Is or would be used as habitat by other migratory birds that cross state lines?			X/2		
Is or would be used as habitat for endangered species?				X/2	
Is used to irrigate crops sold in interstate commerce?				X/2	

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 .

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): 1. The proposed project is to install rural water pipelines that will cross 3 wetlands. The area of fill will be less than .07 acre. The area is rural prairie setting and some residential area. The area is currently experiencing drought. 2. NWI maps were used to make the jurisdictional determinations. The area has no potential for ICC navigation. The wetland has no potential and has not had potential for interstate commerce at 328.3(a).3.i.ii.iii. The project had 4 areas of consideration. Dry Run Creek will be bored under thus is a nonjurisdictional activity, one wetland is jurisdictional as it's on a tributary to Dry Run Creek which flows into the Missouri River, which is an interstate waters of the US and two wetlands are considered isolated and non jurisdictional (SWANCC) as there is no surface hydrologic connection to an interstate waters of the US and does not support interstate commerce.