

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: 200430114

REGULATORY PROJECT MANAGER: Jim Oehlerking **Date:** 4/27/2004

PROJECT REVIEW/DETERMINATION COMPLETED: In the office N (Y/N) **Date:** _____
 At the project site Y (Y/N) **Date:** 4/12/04

PROJECT LOCATION INFORMATION:

State: South Dakota
County: Pennington
Center coordinates of site by latitude & longitudinal coordinates: Lat 44-02-05.6934 Long 103-12-56.6734
Approximate size of site/property (including uplands & in acres): 23 acres
Name of waterway or watershed: ephemeral stream

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		X							
Mudflat									
Sandflat									
Wetlands									
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 .

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 construct a main arterial street with three associated storm water detention ponds. The water body is not entirely within the project. The proposed fill area is not known. The linear wetland also has a livestock watering pond on it. The area is a rural prairie setting proposed for urban development. The recent climatic conditions are normal. 2. USGS Quad. maps, aerial photos, two foot contour maps, local knowledge, an on site inspection, and NWI maps were used to make the jurisdictional determination. The area has no potential for ICC navigation. The linear intrastate wetland has no potential, and has not had, potential for interstate commerce at 328.3(a).3. i, ii, or iii. For this linear project, four areas were considered for jurisdiction, of which two areas were considered jurisdictional, one area was considered not waters of the US, and one (this one) was considered isolated/non jurisdictional (SWANCC).