

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: 200430134

REGULATORY PROJECT MANAGER: Jim Oehlerking **Date:** 5/4/2004

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

PROJECT LOCATION INFORMATION:

State: South Dakota
County: Hughes
Center coordinates of site by latitude & longitudinal coordinates: Lat 44-21-30.3396 Long 100-18-18.6511
Approximate size of site/property (including uplands & in acres): 10 acres
Name of waterway or watershed: unnamed creek

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	X								
Dry Wash									
Mudflat									
Sandflat									
Wetlands		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		
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): The site includes a manmade diversion ditch and berm constructed at the lower end of an existing wetland (possibly creating/enhancing the wetland). The entire site has been graded and manipulated in the past for the construction of a womens prison and to account for the storm water runoff, including diversion to storm sewer systems and existing surface drainage channels. The wetland is primarily off site from the proposed project and the proposal consists of re-locating the diversion ditch. The diversion ditch outlets into two features- a storm sewer inlet and a grassed waterway and resultant sheet flow for high flow conditions. The NWI, USGS Quad. maps, aerial photos and site visit were used to make the determination. The water body/ waterway is not navigable, has no discernible OHW and no valid ICC.