

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 DIST DRO

FILE NUMBER: 200280541

REGULATORY PROJECT MANAGER: MCKEE

PROJECT REVIEW/DETERMINATION COMPLETED: In the office **Date:**
At the project site **Date:** June 7, 2004

PROJECT LOCATION INFORMATION:

State: Colorado

County: Gilpin

Center coordinates of site by latitude & longitudinal coordinates: 39-47-22.7593 105-31-00.7490

Approximate size of site/property (including uplands & in acres): 7 ac

Name of waterway or watershed: Illinois Gulch

SITE CONDITIONS: mountain upland surrounds the aquatic sites

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									
x 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?					

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: Approved x Preliminary

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 isolated wetland pond not being on a USGS map, is neither adjacent to nor surface connected to an interstate waters. This isolated wetland pond does have a dam where the dam toe is at the up gradient end of a wetland drainage but not a tributary, which make it a wetlands adjacent to other wetlands and not adjacent to a tributary. Also, based on the Jan 20, 2004 Omaha District jurisdictional decision via E-mail of Horse Creek Reservoir: Based on topography of the land, dimensions of the upland inclusion (the dam), snow/rainfall event, etc., it appeared unlikely that water would not flow through the outlet pipe of the dam or overtop the dam once a year and flow to the downstream tributary of Illinois Gulch.