

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: 200480417

REGULATORY PROJECT MANAGER: MCKEE

PROJECT REVIEW/DETERMINATION COMPLETED: In the office **Date:**
At the project site **Date:** Aug 16 04

PROJECT LOCATION INFORMATION:

State: Colorado

County: Douglas

Center coordinates of site by latitude & longitudinal coordinates: 39-19-29.2703 104.49.41.2519

Approximate size of site/property (including uplands & in acres): 290 ac

Name of waterway or watershed: Sellers Gulch

SITE CONDITIONS: rural dry 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):

Information from a landowner of W3 and W4, states that the pond on the drainage down gradient of W3 and W4 has not over flowed in at least 3 ½ years. The drainage basin for W3 and W4 is less than 1 square mile. In that regard the W3 and W4 drainage was determined to be non-jurisdictional based on the fact that the drainage basins for these wetlands of W3 and W4 have an area of less than 5 square miles. Using USGS Water Resources Investigation Report 99-4190, *Analysis of the Magnitude and Frequency of Floods in Colorado* is not warranted for use in determining jurisdictional determinations for W3 and W4. And since there are upland inclusions with in the drainages between W3 and W4 and the tributary (Sellers Gulch) to which they flow, W3 and W4 are neither adjacent to nor surface connected to an interstate waters. Therefore, wetlands W3 and W4 are isolated and non-jurisdictional.