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: 200480469
REGULATORY PROJECT MANAGER: MCKEE
PROJECT REVIEW/DETERMINATION COMPLETED: In the office **Date:** Sept 16, 2004
At the project site **Date:**

PROJECT LOCATION INFORMATION:
State: Colorado
County: weld
Center coordinates of site by latitude & longitudinal coordinates: 40 00 02.3563, 104 36 08.1462
Approximate size of site/property (including uplands & in acres): 0.01
Name of waterway or watershed: Box Elder Creek

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									
Wetlands									
Slough									
Prairie pothole									
Wet meadow									
Playa lake									
Vernal pool									
Natural pond									
Other water (identify type) Irrigation ditch	x								

[1]Check 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

[1]Check 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 Watkins-Lessig Ditch flows to Horse Creek Reservoir. Jan 20, 2004 Omaha District jurisdictional decision on Horse Creek Reservoir: Based on topography of the land, dimensions of the upland inclusion, snow/rainfall event, etc., it appeared unlikely that water would overtop the dam once a year or on a 1 to 2 year frequency. Therefore, there is no tributary connection between Horse Creek Reservoir and downstream tributaries.