

**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: Kansas City  
 FILE NUMBER: 200401064

REGULATORY PROJECT MANAGER: Sarah Reznicek Date: 5/25/04

PROJECT REVIEW/DETERMINATION COMPLETED: In the office    (Y/N) Date:     
 At the project site    (Y/N) Date: 5/25/04

**PROJECT LOCATION INFORMATION:**

State: Kansas  
 County: Butler  
 Center coordinates of site by latitude & longitudinal coordinates: 37 41' 49" N 96 57' 36" W  
 Approximate size of site/property (including uplands & in acres): 40 acres  
 Name of waterway or watershed: Walnut River

**SITE CONDITIONS:**

Type of aquatic resource <sup>1</sup>	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)									
<u>2 Ponds</u>	<u>X</u>								

<sup>1</sup>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 <sup>1</sup> :	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?				<u>X</u>	
Is or would be used as habitat by other migratory birds that cross state lines?				<u>X</u>	
Is or would be used as habitat for endangered species?				<u>X</u>	
Is used to irrigate crops sold in interstate commerce?		<u>X</u>			

<sup>1</sup>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: Preliminary    Or Approved X.

**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 ponds have no bed and bank with OHWM as an entrance or exit. Both ponds (Pond 4 and 5) have less than 0.5-acre existing surface area (0.3 and 0.4 ac) that will be increased to 0.7 and 0.8 surface acres. They were constructed for a residential development. Proposed activity is excavation to increase storage capacity. Other waters of the U.S. on project site include an unnamed tributary to the Walnut River. Three other existing ponds (Ponds 1-3) are jurisdictional b/c they are connected to the tributary. See attached map.

Drive-in Theatre

ALGUSTA QUAD

OHIO STREET

BELMONT AVENUE

*Project area*

ATCHISON

CUSTER PLANE

Exist. Ponds

WILLIAMS AVENUE

WILLOWBROOK ADDITION

*Walnut R.*

ST. LOUIS



POE & ASSOCIATES, INC.  
CONSULTING ENGINEERS  
5940 E. Central, Suite 200 • Wichita, KS 67208-4242  
Phone 316/685-4114 • FAX 316/685-4444

R4E  
R5E



*Isolated*

404

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Linton Sch

PLEY AVE

AVE

STA

AVE

Lech

Centenary

Sch

1282

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1270

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N