

**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 District

FILE NUMBER: 200401342

REGULATORY PROJECT MANAGER: Brian Donahue

Date: 10 June 2004

PROJECT REVIEW/DETERMINATION COMPLETED: In the office \_Y\_ (Y/N) Date: 10 June 2004  
 At the project site \_ (Y/N) Date: \_\_\_\_\_

**PROJECT LOCATION INFORMATION:**

State: Kansas  
 County: Douglas  
 Center coordinates of site by latitude & longitudinal coordinates: lat: 38.859 long: 95.384  
 Approximate size of site/property (including uplands & in acres): 200 acres  
 Name of waterway or watershed: Washington Creek

**SITE CONDITIONS:** Three excavated ponds (Area #'s 3, 17 and 18) containing wetland vegetation. Located on side of hill, in the NE portion of the site. Area 8 is shallow, irregular shaped area on top of hill in NW portion of site.

| 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)           | X      |        |        |         |          |          |         |             |         |
| <b>FARM PONDS</b>                     |        |        |        |         |          |          |         |             |         |

<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<br>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  |  |                       |                                |

<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\_.

OPTIONAL ADDITIONAL INFORMATION SUPPORTING NJD (e.g., discussion may include information reviewed to assess potential navigation or interstate commerce connections - 1 to 3 paragraphs):

Identified in consultant wetland delineation report dated April 20, 2004, Pritchard Consulting. Four small wetland areas (sample areas 3, 8, 17, and 18) totaling about 0.10 acre contained within this site were determined to be non-jurisdictional within the 200-acre project site. No work has been proposed yet.

They are all located on hilltops or hillsides above the nearest jurisdictional tributary. They are not considered adjacent to the tributary because they are outside the alluvial floodplain and they are not considered connected because their entering and exiting points do not have a channel with an ordinary high water mark.

Sample area 4 was determined to be a jurisdictional wetland on a tributary channel with an ordinary high water mark that flows into another jurisdictional tributary on the project site.