

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: Fort Worth District
FILE NUMBER: 200400604
REGULATORY PROJECT MANAGER: Lowe **Date:** August 3, 2006
PROJECT REVIEW/DETERMINATION COMPLETED: **In the office:** Y [X] N [] **Date:** 3 Aug 06
At the project site: Y [] N [] **Date:**

PROJECT LOCATION INFORMATION:

State: Texas
 County: DALLAS
 Center coordinates of site by latitude & longitude coordinates: 032-58-1.35 096-55-22.53
 Approximate size of site/property (including uplands) in acres: 25
 Name of waterway or watershed: UNNAMED

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									
Mudflat									
Sandflat									
Wetlands									
Slough									
Prairie Pothole									
Wet Meadow									
Playa Lake									
Vernal Pool									
Natural Pond									
Other Water (identify type) Abandoned Mining/Borrow Pits and Associated Wetlands				X					

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?				X	

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

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):

Water features on the subject site consist of a drainage ditch and abandoned mining/borrow pits and their associated open waters and wetlands. The site also contains upland pasture, upland woods, and three single-family homes with associated sheds, barns, and fencing. The site is adjacent to the applicant's industrial facility to the north, another drainage ditch to the west, an unnamed road to the south, and Luna Road to the east.

All of the water features on the site appear to receive water exclusively from a municipal storm sewer system and surface water runoff. The water features on this site appear to receive no floodwaters from the Elm Fork Trinity River, which is approximately 4,200 feet to the west, nor other portions of the tributary system. Additionally, these on-site water features appear to have no outlet to the tributary system. Based on a review of information provided by the applicant and other available information, the water features on the site appear to have no potential navigation or interstate commerce connections. The applicant has recently purchased the site and wishes to fill the existing water features on the site to facilitate the expansion of its existing facilities adjacent to the site.

The site appears to contain no waters of the United States.

The reviewed area consists entirely of uplands.

Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).

Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).

The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:

Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.

Artificially irrigated areas, which would revert to upland if the irrigation ceased.

Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.

Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.

Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).

Isolated, intrastate wetland with no nexus to interstate commerce.

Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:

Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale: Upland roadside drainage ditch on the site transports water from a municipal storm sewer system to abandoned mining/borrow pits on the site. The drainage ditch does not appear to connect with waters of the United States.

Other (explain):