

**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:** 200600302  
**REGULATORY PROJECT MANAGER:** Neil Lebsock **Date:** July 14, 2006  
**PROJECT REVIEW/DETERMINATION COMPLETED:** **In the office:** Y [ X ] N [ ] **Date:** July 14, 2006  
**At the project site:** Y [ ] N [ X ] **Date:**

**PROJECT LOCATION INFORMATION:**

State: Texas  
 County: LUBBOCK  
 Center coordinates of site by latitude & longitude coordinates: 033-35-31.04 101-51-19.42  
 Approximate size of site/property (including uplands) in acres: 1  
 Name of waterway or watershed: unnamed

| 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                                  |        |        |        |         |          |          |         |             |         |
| Mudflat                                 |        |        |        |         |          |          |         |             |         |
| Sandflat                                |        |        |        |         |          |          |         |             |         |
| Wetlands                                |        |        |        |         |          |          |         |             |         |
| Slough                                  |        |        |        |         |          |          |         |             |         |
| Prairie Pothole                         |        |        |        |         |          |          |         |             |         |
| Wet Meadow                              |        |        |        |         |          |          |         |             |         |
| Playa Lake                              | X      |        |        |         |          |          |         |             |         |
| Vernal Pool                             |        |        |        |         |          |          |         |             |         |
| Natural Pond                            |        |        |        |         |          |          |         |             |         |
| Other Water (identify type)             |        |        |        |         |          |          |         |             |         |

<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

**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 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:
- Other (explain):