

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: Philadelphia

FILE NUMBER: CENAP-OP-R-200400720-26

Date: August 4, 2004

PROJECT REVIEW/DETERMINATION COMPLETED: In the office N (Y/N) Date: _____
 At the project site Y (Y/N) Date: July 30, 2004

PROJECT LOCATION INFORMATION:

State: Delaware

County: Sussex

Center coordinates of site by latitude & longitudinal coordinates: 38-12-45; 75-56-38

Approximate size of site/property (including uplands & in acres): 33.5

Name of waterway or watershed: Herring Run

SITE CONDITIONS:

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		2.5							
Slough									
Prairie pothole									
Wet meadow									
Playa lake									
Vernal pool									
Natural pond									
Other water (identify type)									

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	

¹Check 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):

INFORMATION SHEET – CONTINUED

DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE WATERS RESULTING FROM THE U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF NORTHERN COOK COUNTY V. U.S. ARMY CORPS OF ENGINEERS

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ADDITIONAL INFORMATION SUPPORTING NJD (e.g., paragraph 1 – site conditions; paragraph 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):

1. The 33.5 acre parcel is located at the northwest corner of U.S. 13 and CR-534 (Herring Run Road), Seaford, Seaford Hundred, Sussex County, Delaware. The site consist of an active agriculture field with a 2.5 acre non-jurisdictional isolated wetland. There are no jurisdictional waters of the United States on the parcel.
2. The 2.5 acre wetland is isolated with no surface water connection to waters of the United States. The isolated wetland is not located adjacent to waters of the United States.
3. Pursuant to the January 2001 United States Supreme Court decision in the Solid Waste Agency of Northern Cook County V. U.S. Army Corps of Engineers and from 33 CFR 328.3 (a) the following commerce determinations have been made in regard to the one 4.5 acre non-jurisdiction wetland depression: a) It is not tidal; b) It is not an interstate water, but is located entirely within the state of Delaware; c) It is not an interstate water that the use, degradation, or destruction of which could effect interstate or foreign commerce; d) It can not be used by interstate or foreign travelers for recreation or other purposes as the property is private; e) It could not be used for the harvesting or selling of fish or shellfish in interstate or foreign commerce; f) It could not be used for industrial purposes by industries in interstate commerce; g) It is not an impoundment of waters describe above; h) It is not a tributary to waters of the U.S.; and i) It is not a part of the territorial seas.
4. There are no jurisdictional waters of the United States on the property.