

**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: Seattle
FILE NUMBER: 200400285
REGULATORY PROJECT MANAGER: Randel Perry **Date:** 5/12/04

PROJECT REVIEW/DETERMINATION COMPLETED: In the office _Y_ (Y/N) **Date:** 6/16/04
 At the project site _Y_ (Y/N) **Date:** 4/22/04

PROJECT LOCATION INFORMATION:
State: Washington
County: Whatcom
Center coordinates of site by latitude & longitudinal coordinates: Lat 48° 52' 04" Long. 122° 35' 31"
Approximate size of site/property (including uplands & in acres): 38 acres
Name of waterway or watershed: Whiskey Creek

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	X								
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: Site is adjacent to Whiskey Creek and has unnamed tributary of Whiskey Creek running through northwest corner. Central portion is an elevated plateau and has been logged (post-1986); site has some remnants of logging debris (hummocks and machinery ruts). Total acreage of wetlands on site is 8.83 acres; 0.58 of an acre will be filled by proposed development. Wetlands in question are in the middle and northwestern parts of the site. Additional wetland areas exists on the northeastern and southwestern parts of the site.

Wetlands designated "B", "BB", "C", "D", "F", "G", and "H" are surrounded on all sides by a significant increase in elevation (2' - 4' rise) and upland soils. No signs of a surface water conveyance carrying water out of the wetland were noted. Wetlands in question, designated "B", "BB", "C", "D", "F", "G", and "H" do not have a surface water connection to other navigable or interstate waters of the U. S or tributaries of waters of the U. S. Wetlands are not used for interstate commerce including recreational activities, commercial fishing activities, or used for industrial purposes.

Wetlands designated "A", "E", "I", "M", and "N" exist on the northeastern and southwestern parts of the property. Information provided by the agent indicates that these wetlands are adjacent to either Whiskey Creek or an unnamed tributary of Whiskey Creek (ditch). Additional wetlands, designated "J", "K", and "L" are located on the southwestern edge of the site. No information is available on hydrological connection between these wetlands and other waters of the U. S. These three wetlands were not sampled or investigated for jurisdictional purposes. Wetlands designated "A", "E", "I", "M", and "N" appear to have a discrete surface water connection to other waters of the U. S. Information indicates that these wetlands are adjacent to an unnamed tributary of Whiskey Creek which flows into the Nooksack River, a listed navigable waterway used for interstate and foreign commerce. No jurisdictional determination was made for wetlands "J", "K", and "L".