

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: 200401428

REGULATORY PROJECT MANAGER: Manning Date: 18 November 2004

PROJECT REVIEW/DETERMINATION COMPLETED: In the office Y (Y/N) Date: 18 November 2004
 At the project site Y (Y/N) Date: 1 November 2004

PROJECT LOCATION INFORMATION:

State: Washington
 County: Pierce
 Center coordinates of site by latitude & longitudinal coordinates: 47-13'-58"N and 122-26'-06"W
 Approximate size of site/property (including uplands & in acres): 3 mile linear transportation project
 Name of waterway or watershed: Thea Foss Waterway, Chambers Creek Watershed

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									
Slough									
Prairie pothole									
Wet meadow									
Playa lake									
Vernal pool									
Natural pond									
Other water (identify type)								15,600	
Upland Ditches									

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):

The project is a linear transportation project, approximately 3 miles long (approximately 15,600 linear feet of ditches) along I-5, and on and off-ramps for SE 38th Street and SR-16. Several ditch segments which were dug in uplands for purposes of stormwater conveyance (approximately 9864 linear feet) do not connect to other waters of the U.S. and/or do not exhibit evidence of flowing water or Ordinary High Water Marks (OHWM). These ditch segments are not considered jurisdictional waters of the US. None of the non-jurisdictional ditches are straightened or channelized natural drainages. The remaining segments (5730.25 linear feet) of the roadside ditches are both connected to tributaries to Thea Foss and Chambers Bay (both are navigable waters) and show evidence of flowing water and are considered jurisdictional waters of the US.