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 vs. U.S. ARMY CORPS OF ENGINEERS

DISTRICT OFFICE: U.S. Army Corps of Engineers, Sacramento District
FILE NUMBER: 200500078

REGULATORY PROJECT MANAGER: Nancy Haley DATE: January 26, 2005

PROJECT REVIEW/DETERMINATION COMPLETED: In the Office (y/n) Y Date: 26 Jan 05
At the project site (y/n) N

PROJECT LOCATION INFORMATION:
State: California
County: Kings
Center coordinates of site by latitude a & longitude coordinates: Latitude 036º 09′ 31.0″, Longitude 119º 34′ 24.0″
Approximate size of site/property (including uplands & in acres):1,290
Name of waterway or watershed: Vernal Pools

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)									

[1]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[1]	If Known		If Unknown (Use Best Professional Judgement)		
	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?			✓		
Is or would be used as habitat by other migratory birds that cross state lines?			✓		
Is or would be used as habitat for endangered species?			✓		
Is used to irrigate crops sold in interstate commerce?		✓			

[1]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 1,290-acre site is located within the Tulare Lakebed. There is little relief to the site with some topographic depressions and the site is nearly completely surrounded by levees. The levees are adjacent to the West Branch Lakeland Canal, Sweet Canal and the East Branch Lakeland Canal. Two ditches cross the site conveying water to the West Branch of the Lakeland Canal. The water source of the West and East Branch of Lakeland Canal and Sweet Canal is Cross Creek, as well as pumped well water. The mitigation site has been used as a well field. The water is pumped out of the wells within the field, into the two canals that cross the mitigation site, to the West Branch Lakeland Canal. Natural drainages do not occur on the site. Broad swales allow for sheet flow across the site in a northeast to southwest direction. There are 27 vernal pools and 3 man-made depressions on site, all of which fill from rainwater. There is no other source of hydrology to fill the depressions.
Historically, the Tulare Lakebed supported interstate commerce and trade and was fed by the Kings, Kaweah, Tule and Kern Rivers. This mitigation area was most likely above the shore of the lakebed. However, during above-average precipitation, the lake spilled to the San Joaquin River and covered this site. No natural drainages are present on site and historical mapping suggests there never were natural drainages on site. The only drainage is the broad, sheet-flow drainages mentioned above. Dave Hartesveldt was on site during January 2005 (this has been a double-rain year). His observations noted none of the pools appear to be overflowing to each other via upland swales, nor are they connected to the sheet-flow broad swales. There were no watermarks, drift-lines, or sediment deposits which would be present were the pools over-spilling and the water moving across the site. Any flow that could move across the site is held within the cells by the levees adjacent to the canals. It is the determination of the Regulatory office that the vernal pool wetlands at the mitigation site are not biologically, ecologically, geographically or hydrologically connected to any jurisdictional waters of the United States.