

**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: Los Angeles District

FILE NUMBER: 200601105-GS

REGULATORY PROJECT MANAGER: Gerardo Salas **Date:** May 5, 2006

PROJECT REVIEW/DETERMINATION COMPLETED: **In the office (Y/N)** Y **Date:** May 5, 2006
At the project site (Y/N) N **Date:** _____

PROJECT LOCATION INFORMATION:

State: California

County: San Bernardino

Center coordinates of site by latitude& longitude: 34-13-09, 115-42-39

Approximate size of site/property (including uplands & in acres): 1.4 acres

Name of waterway or watershed: Unnamed tributary to Dale Lake

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	X								
Mudflat									
Sandflat									
Wetlands									
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 – rational used to determine NJD, including information reviewed to assess potential navigation or interstate commerce connections; and paragraph 4 – site information on water of the U.S. occurring onsite):

The unnamed drainage is an ephemeral stream of the Southern California desert regions that receives the majority of water from runoff during large storm events. The drainage is located in the Sheep Hole Mountains, approximately 18 miles east of Twentynine Palms, San Bernardino County, California. The creek does not flow into any navigable water bodies via surface or groundwater discharge.

Based on the applicants' submitted Delineation Report and the use of 7.5 topographic maps, the unnamed drainage discharges into Dale Lake, an isolated, dry playa lake with no recreational/interstate commerce nexus. Thus, the proposed project would not discharge fill material onto waters of the United States pursuant to the SWANCC Supreme Court Decision.