

**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: Huntington  
 FILE NUMBER: 199901019

REGULATORY PROJECT MANAGER: Courts-Brown Date: 3/3/04

PROJECT REVIEW/DETERMINATION COMPLETED: In the office  (Y/N) Date: 2/13/04  
 At the project site  (Y/N) Date: \_\_\_\_\_

PROJECT LOCATION INFORMATION:  
 State: Ohio  
 County: Stark - East Sparta  
 Center coordinates of site by latitude & longitudinal coordinates: \_\_\_\_\_  
 Approximate size of site/property (including uplands & in acres): 271 acres  
 Name of waterway or watershed: UN TRIB BEAR CR

**SITE CONDITIONS:**

| Type of aquatic resource <sup>1</sup> | 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)           |        |        |        |         |          |          |         |             |         |

<sup>1</sup>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 <sup>1</sup> :                                      | If Known |    | If Unknown<br>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?  |          |    |  | ✓                     |                                |
| 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?                          |          | ✓  |  |                       |                                |

<sup>1</sup>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

OPTIONAL ADDITIONAL INFORMATION SUPPORTING NJD (e.g., discussion may include information reviewed to assess potential navigation or interstate commerce connections - 1 to 3 paragraphs):

SUBJECT: Countywide Recycling and Disposal Center Wetland/Stream Verification

1. On December 5, 2003 we received a Wetland/Stream Delineation Report from HzW Environmental Consulting Inc., on behalf of Countywide Recycling and Disposal Center for their site in East Sparta, Stark County, Ohio. HzW indicated that the original delineation for the site was conducted in August 1999 and verified by Mr. Jim Blake in a letter dated October 6, 1999. It was determined that twenty-two jurisdictional wetlands totaling 1.57 acres existed at the site. In February 2000, Countywide obtained a nationwide permit #26 for the placement of fill material into 1.28 acres of wetlands. To mitigate for impacts to the wetlands, they purchased 3.0 acres of wetland credit at the Singer Lake Bog In-lieu Fee Bank. They also placed five wetlands totaling 0.29 acre within a deed restriction at the site. HzW has indicated that six of the wetlands (0.39 acre) authorized to be filled under the nationwide permit #26 have not yet been impacted. HzW has requested we re-verify the delineation and re-authorize the wetland impacts.

2. The report indicated that eleven wetlands totaling 0.68 acre remain at the site. Five (Wetlands P, Q, R, T, & S) of the eleven wetlands are the 0.29 acres that were placed into deed restrictions along the northern boundary of the site. No natural stream channel exists on-site but two manmade ditches are located at the site. One of the ditches connects to an unnamed tributary of Bear Run, which is located just off-site in the southeastern corner of the site. The ditch located along the eastern boundary of the site flows into Wetland V and does not appear to have a connection to a surface tributary system. The remaining wetlands, C, D, G, H, I, & V (0.39 acre), are the wetlands that were not filled before the nationwide permit #26 expired. HzW indicated that all of these wetlands are isolated due to a lack of a connection to a surface tributary system.

3. The site is 271 acres in size and has been severely disturbed by strip mining activities. The property is currently being used as a landfill and recycling facility. The majority of soils at the site are non-hydric. There are two hydric soil units, Luray silt loam and Sebring silt loam, located along the very eastern boundary of the project area but these units are not located within the actual landfill facility. The USGS Quadrangle (Bolivar 1978) shows one unnamed tributary of Bear Run beginning in the central portion of the site and flowing southeast off of the site. The stream is located just outside of the boundaries of the landfill facility.

3. The remaining six acres of wetland slated for impact are scattered throughout the site. Based on a review of the information provided and discussions with Ms. Cindy Paschke of HzW, it has been determined that Wetland G (0.138 acre), Wetland H (0.062 acre), Wetland I (0.077 acre), and Wetland V (0.061 acre) are not connected to a surface tributary system and are considered isolated waters of the United States and are not regulated by this office. However, Wetland C (0.041 acre) and Wetland D (0.011 acre) appear to be connected, via overland/sheet flow, to a manmade ditch which is connected to an unnamed tributary of Bear Run. Ms. Paschke indicated that both wetlands were created as a result of seepage through the spoil piles located at the site. The wetlands do overflow into the drainage ditch located to the west. Wetland C is approximately 15' from the ditch and Wetland D is approximately 20' from the ditch. Although there is no channelized conveyance of water between the wetlands and the ditch, it does appear that there is a hydrologic connection between the ditch and wetlands, therefore, the wetlands would be considered jurisdictional waters of the United States. Below is a breakdown of the acreage of wetlands at the site:

**Jurisdictional Wetlands**

Wetland B – 0.222 acre  
Wetland C – 0.041 acre  
Wetland D – 0.011 acre  
Wetland E – 0.058 acre  
Wetland Q – 0.041 acre  
TOTAL – 0.37 acre

**Isolated Wetlands at the Site**

|                               |                               |
|-------------------------------|-------------------------------|
| Wetland F – 0.024 acre        | Wetland M – 0.150 acre        |
| Wetland G – 0.138 acre        | Wetland U – 0.109 acre        |
| Wetland H – 0.062 acre        | Wetland L – 0.043 acre        |
| Wetland I – 0.077 acre        | Wetland K – 0.045 acre        |
| Wetland O – 0.053 acre        | Wetland J – 0.024 acre        |
| <u>Wetland N – 0.144 acre</u> | <u>Wetland W – 0.018 acre</u> |
| TOTAL – 0.89 acre             |                               |

**Wetlands Authorized By #26**

Wetlands B-O – 1.28 acres

**Wetlands Not Filled Prior to #26 Expiration**

Wetlands C, D, G, H, I & V – 0.39 acre

Wetlands P-T – 0.29 acre  
(preserved on-site in deed restriction)

4. Based on this information and on the report, I concur with HzW that Wetlands G, H, I and V, totaling 0.34 acre, are isolated and are not jurisdictional waters of the United States. Wetland C and D, totaling 0.052 acre, are connected to a surface tributary system and are considered jurisdictional waters of the United States. The applicant will be informed of our finding and directed to contact OEPA regarding isolated waters of the state permitting requirements.

Kimberly Courts-Brown  
Regulatory Project Manager  
North Regulatory Section