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: San Francisco District

FILE NUMBER: SPN-2014-00151

REGULATORY PROJECT MANAGER: Matsumoto, Bryan **Date: February 5, 2015**

PROJECT REVIEW/DETERMINATION COMPLETED: **In the office (Y/N) N** **Date:**

At the project site (Y/N) Y **Date: June 12, 2014**

PROJECT LOCATION INFORMATION:

State: California

County: Santa Clara

Center coordinates of site by latitude & longitude coordinates: Lat: 37.3196681565871 N

Long: 121.812159838766 W

Approximate size of site/property (including uplands) in acres: 81 acres

Name of waterway or watershed: Coyote Creek

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									
Mudflat									
Sandflat									
Wetlands	0.034								
Slough									
Prairie Pothole									
Wet Meadow									
Playa Lake									
Vernal Pool									
Natural Pond									
Other Water (identify type) Agricultural Irrigation Pond									

[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 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	

[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: 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 81-acre Arcadia Evergreen site is bounded to the north by Quimby Road and commercial businesses, to the east by Capitol Expressway, to the south by Moss Creek Mobile Home Park, a school and park, and to the west by single family residences in the Evergreen area of San Jose, Santa Clara County, California (APNs 670-24-013, 670-25-027, 670-29-002, 670-29-017, and 670-29-020). The site currently consists on an undeveloped field that was historically used in the production of row crops and appears to have included a residential area in the southern portion of the site in the past. More recent management includes mowing and some discing along the margins and center of the property for fire break. The site is relatively flat with localized undulating topography in the western and southwestern part of the site, and a large mesa/plateau in the southeast of the site. The bay area was in the 3rd year of less than normal rainfall, with 2013-2014 being the driest of the three years. Hence, the summer day was sunny with no recent rains. The site generally consists of ruderal annual grassland with some mixed woodland to the north. The site is dominated by uplands with vegetation generally consisting of bull thistle (*Cirsium vulgare*, FACU), wild oats (*Avena sativa*, UPL), wild radish (*Raphanus sativus*, UPL), mustard (*Brassica rapa*, FACU), ripgut (*Bromus diandrus*, UPL), common mallow (*Malva neglecta*, UPL), and coyote bush (*Baccharis* sp., UPL).

This feature in question is approximately 8-12 feet deep with steep banks and thick pepper grass in it (100%+). It made it impossible to see the bottom of the pit or to get in there and take data points safely. Based on what I could see, there did not appear to be any inlet or outlet culverts to bring water in to or out of the pit. The consultants also did not find an inlet or outlet during their investigation. The building pad immediately to the north is an additional 3-5 feet higher in elevation, so it is unlikely to drain in that direction. It is unlikely that this feature receives enough water to fill up entirely during a wet season, therefore it would not spill over or sheet flow out. It appears isolated and non-navigable, and likely has no connection to interstate or foreign commerce. I did a aerial photo review using Google Earth, and found that the feature was still there as far back as the photos go, which is to 1998. There did not appear to be any waters of the U.S. that drained into the feature or out of it in the photo review. Prior to 1998 is unknown. The consultant was not able to obtain any additional information on the history of this feature to see if it was dug in uplands or not.