

**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: New England (CENAE_R)
FILE NUMBER: NAE-2004-359

REGULATORY PROJECT MANAGER: Alan R. Anacheka-Nasemann, PWS Date: 30 Jun 2004

PROJECT REVIEW/DETERMINATION COMPLETED: In the office Y (Y/N) Date: _____
 At the project site Y (Y/N) Date: 19 Mar 2003

PROJECT LOCATION INFORMATION:
 State: Massachusetts
 County: Plymouth
 Center coordinates of site by latitude & longitudinal coordinates: 41.8711°N; 70.9000°W
 Approximate size of site/property (including uplands & in acres): 26 ac
 Name of waterway or watershed: Cape Cod

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	X								
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 – 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):

See next page

Site Conditions: Site is a cranberry farming operation bounded by a Conrail Track, Wood Street and forested wetlands. The isolated wetland is approximately 11,300 square ft or 0.26 acre, and appears on USGS quadrangle as a small pond. It is surrounded by exposed sand uplands with patches of old-field weeds and haircap moss, adapted to nutrient-poor spodosols.

Rationale used to determine NJD: The 0.26-acre pond is completely removed from the forested wetlands and is thus not bordering or contiguous. It did not have any signs of aquatic fauna, is over 550 feet from the nearest stream, with no discernable migration corridors, and does not have any ecological associations with the stream, and is thus not neighboring. The wetland is therefore not adjacent to any flowing water that is part of a surface tributary system to a navigable water of the United States. It is an isolated, intrastate wetland with no discernable nexus to interstate commerce, and is thus not a water of the United States.

Site information on waters of the U.S. occurring onsite: Other wetlands on the applicant's property include a 46,734 square-foot (1.07 acre) wetland adjacent to Shaving Brook, a tributary to Fall Brook, a tributary to the Nemasket River, a tributary to the Taunton River, a tidal navigable water of the United States. A large wetland is located along the eastern and southern border of the property; approximately 0.05 acre overlaps the property boundary. This wetland is adjacent to Fall Brook.