

**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
 FILE NUMBER: NAE-2004-1288

REGULATORY PROJECT MANAGER: Sneeringer Date: 6-14-04

PROJECT REVIEW/DETERMINATION COMPLETED: In the office N Date: _____
 At the project site Y Date: 6-9-04

PROJECT LOCATION INFORMATION:
 State: Massachusetts
 County: Worcester
 Center coordinates of site by latitude & longitudinal coordinates: N42 34.306, W72 4.071
 Approximate size of site/property (including uplands & in acres): 53
 Name of waterway or watershed: Otter River

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	x								
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):

The site is primarily wooded with more than 15 acres of jurisdictional wetlands. Two areas were considered to be isolated with no nexus to interstate commerce. The first was a small pond which was functioning as a vernal pool. It is located in the southwestern corner of the site, in an open field, but very close to a wooded area. It is located within approximately 80 feet of a ramp for Rt. 2 and is approximately 5000 square feet in size. There were wood frog tadpoles present at the time of the site visit and the pond was several inches deep, though is reported to dry out in the summer. Wood frog egg masses had been observed earlier in the

season. There was also at least one green frog present in the pool. The pond appears to be over 1000 feet from the nearest waterway and, as such, was considered to be isolated.

The second is a larger wetland system to the west of the vernal pool, comprising approximately 46,163 square feet (1.06 acres). It is forested and dominated by red maple and cinnamon fern. It is located approximately 800 feet away from the nearest waterway. The southern portion of it comes to the top of a steep cut for a ramp on Rt. 2, but there is no evidence of drainage in that direction. This area was also considered to be isolated. Neither site appears to have a nexus to interstate commerce.

The other wetlands and waters on the site are all adjacent to an unnamed tributary that flows to the Otter River, which flows to Millers River, which enters the navigable Connecticut River.