

**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-2004-366

**REGULATORY PROJECT MANAGER:** Alan R. Anacheke-Nasemann, PWS Date: 16 Jun 2004

**PROJECT REVIEW/DETERMINATION COMPLETED:** In the office N (Y/N) Date: \_\_\_\_\_  
 At the project site Y (Y/N) Date: 12 Apr 2004

**PROJECT LOCATION INFORMATION:**  
 State: Massachusetts  
 County: Hampden  
 Center coordinates of site by latitude & longitudinal coordinates: 42.1336°N; 72.5516°W  
 Approximate size of site/property (including uplands & in acres): 85 acres  
 Name of waterway or watershed: Unnamed; HUC: 1080205 - Lower Connecticut

**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	X								
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 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			

<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 X Or 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 site is a roughly triangular-shaped area bounded by a Conrail track to the South, an additional Conrail track and I-291 to the northwest, and Roosevelt Ave to the Northeast. The site is shown as unforested. A single water body (an oval shaped pond) appears on the map. Topography is decidedly flat and uniform, although there are two mapped depressions in addition to the pond.

The historic USGS maps and the soil survey strongly indicate major alterations of this site over

the past 75 years. The site was apparently leveled to fill a large wetland complex. Remaining wetland resources now exist where this fill has sloughed into the underlying peat, leaving water-filled depressions. All wetlands on the site are properly delineated. Corrugated pipes and drainage systems have been installed throughout the site to further drain these areas.

The majority of wetlands on the property drain to Poor Brook, a tributary to the Mill River, a tributary to the Connecticut River, a navigable water of the United States. These wetlands are therefore jurisdictional pursuant to 33 CFR 328.3(a)(1), (5), and (7) as wetlands adjacent to a tributary of a navigable water of the United States.

Wetlands E and F, however, are not jurisdictional waters of the United States pursuant to SWANCC. Wetland E is 400 square feet (SF) in area and Wetland F is 590 SF in area. Although wetland F is located some 470 feet from Wetland G, neither wetland E or F is adjacent (neighboring) to the surface tributary system that drains wetland G, which is a considerable distance farther (a scaled estimate, based on the MassGIS orthophoto, is 880 feet). In addition, the Conrail track is a significant barrier that undermines any possible corridor that would render Wetlands E and F as “neighboring” wetlands. Wetlands E and F are also located at least 890 feet from the ditch in Wetland D, across dissimilar terrain, and are not contiguous with other on-site wetlands that ultimately drain via the Springfield sewer system. Wetlands E and F are thus isolated, intrastate waters that have no discernible nexus to interstate commerce.