

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: Philadelphia

FILE NUMBER: CENAP-OP-R-200400599-65

REGULATORY PROJECT MANAGER: Elaine J. Moyer Date: August 18, 2004

PROJECT REVIEW/DETERMINATION COMPLETED: In the office Y (Y/N) Date: August 18, 2004
 At the project site N (Y/N) Date: _____

PROJECT LOCATION INFORMATION:

State: Pennsylvania

County: Monroe

Center coordinates of site by latitude & longitudinal coordinates: 41-02-55; 75-19-00

Approximate size of site/property (including uplands & in acres): 2 acres

Name of waterway or watershed: Pocono Creek

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):

INFORMATION SHEET – CONTINUED

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ADDITIONAL INFORMATION SUPPORTING NJD (e.g., paragraph 1 – site conditions; paragraph 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):

1. The site is 2 acres in size, partially developed with the remaining undeveloped portions being overgrown fields. The site contains one non-jurisdictional wetland near the northwestern property boundary. Outside the northern property boundary there exists an unnamed tributary to Pocono Creek and associated wetlands.
2. The non-jurisdictional wetland is located in the northwest portion of the property. This wetland is an abandoned inground pool excavated in 1966, and is surround by well drained upland soils. This wetland is approximately 0.01 acre in size and is approximately 120 linear feet from the nearest regulated water of the U.S. This wetland has no apparent hydrologic surface connection to a waters of the U.S.
3. Due to the small size of this wetland it has been determined that it is not capable of supporting navigation. From 33 CFR 328.3 (a)(1 through 7) the following determinations have been made: a) it is not tidal; b) it is not interstate, but located entirely within the state of Pennsylvania; c) it is not used for interstate or foreign commerce, it can not be used for interstate or foreign visitors for recreation, it can not be used by industry, nor can it be used for the harvesting of fish or shellfish because the property is privately owned; d) it is not an impoundment of a waters of the U.S.; e) it is not a tributary to a waters of the U.S. f) it is not a part of the territorial seas; g) it is not adjacent to a waters of the U.S.
4. In reference to jurisdictional waters, there are no jurisdictional waters within the property boundaries. However, there is an unnamed tributary to the Pocono Creek and associated wetlands just outside the northern property boundary. The Pocono Creek flows into the Broadhead Creek which flows into the Delaware River. The Delaware River is a navigable water of the U.S. subject interstate and foreign commerce and is jurisdictional pursuant 33 CFR 328.3 (a)(1). The tributaries to the Delaware River are jurisdictional pursuant to 33 CFR 328.3 (a)(5) and the wetlands adjacent to the unnamed tributary are jurisdictional pursuant to 33 CFR 328.3 (a)(7).