

**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 York District  
**FILE NUMBER:** 2004-00380  
**DATE OF DETERMINATION:** November 15, 2004  
**PROJECT REVIEW/DETERMINATION COMPLETED:** In the office (Y/N) N Date:  
 At the project site Y Date: May 12, 2004  
 (Y/N)

**PROJECT LOCATION INFORMATION:**

State: New York  
 County: Rensselaer  
 Center coordinates of site by latitude & longitude coordinates: lat:42-35-52.8000 lon:73-39-56.4840  
 Approximate size of site/property (including uplands) in acres: 185  
 Name of waterway or watershed: North Branch Moordener Kill

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									
Mudflat									
Sandflat									
Wetlands		1.49							
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 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):

CENAN-OP-R  
APPLICATION NO. 2004-00380

ADDITIONAL INFORMATION SUPPORTING NJD

1. Site Conditions:

Total acreage of site: 185

The jurisdictional waters on site consist of (check as many as are appropriate):

Pond  Lake  Stream  Wetlands\*  Tidal Waters  Other (identify type): \_\_\_\_\_

\* If wetlands are present, indicate Cowardin classification: PEM/PFO

Total acres of jurisdictional waters on site: 30.21.

Position of jurisdictional waters in landscape and watershed:

Groundwater slope wetlands, hydrologically connected by surface connections to the North Branch of the Moordener Kill and unnamed tributaries to the North Branch of the Moordener Kill, which ultimately flows into the Hudson River.

Text Description/Current Land Use (developed, undisturbed, agricultural, mining area, etc.): Mostly undisturbed with some evidence of historic agricultural use, some of upland has been developed for recreational use as a town park

2. Rationale Used To Determine NJD:

Isolated, intra-state water # 1

The NJD aquatic resources on site consist of (check as many as are appropriate):

Pond  Lake  Stream  Wetlands\*  Tidal Waters  Other (identify type): \_\_\_\_\_

\* If wetlands are present, indicate Cowardin classification: PEM

Acres of this NJD aquatic resource within property: 0.384

Description of the position of the aquatic resource in the landscape (i.e. indicate distance to and difference in elevation from nearest waters of the U.S., differences in vegetative communities, soil types or hydrologic features):

The wetland appeared to have no discernable inlet or outlet. The wetland is approximately 75 feet from a jurisdictional wetland. Soils and vegetation within the wetland were similar to those within the near by jurisdictional wetland

The aquatic resource  is  is not located completely within the project site.

The aquatic resource  is  is not connected to waters of the U.S. by  a surface channel

underground culvert  other means (identify) by which water could flow between the two:

The aquatic resource  is  is not a wetland considered to be adjacent (neighboring, bordering or contiguous) to a surface tributary system.

Isolated, intra-state water # 2

The NJD aquatic resources on site consist of (check as many as are appropriate):

Pond  Lake  Stream  Wetlands\*  Tidal Waters  Other (identify type): \_\_\_\_\_

\* If wetlands are present, indicate Cowardin classification: PFO

Acres of this NJD aquatic resource within property: 0.596

Description of the position of the aquatic resource in the landscape (i.e. indicate distance to and difference in elevation from nearest waters of the U.S., differences in vegetative communities, soil types or hydrologic features):

The wetland appeared to have no discernable inlet or outlet. The wetland is approximately 300 feet from a jurisdictional wetland.

Soils and vegetation within the wetland were similar to those within the near by jurisdictional wetland

The aquatic resource  is  is not located completely within the project site.

The aquatic resource  is  is not connected to waters of the U.S. by  a surface channel

underground culvert  other means (identify) by which water could flow between the two:

The aquatic resource  is  is not a wetland considered to be adjacent (neighboring, bordering or contiguous) to a surface tributary system.

**CENAN-OP-R**  
**APPLICATION NO. 2004-00380**

Isolated, intra-state water # 3

The NJD aquatic resources on site consist of (check as many as are appropriate):

Pond  Lake  Stream  Wetlands\*  Tidal Waters  Other (identify type): \_\_\_\_\_

\* If wetlands are present, indicate Cowardin classification: PFO

Acres of this NJD aquatic resource within property: 0.321

Description of the position of the aquatic resource in the landscape (i.e. indicate distance to and difference in elevation from nearest waters of the U.S., differences in vegetative communities, soil types or hydrologic features):

The wetland appeared to have no discernable inlet or outlet. The wetland is approximately 300 feet from a jurisdictional wetland.

Soils and vegetation within the wetland were similar to those within the near by jurisdictional wetland

The aquatic resource  is  is not located completely within the project site.

The aquatic resource  is  is not connected to waters of the U.S. by  a surface channel

underground culvert  other means (identify) by which water could flow between the two:

The aquatic resource  is  is not a wetland considered to be adjacent (neighboring, bordering or contiguous) to a surface tributary system.

Isolated, intra-state water # 4

The NJD aquatic resources on site consist of (check as many as are appropriate):

Pond  Lake  Stream  Wetlands\*  Tidal Waters  Other (identify type): \_\_\_\_\_

\* If wetlands are present, indicate Cowardin classification: PEM

Acres of this NJD aquatic resource within property: 0.189

Description of the position of the aquatic resource in the landscape (i.e. indicate distance to and difference in elevation from nearest waters of the U.S., differences in vegetative communities, soil types or hydrologic features):

The wetland appeared to have no discernable inlet or outlet. The wetland is approximately 500 feet from a jurisdictional wetland.

Soils and vegetation within the wetland were similar to those within the near by jurisdictional wetland

The aquatic resource  is  is not located completely within the project site.

The aquatic resource  is  is not connected to waters of the U.S. by  a surface channel

underground culvert  other means (identify) by which water could flow between the two:

The aquatic resource  is  is not a wetland considered to be adjacent (neighboring, bordering or contiguous) to a surface tributary system.

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CORPS OF ENGINEERS**

**DISTRICT OFFICE:** New York District  
**FILE NUMBER:** 2004-00734  
**DATE OF DETERMINATION:** November 30, 2004  
**PROJECT REVIEW/DETERMINATION COMPLETED:** In the office (Y/N) N Date:  
 At the project site Y Date: August 11, 2004  
 (Y/N)

**PROJECT LOCATION INFORMATION:**  
 State: New York  
 County: Orange  
 Center coordinates of site by latitude & longitude coordinates: lat:41-21-1.7280 lon:74-27-19.9800  
 Approximate size of site/property (including uplands) in acres: 101.95  
 Name of waterway or watershed: Tributary to Wawayanda Channel

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									
Mudflat									
Sandflat									
Wetlands	0.84								
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 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 also site inspection report dated September 9, 2004.

**CENAN-OP-R**  
**APPLICATION NO. 2004-00734**

**ADDITIONAL INFORMATION SUPPORTING NJD**

1. Site Conditions:

Total acreage of site: 101.95

The jurisdictional waters on site consist of (check as many as are appropriate):

Pond  Lake  Stream  Wetlands\*  Tidal Waters  Other (identify type): \_\_\_\_\_

\* If wetlands are present, indicate Cowardin classification: FPO, PEM

Total acres of jurisdictional waters on site: 7.43

Position of jurisdictional waters in landscape and watershed:

The wetlands and ponds are located in a small valley between rolling hills on the site. They drain to the east and discharge into channels that are connected to the Wawayanda Channel. They are headwaters.

Text Description/Current Land Use (developed, undisturbed, agricultural, mining area, etc.): The majority of the site is disturbed, in terms of vegetation and hydrology, either by prior agricultural activities or current horse stables and pastures. There are sections of the site that are not disturbed and they are forested. The overall elevation of the site was not disturbed as there are natural rolling hills throughout the site.

2. Rationale Used To Determine NJD:

Isolated, intra-state water #1 (B) (If more than one water, copy entire section for each)

The NJD aquatic resources on site consist of (check as many as are appropriate):

Pond  Lake  Stream  Wetlands\*  Tidal Waters  Other (identify type): \_\_\_\_\_

\* If wetlands are present, indicate Cowardin classification: PFQ

Acres of this NJD aquatic resource within property: 0.76 acre

Description of the position of the aquatic resource in the landscape (i.e. indicate distance to and difference in elevation from nearest waters of the U.S., differences in vegetative communities, soil types or hydrologic features):

Depressional wetland surrounded by steep uplands. The wetland and surrounding uplands are forested and were not disturbed like the jurisdictional waters on the property. The wetland is at least 500 feet away from the on-site jurisdictional waters, and about 200 feet away from the nearest off-site wetland. The elevations of the wetlands are similar, but each are separated by ridges up to 30 feet higher in elevation than the wetlands.

The aquatic resource  is  is not located completely within the project site.

The aquatic resource  is  is not connected to waters of the U.S. by  a surface channel

underground culvert  other means (identify) by which water could flow between the two:

The aquatic resource  is  is not a wetland considered to be adjacent (neighboring, bordering or contiguous) to a surface tributary system.

Isolated, intra-state water #2 (E) (If more than one water, copy entire section for each)

The NJD aquatic resources on site consist of (check as many as are appropriate):

Pond  Lake  Stream  Wetlands\*  Tidal Waters  Other (identify type): \_\_\_\_\_

\* If wetlands are present, indicate Cowardin classification: PFQ

Acres of this NJD aquatic resource within property: 0.08 acre

Description of the position of the aquatic resource in the landscape (i.e. indicate distance to and difference in elevation from nearest waters of the U.S., differences in vegetative communities, soil types or hydrologic features):

This wetland is forested, is surrounded by forested uplands, and is similar to the other isolated wetland on site, but this one is in a steeper portion of the landscape. It is, however, at least 1,600 feet away from the jurisdictional waters on the site.

The aquatic resource  is  is not located completely within the project site.

The aquatic resource  is  is not connected to waters of the U.S. by  a surface channel

underground culvert  other means (identify) by which water could flow between the two:

The aquatic resource  is  is not a wetland considered to be adjacent (neighboring, bordering or contiguous) to a surface tributary system.