

**Vermont Agency of Natural Resources
Department of Environmental Conservation
Watershed Management Division**

**Wetland Determination
Issued Pursuant to Section 8 of the Vermont Wetland Rules**

In the matter of:

Kayle Hope & Susan Bourque
3809 East Hill Rd
Plainfield, VT 05667

Determination of Wetland Classification

East Hill Rd, Plainfield

File #: 2023-0820.D

Date of Decision: June 27, 2024
Decision: Class II

The Secretary may, upon a petition or on his or her own motion, determine whether any wetland is a Class II wetland or a Class III wetland, pursuant to 10 V.S.A. § 914 and the Vermont Wetland Rules, Vt. Code R. 12 004 056 (VWR). The Secretary may establish the necessary width of a buffer zone of any Class II wetland as part of any wetland determination pursuant to the Rules.

As required under 10 V.S.A. § 914 and Section 8 of the VWR, this wetland determination is based on an evaluation of the functions and values of the subject wetland as described in Section 5 of the VWR. Public notice of this wetland determination has been given in accordance with Section 8.3 of the VWR.

Petition

1. A complete petition was received from Kayle Hope and Susan Bourque for a Wetland Determination #2023-0820.D on November 2, 2023. The Wetland Determination was put on notice from May 14, 2024 until May 28, 2024.
2. The subject wetland is located on the east and west sides of E. Hill Road in Plainfield, south of the intersection with Spruce Mountain Rd. A map showing the approximate location of the wetland was prepared by Petitioner and is attached to this determination.
3. Shannon Morrison District Wetlands Ecologist, conducted a site visit to the subject property and adjacent properties on 8/31/2023, 10/18/2023, and 05/02/2024.
4. The wetland in question is not mapped as Class II wetland as shown on the Vermont Significant Wetland Inventory (VSWI) map. The wetland meets wetland category 5a. The

wetland is of the same type and threshold size as those mapped on the VSWI maps: i.e.; open water (pond); emergent marsh; shrub swamp; forested swamp; wet meadow; beaver pond or beaver meadow; bog or fen; and greater than 0.5 acres. The wetland complex also meets 5b. The wetland contains dense, persistent non-woody vegetation or woody vegetation, and in either instance is adjacent to a stream, river or open body of water, and is over 2,500 square feet in size. These wetland meets Secretary's general determination #2020-263 and are therefore Class II unless otherwise individually determined. The petition is to verify these wetlands are Class II and to add them to the VSWI map.

5. The wetland in question is described in detail in Sections 4 and 5 of the permit application. Generally, the wetland complex is approximately 40 acres in size and is a combination of softwood swamp dominated by norther white cedar; mixed forested wetland dominated by cedar, yellow birch, white pine, red maple and white ash; shrub swamp dominated by meadowsweet, purple stemmed aster, goldenrod and sedge; and emergent wetland dominated by cattails, marsh marigold, reed canary grass, marsh bedstraw, cinnamon fern and sensitive fern. Soils are Cabot silt loams, 0-8%, very stony. Hydrology is dominated by seeps that feed into a stream that flows from the north through the subject property and across the E. Hill Road to the west.
6. Public comments were received from the petitioner. Responses to those comments are in the attached responsiveness summary.

Findings

As required by 10 V.S.A. § 914 and Section 8 of the VWR, this wetland determination is based on an evaluation of the functions and values of the subject wetland as described in Section 5 of the VWR. Section 5 provides that in evaluating whether a wetland is a Class II or a Class I wetland, the Secretary shall evaluate the functions that the wetland serves both as a discrete wetland and in conjunction with other wetlands by considering detailed functional criteria. Consideration shall be given to the number of and/or extent to which protected functions and values are provided by a wetland or wetland complex.

1. The protected functions of the wetland include the following: water storage for flood water and storm runoff as described in Section 5.1 of the VWR; surface and groundwater protection (Section 5.2); fisheries habitat (Section 5.3); wildlife and migratory bird habitat (Section 5.4); education and research in natural science (Section 5.7); and erosion control through binding and stabilizing the soil (Section 5.10). Significance is demonstrated in sections 5- 16 of the petition and any attached Wetland Evaluation Form and was confirmed by the ANR Staff.
2. The following functions are either not present or are present at such a minimal level as to not be protected functions, or there is not enough information to determine significance: water storage for flood water and storm runoff as described in exemplary wetland natural community (Section 5.5); threatened and endangered species habitat (Section 5.6); recreational value and economic benefits (Section 5.8); and open space and aesthetics (Section 5.9).

3. Water Storage for Flood Water and Storm Runoff

Wetlands that provide for the temporary storage of floodwater or stormwater runoff to the extent that they make an important contribution to reducing risks to public safety, reducing damage to public or private property reducing downstream erosion or enhancing the stability of habitat for aquatic life are significant wetlands.

The wetland is significant for the water storage for flood water and storm runoff function. Significance is demonstrated in Section 6 of the petition and any attached Wetland Evaluation Form(s) and was confirmed by the ANR Staff.

4. Surface and Ground Water Protection

Wetlands that make an important contribution to the protection or enhancement of the quality of surface or of ground water are significant wetlands.

The wetland is significant for the surface and ground water function. Significance is demonstrated in section 7 of the petition and any attached Wetland Evaluation Form(s) and was confirmed by the ANR Staff.

5. Fish Habitat

Wetlands that are used for spawning by northern pike or that are important for providing fish habitat are significant wetlands.

The wetland is significant for the water storage for the fish habitat function. Significance is demonstrated section 8 of the petition and any attached Wetland Evaluation Form(s) and was confirmed by the ANR Staff.

6. Wildlife Habitat

Wetlands that support a significant number of breeding waterfowl, including all species of ducks, geese and swans, or broods of waterfowl or that provide important habitat for other wildlife and migratory birds are significant wetlands.

The wetland is significant for the water storage for the wildlife habitat function. Significance is demonstrated in section 9 of the petition and any attached Wetland Evaluation Form(s) and was confirmed by the ANR Staff.

7. Exemplary Wetland Natural Community

Wetlands that make an important contribution to Vermont's natural heritage are significant wetlands. These include wetlands that are identified as high quality examples of one of Vermont's recognized natural community types.

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The wetland is not significant for the exemplary wetland natural community function. Non-significance is demonstrated in section 10 of the petition and any attached Wetland Evaluation Form(s) and was confirmed by the ANR Staff.

8. Rare, Threatened, and Endangered Species Habitat

Wetlands that contain rare, threatened, or endangered species of plants or animals are significant wetlands.

The wetland is not significant for the rare, threatened and endangered species habitat function. Non-significance is demonstrated in section 11 of the petition and any attached Wetland Evaluation Form(s) and was confirmed by the ANR Staff.

9. Education and Research in Natural Sciences

Wetlands that provide, or are likely to provide valuable resources for education or scientific research are significant wetlands.

The wetland is significant for the education and research in natural sciences value. Significance is demonstrated in section 12 of the petition and any attached Wetland Evaluation Form(s) and was confirmed by the ANR Staff.

10. Recreational Value and Economic Benefits

Wetlands that provide substantial recreational values or economic benefits are significant wetlands.

The wetland is not significant for the recreational value and economic benefits value. Non-significance is demonstrated in section 13 of the petition and any attached Wetland Evaluation Form(s) and was confirmed by the ANR Staff.

11. Open Space and Aesthetics

Wetlands that contribute substantially to the open-space and aesthetic character of the landscape are significant wetlands.

The wetland is not significant for the open space and aesthetics value. Non-significance is demonstrated in section 14 of the petition and any attached Wetland Evaluation Form(s) and was confirmed by the ANR Staff.

12. Erosion Control through Binding and Stabilizing Soil

Wetlands that are important for erosion control are significant wetlands. Such wetlands are typically located along stream, river, pond or lake shorelines, where erosive forces are present.

The wetland is significant for the erosion control through binding and stabilizing soil function. Significance is demonstrated in section 15 of the petition and any attached Wetland Evaluation Form and was confirmed by the ANR Staff.

Determination of Wetland Classification

Based on the petition, information obtained during a site visit by Wetlands Program staff, comments received during the public notice period and an evaluation of the functions and values of the wetland, the Secretary has determined that the wetland under consideration is a Class II wetland.

Effect of Class II Wetland Determination

Activity in a Class II wetland or its associated buffer zone is prohibited unless it is an allowed use under the VWR, or unless it is authorized by a permit, conditional use determination or order issued by the Secretary. The Secretary may impose any permit conditions as necessary to achieve the purposes of the VWR. Section 9.1 of the VWR. This Determination does not relieve the petitioner or any other person of the responsibility to comply with all other applicable federal, state or local laws.

Reconsideration of Wetlands Determination

Within 15 days of the date of this decision, the applicant, any person entitled to notice under Section 8.3(a) of the VWR, or any person who filed written comments regarding the permit application may request in writing reconsideration by the Secretary. Section 8.4 of the VWR. Such a request shall specify all action(s) for which reconsideration is sought and shall provide an explanation of the reason(s) why the request is filed. Where a request for reconsideration has been properly filed, additional evidence may be submitted concerning the functions and values of the wetland, and concerning any other material issue as deemed appropriate by the Secretary. The Secretary may appoint a designee, who shall be at the Division Director level or higher, to render a decision on the request for reconsideration. The Secretary's written reconsideration decision shall be issued as expeditiously as possible under the circumstances, and shall be distributed in accordance with §8.3(c) of the Wetland Rules. If the Secretary fails to act on a request for reconsideration within 20 days of its filing, the request shall be deemed to be denied. The Secretary's written reconsideration decision shall constitute a final act or decision of the Secretary, subject to appeal pursuant to 10 V.S.A. § 8504 and Section 10 of these Rules.

No request for reconsideration may be filed concerning or resulting from a request for reconsideration. If the Secretary fails to act on a request for reconsideration within 20 days of its filing, the request shall be deemed to be denied.

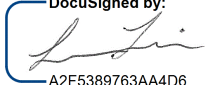
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Filing a timely request for reconsideration with the Secretary tolls the 30-day period for filing an appeal with the Environmental Court. The full time for appeal shall commence to run and shall be computed from the date of the issuance of the Secretary's decision on the reconsideration request.

Appeals

Appeals from any act or decision of the Secretary under the Wetland Rules are governed by 10 V.S.A. §8504.

Julie S. Moore, Secretary
Agency of Natural Resources

DocuSigned by:

by: _____
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Laura Lapierre, Program Manager
Wetlands Program
Watershed Management Division

Dated at Montpelier, Vermont
this twenty-seventh day of July, 2024

JSM/LVPL/SLM