

10/9/19 9:30am Legislative Testimony of KED Dailey – Wetland Regulations in VT

Good Morning – My name is Karina Dailey,

Thank you for allowing me to testify regarding Wetlands Regulations in Vermont.

I have been working in the Wetland Consulting field for the past 16 years, 11 of those years have been in the northeast (primarily Vermont), with 5 years prior in the Inter-mountain west. In my current position at Trudell Consulting, I conduct wetland delineations; design wetland restoration and mitigation projects, complete state and federal wetlands permit applications – sometimes after-the-fact, and provide environmental testimony for Act 250 and Act 248 Land Use Permitting. I am a nationally certified Wetland Scientist –as well as a New Hampshire Certified Wetland Scientist.

I believe we all want to live in Vermont for the same reasons. It's a beautiful place! And of all the places I have worked as a scientist (including Wyoming, Idaho, Montana, and Utah); I have considered myself lucky to live in a State with the environmental planning foresight that Vermont has. As a consultant I recognize that this doesn't come without its own headaches and burdens (financial and emotional) to landowners, developers, single-family homeowners, municipalities, and farmers. But I also think that the project is ultimately stronger as a result of these rules.

Typical wetland issues might include:

- A client's surprise in learning that their roadside commercial lot is predominantly a Class II wetland,
- Or complete lack of understanding of what a wetland is – the iconic cattail swamp is usually much more obvious than a forested hillside seep, or a seasonal floodplain forest.
- After educating them about their land's natural resources, there is the effort to explain and interpret the wetland rules (federal and state) that are applicable, - in some cases this may mean explaining to them that they just built their driveway across a large, unmapped, jurisdictional Class II wetland without a permit.
- Or that it is unlikely they would get approval to convert their 40-acre forested wetland into hemp or corn production.

Obviously for many landowners this news can be frustrating, or even devastating. What is the disconnect that allows people to go so far down a

path to land development before they are hit with understanding the natural resources that exist on their parcel? I believe the disconnect is a lack of wetland/water resource education and lack of accurate wetland mapping.

As a consultant it is my job to advise my clients to the best of my ability and that means understanding the project goals from the prospective of the landowner, providing sound data as a scientist, and recognizing how local, State and Federal Regulations apply to their project. It is true that in the wetlands world the path can be dynamic and not always well defined, and there are certainly some changes that could be implemented into the VT wetland program to simplify, improve responsiveness and clarify, but overall the Rules as I interpret them are solid - and people are beginning to recognize that they exist!

It goes without saying that clients are used to having to pay for engineering design, and permit fees for wastewater and stormwater infrastructure associated with development. The same needs to be true for natural resource impact – including wetlands. If we want to continue to live in a Vermont where we fish, hunt, farm, swim, hike, and ski then we need to accept that with development of any kind, there is a concurrent natural resource impact to be accountable for.

We are gathered today to study the VT Wetlands Rules, while a working group also exists in this Session focused on Water Quality Funding, and a portion of Act 64 includes a program which provides farms with financial assistance to address water quality. These measures make IT SEEM like we are all trying to do the right thing, but we may need to work harder to see the connections across the landscape.

I am familiar with the results of the Wetland Working Group - the stakeholder committee that was formed in 2016 to work with DEC to provide clarification to the VT Wetlands Regulations – I have requested copies of that document to be shared with you for review - Entitled "Draft VT Wetland Rule Stakeholder Update".

This report identifies the two year effort that was made to clarify the VT Wetland Rules and improve predictability and accountability. These concepts were distilled into the Wetlands Statutory Proposal and the latest version of last session's bill to amend the Vermont Wetland Rules.

The bill provides improved consistency in the wetland definition, Class II determination, and added detail to the agricultural exemption.

Most importantly, I hope DEC will continue to work in partnership with the VT community to:

- Educate the general public including VT youths, to improve the overall understanding of what defines a wetland and the ecosystem services wetlands provide.
- Expand statewide wetland mapping to include not only remote sensing, but ground truthing in the form of wetland assessments and confirmed delineations.

Implementing these preventative measures to our existing wetlands should help to alleviate after-the-fact violations, restoration, and regulatory distrust.

Thank you for your time,

Karina E. Dailey, PWS