



ARROWWOOD ENVIRONMENTAL
950 BERT WHITE ROAD
HUNTINGTON, VT 05462
(802) 434-7276 FAX: (802) 329-2259

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To: Lindsay Scheier: Lindsay.Schreier@vtleg.gov
Re: LCAR Hearing Written Testimony
Fr: Dori Barton, Wetland Ecologist

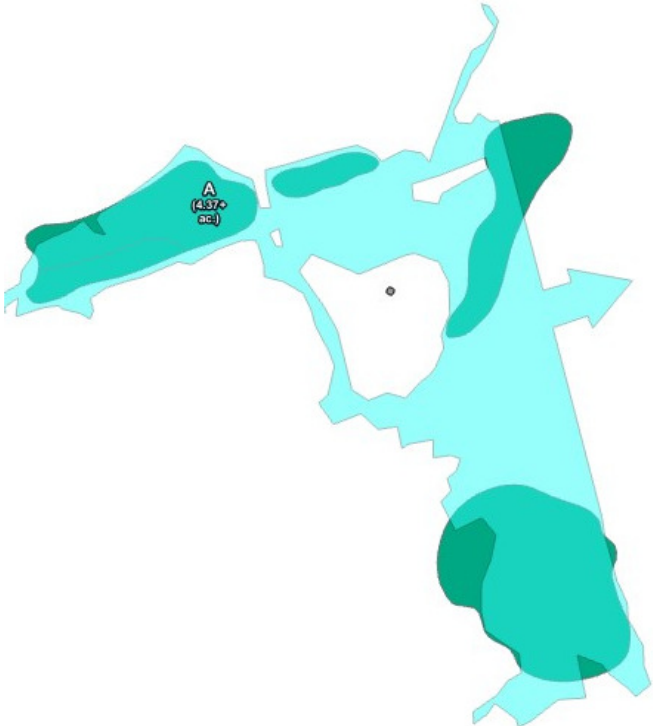
Introduction: My name is Dori Barton. I am a consulting wetland ecologist and founding partner of Arrowwood Environmental. We're a Vermont based ecological consulting firm entering its 25th year of business. My specialty is wetland delineation and permitting. Over the course of my career I have been appointed to working groups that were established to review and provide input on proposed Vermont Wetland Rule changes. The State did not convene such a group for the current proposed changes. So, I am appreciative of the opportunity to provide testimony and comment on the proposed Rule change.

Background: I work with a wide range of clients on a variety of projects. Residential development, of all sizes, is a common project type that I work on. My role is typically to help my clients work through local, State and Federal wetland regulations that could be triggered by their project. Some projects may only require time on the phone, more complicated projects result in field assessment and follow up permitting. It is my job as a consultant to help my clients realize their project goals and make sure the project does not run afoul of regulations. The Vermont Wetland Rules are only one of many regulations that need to be considered and adhered to by my clients as they plan their projects.

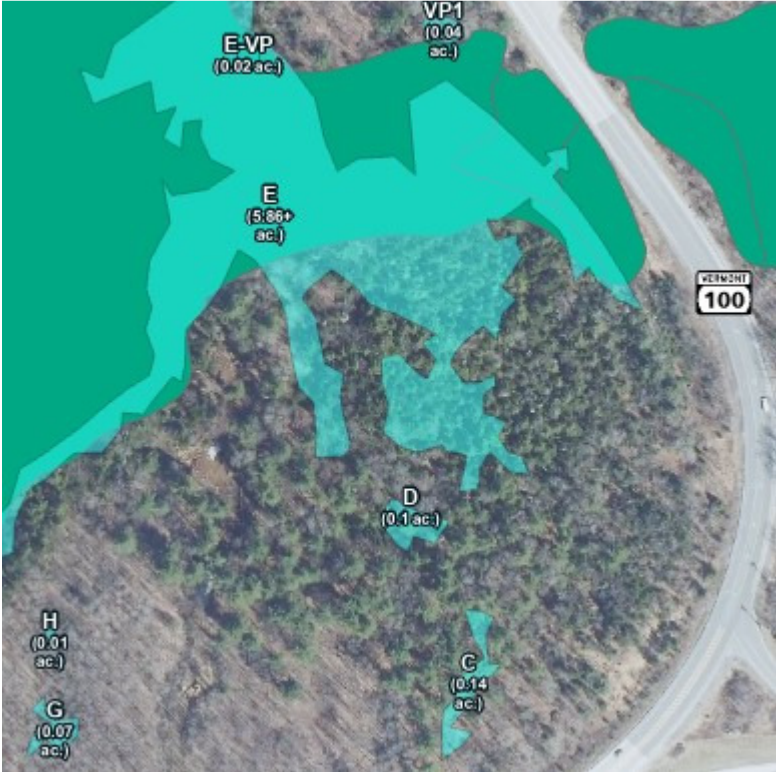
Wetland Mapping: Until this proposed Rule change for residential housing, the foundation of wetland regulations for the last 35 years has been the accurate identification and delineation of wetlands using a science based protocol developed by the Army Corps of Engineers. The State proposes to remove the requirement for scientifically accurate boundary delineation and replace it with reliance on the Vermont Significant Wetland Inventory (VSWI) map dataset which was generated from remote (desktop) mapping and only intended to show approximate locations, not legal boundaries.

My own process as a professional in this field is to look at the VSWI maps before all of my site visits. It alerts me to the likelihood of wetlands before I go out to a site, it's a tool. In my almost 30 years of doing this work, I can tell you that the maps have never provided delineation level accuracy for wetland boundaries. The data generated from the remote mapping results in wetlands not being mapped and uplands being mapped as wetland. The new Statewide maps are an improvement, the technology and aerial imagery used to generate the data is better, but it is still not good enough to base regulatory decisions.

This image shows the new VSWI mapping in dark green and the formal field delineation that I conducted using the science based protocols in blue. The VSWI mapping located wetland but came far short of accurately identifying the wetland boundaries.



This image shows the new VSWI in dark green and the formal delineation that I conducted using the science based protocols in light blue. As you can see the new VSWI mapping significantly under maps wetland in the southern part of the property and over maps the wetland in the northern part of the property.



Arrowwood is uniquely familiar with the inaccuracies of desktop remote wetland mapping at a broad landscape scale. Arrowwood has conducted townwide mapping of wetlands for more than 20 towns in this State and is currently mapping all the wetlands in the town of Waterbury. We are able to

spend more time on the process of remote mapping at a townwide scale than the recent VSWI remapping effort, but it is still primarily a desktop analysis using the available technology and aerial imagery. Our town mapping, just like VSWI mapping, is not intended to portray the field delineation level accuracy of wetland boundaries that is needed for regulatory decision making.



Here is an example showing the new VSWI mapping in dark green. Arrowwood's remote mapping is lighter green, and Arrowwood's on the ground formal delineation in grey. As you can see, both of the remote mapping datasets accurately identify that a wetland is present. Neither get the actual boundary correct as was determined by scientific wetland delineation protocol in the field.

The proposed Rule change that incorporates reliance upon the VSWI remote mapping for residential projects in specified areas will result in chaos in the current wetland regulatory arena and serious inequities amongst Vermont landowners.

It's important to factor into the consideration of this Rule change that there are Federal regulations in place that require formal science based wetland delineations regardless of location or project type. The Army Corps of Engineers continues to require boots on the ground wetland delineation based on their protocols for regulatory decisions. And the Army Corps just put into place more restrictive regulations in April of this year.

For the Army Corps, residential projects with any wetland impact are now required to go through a formal permit process which requires a formal wetland delineation (not using the maps). I refer you to Army Corps Nationwide Permit #29 for details.

So while the State may allow residential development in wetlands that do not appear on the VSWI or are mapped incorrectly with the proposed Rule change, the Army Corps of Engineers does not. The contradictory procedures created by the proposed change will most certainly lead to violations of Federal wetland rules and ensuing expense for landowners and developers to correct these wetland violations.

It is my opinion that the proposed Rule change is fundamentally flawed because it is not based on science and will result in direct harm to Vermont's landowners and to Vermont's wetlands. I support the current process of using accepted scientific protocols to accurately identify the boundaries of wetlands for regulatory purposes in the State of Vermont.