

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Office of Hearings and Mediation Services
625 Broadway
Albany, New York 12233-1550

In the Matter of the Proposed

AMENDMENTS TO SARATOGA COUNTY FRESHWATER WETLAND MAPS

SUMMARY HEARING REPORT

-by-

_____/s/_____
Richard R. Wissler
Administrative Law Judge

November 10, 2010

PROCEEDINGS

On July 29, 1999, the Division of Fish and Wildlife (“Division”) of the New York State Department of Environmental Conservation (“Department” or “DEC”) convened a public hearing as part of the process to amend certain freshwater wetland maps originally filed on May 6, 1987, for Saratoga County. The Division proposed to amend maps 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27 and 28 of the total of 28 freshwater wetland maps.

The hearing was presided over by Administrative Law Judge (“ALJ”) Francis W. Serbent of the Department’s Office of Hearings and Mediation Services (“OHMS”), who received oral comments from the public on the proposed amendments. During the hearing, and subsequent thereto, written comments were also received by the Department. Thereafter, ALJ Serbent prepared a report summarizing the oral comments received during the hearing of July 29, 1999, as well as the written comments received by the Department through December 2, 1999. The last written comment received by the Department on December 2, 1999, and summarized by ALJ Serbent, was Town of Corinth Resolution No. 124 of November 18, 1999, “requesting the Department to withdraw the proposed wetlands map until the State can compensate the Town and its local school districts for lost revenues due to the wetlands designation.” A copy of ALJ Serbent’s Summary Hearing Report is annexed hereto.

Pursuant to a direction from executive staff in January 2000, the hearing record in the matter was kept open. Accordingly, inasmuch as no closure of the hearing record occurred, ALJ Serbent’s report could not be finalized and forwarded to executive staff for further action.

Subsequent to the final written comment noted in ALJ Serbent’s report, two more written comments were received. The first is an undated letter from Terry Ostrander, received by OHMS on December 10, 1999, objecting to the proposed amendments. The second is a copy of the Department’s letter to Hon. James N. Tedisco, dated January 3, 2000, responding to his inquiry regarding the delineation of certain freshwater wetlands on property owned by Wendell Neugebauer, and indicating the Department’s intention to correct inaccuracies in the delineation.

In April of 2001, I joined OHMS as an ALJ, subsequent to the retirement of ALJ Serbent. At that time, this matter was assigned to me. During my entire tenure with OHMS, no further public comments have been received in this matter.

In addition to the comment summaries provided herein and in ALJ Serbent’s attached report, enclosed with this report is a binder containing written comments received from September 1999 through January 2000. Also included is a compilation of correspondence in this matter prepared by Department Senior Wildlife Biologist Alan L. Koechlein and provided to ALJ Serbent on November 4, 1999, for inclusion in the record.

By direction of executive staff on October 6, 2010, the hearing record in this matter was closed. The matter is remanded to Department staff for such further proceedings as they deem appropriate.

List of Documents Returned to Department Staff

1. Affidavits of Publication with copies of published notice of proposed wetland map amendments and notice of public hearing of July 29, 1999.
2. Speaker Registration Cards from public hearing of July 29, 1999.
3. Transcript of public hearing of July 29, 1999, original and two copies.
4. Compilation of correspondence in this matter prepared by Department Senior Wildlife Biologist Alan L. Koechlein and provided to ALJ Serbent on November 4, 1999, for inclusion in the record.
5. Binder containing written comments received from September 1999 through January 2000
6. Miscellaneous documents including interdepartmental correspondence and copies of press releases.

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In the Matter of the proposed

AMENDMENTS TO SARATOGA COUNTY FRESHWATER WETLAND MAPS

SUMMARY HEARING REPORT
of the
LEGISLATIVE HEARING HELD ON JULY 29, 1999

-by-

Francis W. Serbent
Administrative Law Judge

December 1999

PROCEEDINGS

The Division of Fish and Wildlife ("Division") of the New York State Department of Environmental Conservation ("Department", "DEC") scheduled a public hearing as part of the process to amend certain freshwater wetland maps originally filed on May 6, 1987 for Saratoga County. The Division proposes to amend maps 8, 9, 11, 12, 13, 14, 15,16, 17, 18, 19,20,21, 22,23,24,25,26,27 and 28 of the total of 28.

The process and these proceedings are held according to the Environmental Conservation Law ("ECL") Article 1 General Provisions; Article 3 General Functions, Powers, Duties and Jurisdiction; Article 8 Environmental Quality Review; Article 24 Freshwater Wetlands and Article 70 Uniform Procedures; also Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York ("6 NYCRR") Part 617 State Environmental Quality Review, Part 621 Uniform Procedures and Part 664 Freshwater Wetlands Maps and Classification.

The Division Staff sent a letter dated January 8, 1999 notifying landowners of scheduled informational meetings on the proposed changes to the wetland maps. On January 20, 1999 the landowners were sent a notice of postponement. The Department Staff's April 28, 1999 letter to the landowners established a schedule of informational meetings each with afternoon and evening sessions at the Galway Town Hall on May 18, 1999; the Wilton Town Hall on May 20, 1999; the Saratoga County Municipal Center on May 24, 1999; the Moreau Town Hall on June 1, 1999; the Halfmoon Town Hall on June 3, 1999 and the Clifton Park Town Hall on June 10, 1999. In addition, at the request of the Town Supervisors of both Northumberland and Carlton, additional public informational meetings were held at the Northumberland Town Hall on June 17, 1999 and the Carlton Town Hall on June 30, 1999. The Staff's April 28, 1999 letter also advised of the public hearing scheduled for July 29, 1999 at the Saratoga County Municipal Center and that *"Any comments submitted before this date will be given the same consideration as comments made at the public hearing."* In a letter dated June 29, 1999 the Division Staff again advised the landowners of the scheduled public hearing, the availability of the proposed maps and, among other things, a way for their comments to get into the record. The Division Staff caused the publication of the public hearing notice on June 30, 1999 in the Department's *Environmental Notice Bulletin* and as a legal ad in *THE POST-STAR* of Glens Falls; *THE SARATOGIAN*, the official newspaper of Saratoga County and *THE TIMES UNION* of Albany. Each paper filed a proof of publication.

Administrative law judge Francis W. Serbent conducted the legislative hearing for the receipt of public statements on the proposed amended maps as scheduled on July 29, 1999 beginning at 6:30 PM in the Saratoga County Municipal Center, 50 West High Street, Ballston Spa. A standing room only crowd of over 180 people filled the hall with a indeterminate number standing in the outer room and vestibule. Kenneth Kogut, the Regional Manager in the Bureau of Habitat of the Department's Region 5 Staff opened with a brief welcome and status report on meetings with the landowners. Thirty nine speakers followed him with public comments lasting

until approximately 9:35 PM, interrupted by only a five minute recess at about 8:00 PM. Informal discussions immediately followed and several members of the Department's regional and central office Staff entertained questions and comments for an extended period. Staff received public comments through September 15, 1999 as indicated in the published notice and accepted **additional comments beyond that date until the end of December, 1999.**

SUMMARY of ORAL PUBLIC HEARING STATEMENTS made on July 29,1999.

THE HONORABLE JAMES "JIM" TEDISCO, Assemblyman, believes the wetlands should be protected but it may destroy the American dream of owning a home. It would be unacceptable to the majority of people if that protection meant people would have to go through environmental loop holes to maintain their existing properties located in wetlands. He believes the land owners should receive reasonable and fair compensation for lands taken. He further believes the operation of the program with regulations and guidelines developed by the Department is unacceptable because it is different than what the legislation intended and therefore needs to be changed.

THE HONORABLE ROBERT "BOBBY" D'ANDREA, Assemblyman, is part owner of 179 acres in the City of Saratoga Springs with probably 100 acres as wetlands and as wetlands he believes he can not use it for anything. He believes 12 acres is too small to be considered a wetland plus it restricts use of related adjacent areas. He offered to try to help and support the landowners.

THE HONORABLE ROBERT G. PRENTISS, Assemblyman, believes the landowner's U.S. constitutional rights under the fifth amendment are being violated as their lands are being seized and its use denied without just compensation. It is important to map wetlands but the State legislature did not intend these violations, he states. The implementation of the current wetlands program would have a negative economic impact because of restrictions, lost revenues to governments and increased taxes to upland owners. He characterizes the program as illegal selective enforcement.

He recommends the hearing procedure be extended until the lawmakers have an opportunity for taking corrective action on getting compensation for owners of designated wetlands, to prevent over zealous designations of wetlands and for tax abatement for wetlands owners based on the relief seen with the Champion International land acquisition. Among other things, he urges a common wetlands program jointly with the US Army Corps of Engineers.

THE HONORABLE FRED ACUNTO, Supervisor of the Town of Charlton, also represented the Supervisor **CALLAHAN** of the Town of Ballston. In his statement, among other things, he calls for the State Legislature to halt this process as it is faulted by allowing the Department to flagrantly manipulate the constitutional right to due process. He seeks legislation that would inquire the economic impact of wetlands preservation and he seeks an incentive for voluntary

methods by landowners to conserve wetlands.

THE HONORABLE PAUL F. LILAC, Supervisor of the Town of Stillwater also represented the entire Town Board. He filed comments from residents that are summarized further on in this report. He questions the procedure used to determine wetlands since some designated as wetlands are dry and a one hundred foot buffer is not universally needed. He states the restricted use and the taking of lands are believed to be unconstitutional and, if not, then there is a need for fair compensation when lands are taken or their use lost.

THE HONORABLE ROBERT HALL, Supervisor of the Town of Saratoga agrees with the prior public statements.

THE HONORABLE EDGAR KING, Supervisor of the Town of Northumberland, a dairy farmer and owner of wetlands stated that the public is frustrated with this process and the definition of wetlands. One of the species of plants used to signify wetlands is planted for cow feed and hence that field would be designated a wetland, he states. He sees a need for intervention by the legislature to remedy this program.

EMIL M. HABESCH, JR., 87 Round Lake Road, Ballston Lake, 12019, notes that the maps are too indefinite for accuracy. Walking every property to identify wetland boundaries is not practical. Wetlands have hazards to the public, like muskrats that may bite, that are a liability to the owner. If muskrats live in wetlands protected by the State, then the State should protect the owners with compensation for liability insurance. He agrees with the prior statements regarding compensation for lost or taken lands

EDGAR D. ALDERSON, 1468 Peaceable Street, Ballston Spa, 12020 is disenchanted with the buffer zone determination and also the permit process. After an agonizing ordeal, he eventually secured a permit but the conditions were too ridiculous and he eventually did not even start the permitted work and abandoned the work idea.

DOROTHY KING, 355 Finley Road, Ballston Spa scolded me for allowing the politicians time to make statements causing the public to wait for their turn. She relies on the development value of her 100 acre farm for financial security but that value would now be lost since the Department has or proposes to designate one third of it as wetlands.

WALTER SCHMIDT, 1326 Sacandaga Road, West Charlton 12010 represented Mary Schmidt and Balnakill Farms. He is concerned since the Department has proposed to designate 150 acres of his 300 acre farm as wetlands. He sees it as a land grab, un-American and unfair.

WENDELL NEUGEBAUER, 586 Middle Line Road, Ballston Spa alluded to having a federal state coordinated effort to field locate one common wetland boundary.

ARTHUR KEMMET, (address not ascertained), agreed with prior statements on fair

compensation for lost land.

STEVEN ROPITZKY, 24 Durham Road, Stillwater 12170 is insulted because this program implies that current owners are not good stewards of their land and because the land may now be lost to the owners whose ancestors once fought to free the land in the Revolutionary War.

HENRY L. AYERS, 339 Peters Road, Gansevoort 12831 notes that current criteria for designating wetlands changed and makes the Department Staff liars. The Department is taking land without any compensation as guaranteed by the Constitution.

ARMAND A. MARTIN, 1399 Route 67, West Charlton, 12010 claims the family farm is an endangered species needing protection. He states there is a power struggle between the State and federal wetlands people. Further, he cannot understand how boundaries can be established from the air.

PETER J. KEEFE, 4 Olde Saratoga Knolls Lane, Schuylerville, 12871 has been notified of a wetlands designation on his property but his property is not on any proposed wetland map. He is puzzled and his requests for clarification have not been satisfied.

JOSEPH E. AYERS, 106 First Street, Apartment C, Old Orchard Beach, Maine 04064 supports the citizens, property owners and taxpayers.

BEVERLY CZUB, 468 Miller Road, Rexford 12140 owns a farm that once had 20 acres of swamp in 1950 but now the Department has designated 47 acres as wetland. She wonders how much greater it will grow.

CAROL W. LAGRASSE, PO Box 75, Stony Creek 12878 states that: the maps are deficient because they are from aerial data rather than field data; the vegetative species for wetland designations are upland species too; it is expensive for owners to hire experts to dispute the Department; there should be a fund to underwrite the owners cost to dispute the Department; owners should be compensated for lands taken: owners should get tax relief; owners should be offered cooperative agreements and conservation easements; and there should be coordinated State and Federal programs.

GEORGE HANKE, 22 Tamarack Trail, Saratoga Springs, 12866 would have fifteen (15) of his thirty (30) acre parcel of land designated wetlands and he characterizes this as stealing and states that owners should get together and fight it.

DAVID HICKS, 345 Middleline Road, Ballston Spa 12020 stated wetland B-11 was partly a strawberry field, now a hay field, partly into growing apple trees and, according to Department Staff, would be changed to an upland designation. However, now it appears the wetland has

been expanded and he asks for an onsite determination.

CLARENCE LINDER, 2115 Route 67, Charlton, 12019 notes sloppy workmanship in the mapping of wetlands without accurate boundaries.

JOSEPH CICCARELLI, 16 Jacob Street, Ballston Lake, 12019 fears the wetlands designation would diminish the value of the land and is the same as stealing his money.

GEORGE HODSON, Director of the Saratoga County Environmental Management Council expects to submit written comments. He observes that this process may benefit from modern technology in mapping, graphics and information transfer to the public.

RICHARD VOEHRINGER's, (788 Goode Street, Ballston Spa, 12020) statement included written pieces from newspapers and otherwise. He notes that fourteen acres of his property would be designated wetlands. Land he paid for and pays taxes for. He is concerned that if the tax value of the wetlands decreases then the tax value of his uplands would increase. The wetlands designation would be taking away the good life war veterans defended.

DAVID SHAKOW, 56 West Street, Mechanicville, 12118 tells of his sixteen acres partially bordering a creek with some of it designated as wetlands and adjacent area. It is not clear to him how this wetlands designation applies to his land.

PAULINE BOEHM, 359 Farm to Market Road, Clifton Park. 12065 believes in protecting the wetlands but with compensation for lands taken and tax relief for wetlands lost for other uses,

BILL KOEBBEMAN, 359 Farm to Market Road, Clifton Park, 12065 supports accurate mapping and compensation for private lands but is puzzled that the Department has not objected to a golf course designed on ninety acres of wetlands adjacent area.

JOAN BARTH, 61 Gloucester Street, Clifton Park, 12065 spoke on behalf of the *Friends of Clifton Park Open Space* and in favor of wetland protection, including buffer areas. She also notes spotty wetlands enforcement by the Department.

RUSSELL R. BOWERS II, 23 Halfway House Road, Mechanicville, 12118 takes issue with the proposed wetlands designation and the impact that and the adjacent area designation would have on his land. He urges the State Legislature to intervene to protect owners' rights and to reduce funding for the Department's program. He plans to ask the Town Attorney to take court action against the State over the wetlands program.

MARTIN HANEHAN, 211 County Route 67, Saratoga Springs, 12866, as President of the *Saratoga County Farm Bureau* spoke on behalf of concerned members. He states that because of the concern of negative impacts to farms, he proposes a critical review of the program to include, among other things, land owners' rights to use their own property and the reduced economic

growth due to the wetlands designation. He would have farmers rewarded by the State for farming as allies to wetlands.

REINHOLD (aka Michael) WIRTH, 156 Middle Line Road, Ballston Spa, 12020 feels as though he is being attacked as the wetlands designation impacts his land and the Department's public relations is irritating by telling landowners what is good for them.

MICHAEL HALE, 1057 Ballston Lake, 12019 questions the jurisdiction by wetlands designation of lands he and others own in common. He would walk the entire proposed area for an on-site determination. He would also delineate adjacent areas on an individual basis rather than a blanket distance of one hundred feet. He would prefer adoption of the Federal Wetlands program and a grandfathering of ongoing developments.

THERESA ELLSWORTH, 239 Braim Road, Greenfield Center, as chair of the Town of Greenfield Environmental Commission submitted comments as requested by the Town Supervisor. She would pose questions to the Department Staff after all the Town wetland boundaries have been visited.

PATRICIA VENDITTI, 2770 Bell Road, Galway, 12074 requests her property be removed from the proposed map because the designation would only change the economic value of her home but not the land's environmental value. She stated the land is protected from further development by deed restriction.

ANTHONY HOLLAND, 12 Chelsea Drive, Saratoga Springs, 12866 seeks a site visit by the Department Staff and faulted the Staff (at the preliminary meetings) for poor coordination of mapping and poor public relations. He characterizes this Staff as incompetent.

DONNA J. FISHER, 175 Hathaway Road, Schuylerville, 12871 treasures her land more than the Department does and believes she would conserve it better than the Department.

CHRISTOPHER DAMMER, 31 Vandenburg Lane, Latham, 12110 disputes the wetlands designation for the puddle on his one acre parcel that is currently being used as a dump by the residents of nearby apartments. He doubts there is any useful wetland value in so small an area.

ALAN GRATTIDGE, 4228 Jockey Street, Charlton, 12019 speaks of a growing resentment towards the program and the Department Staff partly due to the contrast in accuracy required by applicants for wetland permits and the aerial mapping used by Staff and/or the subjective determinations by Staff.

MARK BURDYL, 66 Pollock Road, Latham, 12110 stated his belief that the Department's Legal Staff considers farmers as the enemy. He implores the audience to lobby as it is an

effective tool for change in the wetlands program.

ALAN NORTH, 8 Northern Sites, Mechanicville, 12118 looks to the Legislators to change the program and having one similar to the federal program. He believes the wetland size criteria is not manifest as intended. He sees a potential for a class action suit.

STATEMENTS FILED

(since the Department's letter of January 8, 1999 to property owners.)

JEFFREY A. & VALERIE J. FERGUSON, 1062 Laural Lane, Ballston Spa, 12020 filed a letter dated January 6 (sic), 1999 to advise that there is an ongoing construction project within the proposed wetlands as shown on map 22 and they dispute the proposed wetlands designation. The Ferguson's letter dated January 8, 1999 to Assemblyman James N. Tedisco's Office was forwarded directly to the Commissioner.

MERILYN J. WIEDERKEHR 435 Stage Road, Charlton, 12019 filed a statement dated January 19, 1999 and disputes the proposed wetland shown on map M-73 and requests a correction.

R.A. ANSCHUTZ, 4092 Jockey Street, Charlton, 12019, in a letter dated February 1, 1999, requests an on site meeting with the Department Staff and an explanation of the program.

AUDUBON SOCIETY of the CAPITAL REGION, Inc., P.O. Box 487, Latham, 12110, filed a statement dated February 5, 1999 by its conservation chair **DAVID H. GIBSON**. He seeks proposals for the wetlands FWW R-21 in Veteran's Park in the Town of Clifton Park. They also filed comments dated August 7, 1999 by **DAVID H. GIBSON**, Conservation Chair, 107 Longkill Road, Ballston Spa NY 12019 who favors the proposals and praises the process and program goals.

JOYCE E. KWOLEK 36818 Kimela Avenue, Zephyrhills Florida, 33541 filed a statement dated February 13, 1999 objecting to the proposed wetlands designation (unidentified).

ALLCO PROPERTIES, 11 Roberts Road, Waterford, 12188 submitted a statement by **MICHAEL A. O'CONNOR** dated February 14, 1999 rejecting the current proposed wetland designations since prior Department determinations found otherwise.

JUDITH WILLIAMSON, 23 Mann Road, Ballston Spa, 12020 filed a statement seeking a correction the Department noted by letter dated March 14, 1999.

MICHAEL NADEAU, 3446 Carman Road, Schenectady NY 12303 filed letters dated March 5, 1999, June 23, 1999 and August 12, 1999 seeking clarification of the wetland boundary and requesting a reduction of his property tax on the wetlands.

DR. DAVID M. GABAY, 188 Lake Avenue Saratoga Springs, 12866 filed a note dated March 27, 1999 seeking clarification of the limits proposed for wetlands C-22 on Parkhurst Road.

JEROME L. ORTON, 232 Dixon Drive, Syracuse, 13219 filed a statement dated March 17, 1999. He identified two wetlands as possibly being regulated as wetlands of unusual local importance.

PETER and JOANNE BLAAUBOER, 994 Goode Road, Ballston Spa, 12020 filed a statement dated March 31, 1999 requesting an on-site determination of the wetland limits prior to preparations for sale of the land.

LAURA McNEIL, 8B Cranberry Hill, Ballston Lake, 12019 filed a note dated April 19, 1999 seeks the wetland demarcation on her property.

MAY 1999

ROBERT KILLEEN JR., 791 Charlton Road, Ballston Lake, NY 12019, filed undated letters (perhaps in May and September and including September 30, 1999) and declares he is opposed to the program restrictions as it deprives land owners the use of their lands without tax relief. He recommends regulation by local zoning with elected officials answering to the public.

HENRY L. AYERS, 339 Peters Road, Gansevoort, NY 12831-2117 filed a letter dated May 3, 1999 with Patricia Riexinger, Staff Wetlands Program Manager, requesting the minutes of an earlier meeting.

DESPARK DEVELOPMENT 1080 Broadway, Albany NY 12204 was represented by TOM DESPART who filed a statement dated May 7, 1999 questioning the status of prior regulatory reviews for land development in the context of this proposed re-mapping,

THE TOWN OF GALWAY, PO Box 219 Galway NY 12074 filed a statement by its Assessor TRACY R. KILLEEN, regarding the acreage of wetlands under the program.

ALAN F. NORTH, 8 Northern Sites Drive, Mechanicville NY 12118 filed statements dated May 24, 1999 and September 15, 1999 and, among other things, questioning the "grand fathering" status of his project in this program. He also notes that certain field determinations by Department Staff are smaller than shown on the proposed maps and, in some instances are in fact separated by uplands that result in wetlands less than 12.4 acres. He notes that the Department's notification was defective as it identified the wrong wetlands and he notes that the re-mapping techniques are not enforceable because they were not properly promulgated.

BRADDEN B. RININGER, 41 Beaver Lane, New Paris PA 15554 filed statements dated May 25, 1999 and August 25, 1999 indicating Department Staff assured him certain land parcels were not wetlands so he purchased the parcels that now appear on proposed wetland maps. He asks

how he can recoup his investment in the land now? He is concerned about what the impact of the proposed wetlands designation in the vicinity of the southwest corner at Edie and Loudon Roads (address not given) would have on the construction of a house (he has the financing in place for the constructing and some \$60,000 may now be in jeopardy).

DONNA AND KEVIN THULL, own land on Brownell Road and filed a request dated May 25, 1999 for a more detailed identification of the proposed wetland boundary on their property and for consideration of tax relief for wetland owners.

REINHOLD F. WIRTH, 156 Middleline Road, Ballston Spa NY 12020 filed statements dated May 11, 1999 and May 26, 1999 with Governor Pataki essentially declaring that the wetlands program and the administrators do not serve the public interest. He urges the Governor to stop the wetlands reclassifications, use common sense, get the administrators out of the citizens personal business and characterizes the people as over-taxed, over-regulated and over-legislated.

JUNE 1999

FINCH PRUYN & COMPANY, INC., 1 Glen Street, Glens Falls NY 12801-2467, by its Adirondack Woodlands Manager, ERNEST L. HUNTINGTON, requested maps of the proposed wetlands on certain of its lands.

JEFFREY AND CATHERINE BROWN, 6022 Stanton Road, Middlegrove, NY 12850 filed letters dated June 3, 1999, June 12, 1999, July 21, 1999 and August 2, 1999. They indicate that the proposed wetland boundary erroneously includes lands wetted by the backwater of a temporary beaver dam. The backwater covers less than 12.5 acres but the Department Staff would include it within a larger nearby wetland and the Browns would be financially crippled by the beavers because, among other things, of the wetlands program restrictions on approved land development plans that pre-date the proposed mapping. The Browns would pursue litigation.

SHARON A. PETERSEN, 1596 Division Street, Galway, NY 120745 filed a statement dated June 3, 1999 in opposition to the re-mapping and the wetlands program because she would then no longer be able to sell her property "... *under the same terms arid conditions under which it was purchased ...* ". Further, she would seek compensation and reduced taxes for property lost to the program

EDMUND G. DEARSTYNE, 944 Grooms Road, PO Box 218, Rexford NY 12148 filed a statement dated June 7, 1999 telling that the proposed wetlands are and have been tillable land and now are wetted as developers altered the natural slope of the land, builders have installed drains haphazardly and existing creeks have been clogged with sediment and debris preventing normal drainage.

JOHN E. HEROLD, 791 Grooms Road, Rexford NY 12148 filed a letter (no date) stating the proposed wetlands designation would "crush" his future investment plans for development. He would favor selling wetlands, at fair market value, to the State.

DOMINICK DAN ALONZO, INC., GENERAL CONTRACTOR, 171 Saratoga Avenue, Mechanicville NY 12118 filed a letter dated June 17, 199 by **DOMINICK D. ALONZO** who questions the proposed wetlands designation on a land parcel adjacent to the County sewage treatment plant, claiming it would then be worthless.

GEORGE EADON, 335 E. High Street, Ballston Spa, NY 12020 filed a letter dated June 25, 1999 and claims a correction is needed in the proposed mapping as the existing vegetative cover in certain areas are not identified in the regulations and also the current mapping is not as flagged by Department Staff previously.

JULY 1999

EDGAR D. ALDERSON, 1468 Peaceable Street, Ballston Spa NY 12020-3102 submitted comments dated July 20, 1999. He is not satisfied with the process as the criteria for identifying wetlands by vegetation includes species found on uplands; as the designation of practically all streams as wetlands seems overboard; as the only recognized boundary is by Department Staff's on site flagging and there is no provision for a surveyor to render a related map; as the regulated buffer zone is not reasonable by ignoring topography, vegetation and other sensible factors and as there is no compensation for lands lost as wetlands probably beyond the scope of the legislation.

The wetlands program is among other things arbitrary, excessive and lacks the use of common sense and practical considerations. The program is not evenhanded as farmers and highway departments function under less stringent protective measures and finally, there are two sets of wetland requirements, State and federal.

GEORGE A. PATENAUDE c/o Best Eagle, 21 Maple Street, Mechanicville, NY 12118 filed a statement dated July 2, 1999 in opposition to the proposed wetland designation of land formerly the site of a residence and considers the designation as unauthorized confiscation, reduces the land value and creates a tax liability on unusable land.

KATHLEEN D. GLEASON, 9 Jackson Court, Guilderland, NY 12084 submitted a statement dated July 5, 1999 indicating her belief that the proposed wetland designation of her property at Rock City Road in the Town of Milton is in error as there has been no water there on her hill top parcel of land.

WILLIAM E. SCHILLING and JOY W. PINNELL, 2270 Ballston-Galway Road, Galway, NY 12074 filed a statement seeking a more accurate location of the proposed wetlands on site as apparently there are only rocks to differentiate it from surrounding land.

J. K. AND EVELYN PATRICK, 19650 Spring Oak Drive, Eustis Florida, 32736 filed a

statement dated July 20, 1999 asking for compensation for the proposed wetlands that would be deemed worthless to prospective buyers.

ANTHONY AND MICHELE SAUNDERS 54 County Road 70, Stillwater, NY 12170 submitted statements dated July 21, 1999 and September 27, 1999 protesting the proposed wetlands designation; the concomitant loss of land use and land value for resale and yet remains a tax burden; stating the belief that the wetlands designation is too restrictive and does not include a tax advantage. They further believe that local zoning and building codes provide needed protection and that the Department Staff should review the proposal to re-map.

ROBERT and BARBARA OSTRANDER, 3373 Galway Road, Ballston Spa, NY 12020 filed a statement seeking clarification of the proposed wetlands designation.

RALPH and ISABELLEACAMPORA, 2216 Route 67, Galway NY 12074 filed a statement seeking verification of wetlands before the final mapping as the designation would significantly devalue the market value of the land.

EARL VAUGHN, 3586 Galway Road, Ballston Spa, NY 12020 filed his statement dated July 25, 1999 advising that certain lands had existing drainage altered by a manmade dam. He notes that certain lands are sand and gravel. He seeks an on site meeting with Department Staff.

WILLIAM ENGELMAN, 6 Partridge Place, Ballston Lake, NY 12019 filed a statement dated July 29, 1999. He states he generally supports amended wetland maps and notes that in the Town Clifton Park, the most available lands for development now are wetlands and adjacent areas. He supports mapping more land as wetlands in the vicinity of Wood Road, exit 10 and northeast of Ushers Road; in the vicinity of MacElroy Road and in the vicinity of the proposed Spa golf course east of route 9. He would allow existing cultivated vegetation (gardens and lawns) in adjacent areas but otherwise advocates rigorous protection of existing wild plant growths.

ORLANDO E. PICOZZI, 300 Middle Line Road, Ballston Spa, NY 12020 filed a statement dated July 29, 1999 noting that within the proposed wetlands are regular agricultural activities, there are grass covered roadways, gravel driveways and culverts and there is an intermittent stream with storm water runoff. He request these areas be removed from wetlands considerations.

RUSSELL & TRUDY BOWERS, 23 Halfway House Road, Mechanicville NY 12118 disagree with the proposed wetlands designation and believe it should be re-evaluated to retain its market value.

ANNE BOSHER MUSTICO, c/o Frank Boshier, 3 Sherwood Lane, Burnt Hills NY 12027 filed a statement dated July 29, 1999 seeking relief from the proposed wetlands designation of 60 acres of her 80 acre parcel co-owned with Mr. Nadeau. She claims an extreme hardship.

AUGUST 1999

PATRICIA H. and HOWARD LAWRENCE, 247 Sugar Hill Road, Rexford NY 12148-6728 filed a request dated August 3, 1999 seeking written confirmation of the field determination by the Department Staff that flagged 4.279 acres as wetlands rather than the 16 acres shown on the proposed map.

ALBERT D'ANTONI is represented by King, Adang, Arpey, Marcuccio & Naughton (Elizabeth A. Marcuccio of Counsel) who filed a statement dated August 3, 1999 indicating the proposed wetlands map apparently does not include Mr. D'Antoni's property.

JOSEPH J. NOVAK 69 Tallow Wood Drive, Clifton Park, NY 12065 submitted a statement dated August 6, 1999 requesting clarification of the wetlands boundary in relation to a proposed home site.

KIM HELMINTOLLER, 91 Stark Road, Corinth NY 12822 filed comments dated August 6, 1999, August 18, 1999, August 25, 1999, September 8, 1999, September 15, 1999 and September 24, 1999. Her comments include requests for information and clarification regarding wetlands in her vicinity. She further states her belief there are procedural and notice defects (*e.g.* untimely notice, no use of certified mail for the notice, unspecified areas and classifications of proposed wetlands, etc.) She claims the program Staff is arbitrary and capricious by allowing the application of weed killers into Woodland Lake that then outlet into protected wetlands. She also claims the aquifer yield data in neither current nor accurate. She is protesting the proposed wetlands designation as a land taking and protesting the burden put on the landowner to prove the land is not wetlands, etc., as claimed. She believes the map proposal does not comply with the guidelines and the Program Staff acted arbitrarily and capriciously and perhaps in the best interest of an employee who resides in the vicinity.

RONALD L. BROWN, 8 Vischer Ferry Road, Rexford NY 12148 filed a petition dated August 9, 1999 stating their belief that certain described lands are not wetlands but lawns and gardens. He then advises that not all those signing the petition received notice of the proposed wetlands mapping.

ALPINE LAKE CAMPING RESORT 78 Heath Road Corinth NY 12822-2306 filed comments dated August 9, 1999 by LEIF SANDWICK. He disputes his property is wetlands as proposed.

KENNETH A. & CELIA A. HAYES 1178 Ridge Road, Scotia NY 12302 filed comments dated August 9, 1999 in opposition to the proposed wetlands mapping and seek clarification of the location of wetland boundaries and their property lines. They view the wetlands designation as unfairly taking away the rights of private property owners and recommend purchase by the State or other relief.

NEW YORK STATE CANAL CORPORATION 200 Southern Boulevard, PO Box 189, Albany NY 12201-0189 filed a query dated August 10, 1999 and comments on September 9, 1999 by **JOHN R. DERGOSITS, PE**, Canal Environmental Engineer seeking an on-site wetlands determination by Department Staff and corrections to the proposed wetland maps.

MARGARET K. KEEN, 4-A Pineview Court, Waterford NY 12188-1425 filed a request dated August 12, 1999 to remove her land from the proposed wetlands map.

JAMES F. HATLEE, Esopus Drive, Clifton Park NY 12065 filed a comment dated August 12, 1999 on behalf of **MAUDE HATLEE** indicating the need for clarification and/or correction of the proposed wetlands map.

GEORGE AND MARIA HANKE, 22 Tamarack Trail, Saratoga Springs NY 12866 filed comments dated August 15, 1999 questioning both the scientific basis and the legal basis for the proposed wetlands designations as mapped. They seek to have the property removed from the proposed wetlands designation.

FRANCIS E. BLAIR, JR. and MARY JANE BLAIR 743 Randall Road, Ballston Spa NY 12020 submitted comments dated August 16, 1999 and September 8, 1999 noting that the designation process by Department Staff seems unscientific, the designations are unfair and the public hearing did not have enough room for the public, there were not enough chairs for the people and the judge showed little or no interest. They seek a stop to the proposed mapping or pay compensation to the owners of newly designated wetlands. They also want an on-site determination if mapping continues.

HELEN M. A. SMITH, 108 Wild Leaf Drive, Webster NY 14580 filed a request dated August 21, 1999 seeking an on-site determination of wetlands by Department Staff on certain specified parcels in the Town of Ballston. She requests that her son, Walter John Smith, 88 Chestnut Street, Ballston Spa be contacted.

DAVID T. STAFFORD, 1108 Peaceable Street, Ballston Spa, NY 12020 submitted statements dated August 23, 1999 questioning the use of streams to connect small wetlands to arrive at the minimum size; questioning the width of proposed wetlands along streams and questioning reliance on a plant species for identifying wetlands. He suggests compensation for proposed wetlands and would otherwise scrap the proposed mapping.

RICHARD VOEHRINGER, 788 Goode Street, Ballston Spa, NY 12020 submitted comments dated August 23, 1999 calling the proposed wetlands designations as gross confiscation of properties and with current property taxes furthers the incentives to leave New York State. He notes there is also a grass roots movement in opposition to the proposed mapping.

JANE H. STEVENS and FRED S. STEVENS, PE, 178 Vischers Ferry Road, Rexford NY 12148 filed comments and suggestions dated August 23, 1999. They seek clarification of the

wetlands boundary on their land by on-site marking and a formal survey at State expense..They would have the Department Staff revisit the wetlands legislation and drop the smaller parcels from consideration. They regard designations due to soil type or vegetation as "overkill". They seek equitable compensation for lands designated wetlands, or the use of conservation easements or some just alternative.

CINDY SABIA, 2078 Bergen Street, Bellmore NY 11710 filed comments dated August 25, 1999 indicating that the proposed wetlands designation would jeopardize existing and future business ventures.

GEORGE H. WIEDERKEHR, 435 Stage Road, Charlton NY 12019 submitted comments dated August 26, 1999 expressing his belief the property should be removed from proposed wetlands maps as it does not meet the wetland criteria. He questions who is libel for wetlands, and would the State buy wetlands?

ALLCO partner **JAMES E. NILES**, 475 Grooms Road, Clifton Park NY 12065 filed a request dated August 29, 1999 seeking a site meeting to clarify any wetland limits on lands currently being developed.

HERB AND GLORIA THOMAS, 1061 Route 29, Schuylerville NY 12871 filed a comment dated August 30, 1999 that included a copy of a notice from the Department dated May 31, 1979 indicating that their property was not a wetland and was removed from the existing wetlands map.

FREDERICK and EDNA SAMBROOK of SAMBROOK TRUCKING/GOLDENTOUCH FARMS, 126 White Road Ballston Spa NY 12020 filed comments dated August 31, 1999 indication a common outrage with the proposed wetlands map. He notes a hill on his property that is a proposed wetland as an example of the need for better wetlands identification. He would have the federal and State have common wetlands with common guidelines.. He sees the wetlands designation as a taking and therefore the landowners should be compensated.

SEPTEMBER to DECEMBER 1999

ROBERT HOFFMAN, 626 Loudon Road, Latham NY 12110 filed a statement dated September 2, 1999 requesting, among other things, that the mapping be put aside. He is a businessmen whose land development plans have been obstructed by the governmental wetlands study.

CONCHITA DAWSON-MILLER PO Box 181, Rensselaer NY 12144 filed comments dated September 7, 1999 regarding property on Edie Road in the Town of Wilton. She objects to the restrictions the wetlands program would impose; the designation of non wetlands as wetlands and the lost value of a wetlands designation.

BENJAMIN FRANCKZK, 268 Grooms Road, Clifton Park, NY 12065 filed a request dated September 7, 1999 asking that the choice of land use be left with the owner.

MARTA L. FINCKE, County Road 70, R.D., Stillwater, NY 12170 submitted comments dated September 8, 1999 claiming that the maps are not clear and what is planned is not mentioned so she asks for clarification.

ALAN M. and DARIA A. IVERSEN, 4 South Barney Road, Clifton Park, NY 12065-5845 filed a statement dated September 9, 1999 advising that a stream shown on the proposed wetlands map has been replaced by a culver/subsurface drainage system. They seek a on-site visit, clarification and remedies for, among other things, the wetlands.

THOMAS and ROBERTA SHAMBO, 14 Charlton Road, Ballston Spa, NY 12020 filed comments dated September 9, 1999 advising that the Department Staff flagged as wetlands sloping land with dry sandy soils and so they now seek a re-evaluation on-site.

JOAN H. FRANK and CAROLYN PRZYBYLSKI, 1533 Peaceable Street, Ballston Spa NY 12020-3116 object to the proposed mapping in a statement dated September 9, 1999 and question the trout stream designation. They characterize the adjacent area designation as a land grab.

SARATOGA COUNTY ENVIRONMENTAL MANAGEMENT COUNCIL, (SCEMC) 50 West High Street, Ballston Spa NY 12020 is represented by **GEORGE HODGSON**, Director who, on September 10, 1999, filed recommendations for the wetlands mapping process as developed by the SCEMC and then endorsed by the County Board of Supervisors' Legislative and Research Committee. Those recommendations include, in part, more detailed maps, descriptions of the determinate criteria and an extended period of time during the growing season to allow on-site determinations prior to the public hearing process.

ROBERT E. GROT, 91 Scotchbush Road, Burnt Hills, NY 12027 filed comments dated September 10, 1999 describing the site visit by Program Staff and concludes that the proposed wetland is less than the minimum 12.4 acres and should be excluded from the designated wetlands.

DEBORAH J. MILSOP, 67 Grace Moore Road, Saratoga Springs, NY 12866 filed a request dated September 10, 1999 for an on-site demonstration of wetland boundaries since the proposal is disputed by her environmentalist advisor.

RICHARD D. WILSON and DORIS D. WILSON, 953 Goode Road, Ballston Spa, NY 12020 filed comments dated September 11, 1999 to advise that they were not notified of any proposed changes yet eventually found that there would be changes. Hence, they requested an on-site determination of wetland limits.

STANLEY POPOWSKI, 37 Kosciusko Avenue, Cohoes, NY 120447 filed a statement dated September 11, 1999 protesting the adjacent area designation and seeks the criteria used in making wetlands determinations. He further believes the State should financially support owners of wetlands.

DONNA J. FISHER, Hathaway Road, Schuylerville, NY 12871 filed comments dated September 11, 1999 and advises, among other things, of her operation of approximately 109 acres as a wildlife preserve. She is indignant and angry with the wetlands program. She seeks clarification on-site of the proposed wetlands. She resents the lost value of her land due to the

wetlands designation and would have the State compensate for lost value.

PATRICIA VENDITTI, 2770 Bell Road, Galway, NY 12074 submitted a requests dated September 12, 1999 asking for her property to be removed from the wetlands designation and asking that an on-site determination of wetland limits be made. She seeks compensation for the regulatory taking of private land and recommends a cooperative rather than the current hostile approach to wetlands preservation.

SIERRA CLUB, (Sierra) PO Box 3784, 6281 Johnston Road, Albany NY 12203-3784 filed statements dated September 13, 1999 by their attorneys Marc S. Gerstman (Law Office of Marc S. Gerstman) and Gary S. Bowitch (of Counsel, Dworkin Law Firm). Sierra proposes wetlands S 23 and S 24 be treated as one Class I wetland because of apparent hydraulic, wildlife and plant type connections, among other things. Sierra recommends extending the adjacent areas to wetlands S 23/24 especially since the draft environmental impact statement for a proposed golf course concedes the proposed golf course would destroy adjacent upland areas. Sierra Also recommends "Perched Swamp White Oak Swamp" be designated as a Class I Wetland of unusual local importance pursuant to Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York §664.7(c). Finally, Sierra proposed all wetlands in the 308 acre park be designated Class I wetlands of S 23/24.

TOWN OF NORTHUMBERLAND, ("Town") PO Box 128, Catherine Street, Gansevoort NY 12831 submitted their Town Board resolution certificate #337 dated September 13, 1999 through the Office of the DENISE D. MURPHY, Town Clerk. The Town requests, among other things, the proposed wetland maps be withdrawn 1,111 legislative reforms enables adequate reimbursement for subsequent lost tax revenues.

MR. AND MRS. JOHN J. KANE, 44 Yunch Road, Mechanicville NY 12118 submitted comments dated September 13, 1999 and opposed the proposed wetlands designations on their property and requests more detailed mapping and an on-site determination especially since it appears to include a 350 foot deep dry well constructed in 1988. They request reconsideration of the designation based on its impact reducing land values and find it shameful that the burden is on the private land owner to prove the land is not wetlands.

LAWRENCE G. SWEENEY, GEORGE J and LEONA E. SWEENEY, 369 Route 67, Mechanicville, NY 12118 filed their comments dated September 14, 1999 and request a review of the wetlands designation. They dispute the accuracy of the map elevations upon which the designations rely.

DANIEL J. FLAHIVE, I Turner Park Lane, Scotia NY 12302 file statements dated September 14, 1999 and questions the wetlands designation on his 68.4 acre parcel in Clifton Park and requests an on-site determination.

The Honorable **HUGH T. FARLEY**, State Senator, 44th District New York State Legislative Office Building room 112, Albany NY 12247 filed comments dated September 15, 1999 based on his constituents opposition to the mapping process and, among other things not considered in this forum, the wetlands permitting program. The constituents claim the costs and the burdens

under this program are on the property owners and they seek compensation accordingly. He recommends the Department address the issue of compensation and to streamline, simplify and improve the regulatory process, improve the map accuracy before mapping and to, among other things, improve public relations.

DONALD C. GREENE, 698 Route 146-A, Clifton Park NY 12065 filed a statement dated September 15, 1999 in opposition to the proposed wetlands designation since the land was formerly recognized under the Department's wetland program as upland but since then the land was altered by others without notice.

DCG DEVELOPMENT CO., 240 Clifton Corporate Parkway, Clifton Park, NY 12065 filed a statement dated September 15, 1999 by DONALD C. GREENE in opposition to the proposed designation as wetlands (and adjacent area) of land at different locations. At one location, the land was formerly upland and allegedly altered by the NYS Department of Transportation highway construction, They have not responded after notice by DCG of the condition and, as wetlands, the property value is diminished. At two other locations, the land was purchased based on then existing wetlands and local zoning documentation with the expectations that the lands could be developed accordingly. The proposed wetlands designations would dampen those expectations.

MARIS KARASZ, JOHN and MARIE KARASZ are represented by DAVID C. KARASZ, Esq., 130 Hatchery Road, Gansevoort NY 12831. He filed objections dated September 15, 1999. He notes that the Maris Karasz property has an intermittent stream surrounded by sandy soils. He notes the John and Marie Karasz properties have portions allegedly now wetted because a neighbor's disturbance of the natural drainage. Other portions are proposed for wetlands designation in retaliation for refusal to allow hunting and otherwise would not be founded as wetlands. He requests the proposals be abandoned.

KARL PARKER 285 South Line Road, Galway NY 12074 filed a comment dated September 15, 1999 advising that the proposed wetland is east, not west, of the cemetery on his road.

HERBERT F. ROY, PE, LS, 659 Kinns Road, Clifton Park, NY 12065 filed comments dated September 16, 1999 disputing the proposed wetlands designation and requests an on-site determination by Department Staff.

RUTH E. SCHAAF, 5192 South Street, Galway NY 12074 filed statements dated" September 16, 1999 including statements by her mother MARY ANNA PARISH. Both indicted that State highway construction caused changes to the natural drainage and remedial construction did not remedy the condition. She requests the proposed designation as wetlands be abandoned.

MRS. ALBERT W. LARUE, 621 Charlton Road, Ballston Spa NY 12020 filed comments dated September 17, 1999 requesting the dairy farm not be designated a wetland since its been farmed for seven (7) generations.

ALBERT W. LARUE, 621 Charlton Road, Ballston Spa NY 12020 filed comments dated September 20, 1999 requesting the dairy farm not be designated a wetland since it would be an

unconstitutional land taking and could force him out of business.

DAVE TENYCK 650 Rock City Falls Road, Ballston Spa NY 12020 filed a statement dated September 29, 1999 seeking clarification of the wetlands boundary on his property and his daughter's property.

LINDA CONPROPST 58 Ray Road, Rexford NY 12148 filed an undated (perhaps October 21, 1999) statement disputing the proposed wetlands designation, the criteria used, the absence of an on-site determination and the taking of land without compensation. She further states that the proposals must be withdrawn.

BALLSTON TOWN BOARD by its Town Clerk MURIEL K. SWATLING filed Resolution 99-90 requesting the Department to withdraw the proposed wetlands map, to compensate owners Of mapped wetlands, to provide funds for appeals by owners, to provide tax relief for owners and to compensate local municipalities for lost revenues to relieve owners of wetlands.

SARATOGA COUNTY BOARD OF SUPERVISORS by BARBARA J. PLUMMER filed Resolution 176-99 requesting the Department to withdraw the proposed wetlands map until the State can compensate local municipalities and school districts for lost revenues due to the wetlands designation.

TOWN OF MILTON by its Town Clerk WILLIAM J. MEVEC, filed Resolution 38 of 1999 requesting the Department to withdraw the proposed wetlands map until ,the State can compensate the Town and its local school districts for lost revenues due to the wetlands designation.

TOWN OF CORINTH by its supervisor RICHARD B. LUCIA, on November 22, 1999 filed a resolution, # 124 of 1999, requesting the Department to withdraw the proposed wetlands map until the State can compensate the Town and its local school districts for lost revenues due to the wetlands designation.

This completes the list of responses to the Notice of Hearing as of the end of December, 1999.