



MEMORANDUM

TO: File

FROM: Mark Rooks

MR

DATE: October 17, 2012

RE: 1984 memo from Ray Curran and Gary Duprey

Ray and Gary wrote a memo to Acting ED Ed Lynch in 1984 about interpreting Agency regulations addressing wetland values. The copy I have has been copied so many times as to be almost illegible and I can't find the original or a good copy, so I am transcribing the memo. The poor copy will be reproduced because it depends in part on a hand-drawn diagram.

C: Daniel M. Spada
Mary O'Dell

[Transcription begins]

To: Edmund E. Lynch

From: Raymond P. Curran and Gary J. Duprey

Date: June 17, 1984

Subject: Interpreting Part 578 of the Agency's Rules and Regulations

Since May 1, 1983 the Agency's Rules and Regulations regarding the implementation of the New York State Freshwater Wetlands Act have been in effect. To date, 62 applications for wetland permits have been received. Of the 62 applications, 30 have been for the purpose of constructing woods roads for forestry activities. Based on staff's field experiences in applying the Rules and Regulations, it is apparent that Sections 578.5(k) (associated with open water) is too tightly written with regard

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to the value rating. It does not provide flexibility in evaluating the impact of projects with widely varying scales of disturbance on wetlands associated with open water. Often these wetlands are narrow bands of scrub shrub and/or wet meadow that are a small part of the overall wetland complex. If interpreted too narrowly, the regulations would prohibit the construction of a woods road across any portion of the wetland because it has a value rating of "1" pursuant to Section 578.5(k).

Considering the nature of a woods road that will be used for forestry activities and the opportunity to abate the negative impacts of the project on hydrologic values via permit conditions, i.e., use of geotextile fabrics, corduroying and culverting, it is hard to conceive that these types of projects were ever meant to be rejected unless there are other reasons to do so: i.e. multiple similar value ratings that indicate that the wetland is a more diverse and therefore valuable area.

Recently reviewed projects have highlighted the need to interpret Section 578.5(k) in the manner that was originally intended. To that extent, we propose the following interpretation:

1. Those portions of wetlands that have more than 20 contiguous acres located within the mean high water mark of open water have a value rating of 1. Those portions of wetlands that are located outside the mean high water mark of the open water have a value rating of 2.
2. Wetlands that have less than 20 contiguous acres located within the mean high water mark of open water will have a value rating of 2. If the wetland area is less than 2 acres within the mean high water mark of the open water, the wetland will have a value rating of 3.
3. When separate wetland covertypes exist adjacent to open water, only that covertype which is within or adjacent to the open water will receive a value rating pursuant to Section 578.5(k).

EXAMPLE

[hand-drawn diagram, see copy below]

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For the purpose of determining the value rating of a wetland pursuant to Section 578.6 (multiple values rating), the highest value rating of the wetland in each value class shall be used. The value classes of wetlands are as follows:

- 1) Values/wetland coertype - (a) through (j)
- 2) Values/related to surface water systems - (k) and (l)
- 3) Values/productivity or diversity - (m) through (o)
- 4) Values/presence of threatened or endangered species (p) and (q)
- 5) Values/Geological Features - (r) and (s)
- 6) Values/Social Factors - (t) through (x)

May we meet with you and those receiving a copy of this memo to discuss the documentation of the interpretation of the value rating system.

[four hand-written lines, apparently in the same hand as the diagram, transcribed below]

>20A & w/out MHWM = 2
>20A & w/in MHWM = 1
<20A & w/in MHWM = 2
<2A & w/in MHWM = 3

GJD:RPC:kal

Cc: R. Glennon
J. Banta
G. Hill
E. Hood
J. Hill

[transcription ends, copy follows]

State of New York Executive Department

Adirondack Park Agency

Herman F. Cole, Jr.
~~XXXXXXXXXXXXXXXXXXXX~~
Chairman
Edmund E. Lynch, Acting
~~XXXXXXXXXXXXXXXXXXXX~~
Executive Director

M E M O R A N D U M

TO: Edmund E. Lynch
FROM: Raymond P. Curran and Gary J. Duprey *D JLD*
DATE: June 27, 1984
SUBJECT: Interpreting Part 578 of the Agency's Rules and Regulations

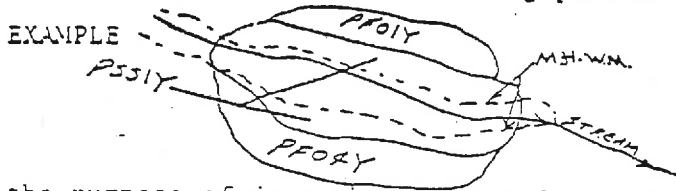
Since May 1, 1983 the Agency's Rules and Regulations regarding the implementation of the New York State Freshwater Wetlands Act have been in effect. To date, 62 applications for wetland permits have been received. Of the 62 applications, 30 have been for the purpose of constructing woods roads for forestry activities. Based on staff's field experiences in applying the Rules and Regulations, it is apparent that Section 573.5(k) (associated with open water) is too tightly written with regard to the value rating. It does not provide flexibility in evaluating the impact of projects with widely varying scales of disturbance on wetlands associated with open water. Often these wetlands are narrow bands of scrub shrub and/or wet meadow that are a small part of the overall wetland complex. If interpreted too narrowly, the regulations would prohibit the construction of a woods road across any portion of the wetland because it has a value rating of "1" pursuant to Section 573.5(k).

Considering the nature of a woods road that will be used for forestry activities and the opportunity to abate the negative impacts of the project on hydrologic values via permit conditions, i.e., use of geotextile fabrics, corduroying and culverting, it is hard to conceive that these types of projects were ever meant to be rejected unless there are other reasons to do so, i.e., multiple similar value ratings that indicate that the wetland is a more diverse and therefore valuable area.

Recently reviewed projects have highlighted the need to interpret Section 573.5(k) in the manner that was originally intended. To that extent, we propose the following interpretation:

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June 27, 1984
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3. When separate wetland covertypes exist adjacent to open water, only that covertype which is within or adjacent to the open water will receive a value rating pursuant to Section 578.5(k).



For the purpose of determining the value rating of a wetland pursuant to Section 578.6 (multiple values rating), the highest value rating of the wetland in each value class shall be used. The value classes of wetlands are as follows:

- 1) Values/wetland covertype - (a) through (j)
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- 4) Values/presence of threatened or endangered species (p) and (q)
- 5) Values/Geological Features - (r) and (s)
- 6) Values/Social Factors - (t) through (x)

May we meet with you and those receiving a copy of this memo to discuss the documentation of the interpretation of the value rating system.

GJD:RPC:kai

cc: R. Glennon
J. Banta
G. Hill
B. Hood
J. Hill

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 >20A w/in MHW M = 1
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