# 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:

Vermont Fish and Wildlife
Roxbury Fish Culture Station
3696 Roxbury Road
Roxbury, VT 05669

**Petition for the reclassification of a mapped Class II wetland to a Class III wetland**

3696 Roxbury Road, Roxbury

File #:2016-308

Date of Decision: [DATE]
Decision: "[Decision on classification]"



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. Section 4.2 of the VWR

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 Commissioner Louis Porter from the Vermont Department of Fish and Wildlife for a Wetland Determination #2016-308 on 7/155//2016. The Wetland Determination was put on notice from [DATE] until [DATE] .

2. The subject wetland is located at the Vermont State Fish Culture Station located at 3696 Roxbury Road (VT Route 12A), on the west side of the road. A map showing the

approximate location of the subject wetland was prepared by Bannon Engineering, entitled "Existing Conditions Wetland Map" dated 6/7/2016.

3. Shannon Morrison, District Wetlands Ecologist, conducted a site visit to the subject property with Jeremy Whalen, VTFW Station Manager, on 5/25/2016.

4. The subject wetland is currently identified as a Class II wetland on the Vermont Significant Wetlands Inventory (VSWI) map. The petition is to reclassify this wetland from Class II to Class III.

5. The wetland in question is described in detail in Sections 4 and 5 of the permit application. Generally, the wetland consists of a combination of groundwater seeps, and man-made ponds used for fish culture operations associated with the Third Branch of the White River. The fish hatchery was originally constructed in 1891, and was severely damaged during Hurricane Irene. The natural portion of the wetland are seeps associated with the railroad tracks and are interspersed as pockets throughout the site. A steep hillside is located behind the tracks, and the railbed acts as a dam for water draining down the hillside. Seeps occur at the base of the railbed and drain towards the hatchery. The hatchery collects some of the seep water, but is mainly fed from water piped from the Third Branch. The entirety of the Fish Hatchery was mapped on the VSWI maps. While the man-made ponds are lined with concrete and clearly not natural wetland, there is approximately 0.47 acres of emergent and shrub seep influenced wetland that intersect with the VSWI polygon.

6. Public comments were received from [names] during the public comment period.

**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 following functions are either not present or are present at such a minimal level as to not be protected functions: 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); exemplary wetland natural community (Section 5.5); threatened and endangered species habitat (Section 5.6); education and research in natural science (Section 5.7); recreational value and economic benefits (Section 5.8); open space and aesthetics (Section 5.9); and erosion control through binding and stabilizing the soil (Section 5.10).

**2. 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 not significant for the water storage for flood water and storm runoff function as demonstrated in Section 7 of the petition and as confirmed through a site visit by Agency staff. While the hatchery is located in the floodplain, the small seep wetlands interspersed throughout the site to not offer additional flood storage capacity from the upland portions of the site. The area is developed as the hatchery, and any additional storage capacity is supplied by the man-made features on the site.

**3. 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 not significant for the surface and ground water function as demonstrated in Section 8 of the petition and as confirmed through a site visit by Agency staff. The natural wetlands on this property are only connected to the Third Branch by the artificial piping provided by the piping at the Fish Hatchery. VT Route 12 provides a natural barrier between these wetlands and the Third Branch. The seep wetlands may provide groundwater discharge points, but offer little in the way of filtration and nutrient uptake. It is highly unlikely that the manmade features at the hatchery provide any water quality benefits.

**4. 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 not significant for the water storage for the fish habitat function as demonstrated in Section 9 of the petition and as confirmed through a site visit by Agency staff. The seep wetlands may provide some cold-water input to the hatchery, but this is taken out of the context of a natural system. Without the hatchery, these wetlands would have no influence on fish habitat associated with the Third Branch.

**5. 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 not significant for the water storage for the wildlife habitat function as demonstrated in Section 10 of the petition and as confirmed through a site visit by Agency staff. The wetlands are small in size and are surrounded by the hatchery infrastructure and the railroad.

**6. 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.

The wetland is not significant for the exemplary wetland natural community function as demonstrated in Section 11 of the petition and as confirmed through a site visit by Agency staff.

**7. 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 as demonstrated in Section 12 of the petition and as confirmed through a site visit by Agency staff.

**8. 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 not significant for the education and research in natural sciences function as demonstrated in Section 13 of the petition and as confirmed through a site visit by Agency staff. While the Hatchery provide educational opportunities, none of these are contingent on the wetlands on the site.

**9. 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 function as demonstrated in Section 14 of the petition and as confirmed through a site visit by Agency staff.

**10. 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 function as demonstrated in Section 15 of the petition and as confirmed through a site visit by Agency staff.

**11. 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 not significant for the erosion control through binding and stabilizing soil function as demonstrated in Section 16 of the petition and as confirmed through a site visit by Agency staff.

**Determination of Wetland Classification**

Based on the petition dated 7/15/2016, information obtained during a site visit by Wetlands Program staff on 5/25/2016, 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 not a Class II wetland.

**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.

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.

Alyssa B. Schuren, Commissioner
Department of Environmental Conservation

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

Dated at Montpelier, Vermont
this____ day of_____, 2016

ABS/LVPL/Initials.