

## **Minutes from the Wetlands Task Force Meeting - February 3, 2000**

The second meeting of the Wetlands Task Force started at 8:40. Attendance was taken (Attachment 1) and the minutes from the previous meeting were approved without any changes.

Bob Whitehead, from Kyran Research Associates, updated the task force on the status of the RI DEM Permit Streamlining contract. The new system will feature a centralized database with a common facility identifier that will allow DEM to track the compliance efforts of a facility in all media programs. When completed, the new system will allow DEM to process applications faster, increase public access to permitting information and allow DEM to be more efficient in the enforcement process. The Wetlands program module is scheduled to be installed this December.

Director Reitsma indicated that DEM was interested in moving forward with topics raised in the draft Wetlands Report that was distributed at the first meeting. The group was then asked to identify additional problems because there were new members of the task force and inclement weather forced some people to miss the previous meeting. The members were also requested to identify issues from the draft Wetlands Report that needed to be clarified or discussed. If an issue was not identified as being problematic, then DEM could move forward with the program streamlining opportunities noted in the Wetlands Report. The task force members identified the following issues for further discussion:

1. What drives deficiencies in permit applications?
2. Evaluate the definition of jurisdictional area, including buffer zones.
3. Application of the rules by division staff should be consistent. Decisions should be made at the supervisor level to ensure there is consistency and predictability with applying the regulations. It was noted however, that this could cause a bottleneck in the permit process, and a balance must be reached with respect to consistency of review and the time it takes to review the permit application.
4. Municipal veto is a critical part of the Wetlands Act.
5. The regulations should provide clear guidance about wetland types and allowable alterations. Performance standards for wetland applications should be developed. These kinds of changes could make the outcomes of the permitting process more predictable.
6. The definition of a wetland was raised.
7. DEM should consider alternative or more modern ways to delineate wetlands and should be trained in newer delineation techniques like soils and how to handle farmed wetlands.
8. Regulation of adjacent upland areas should be discussed and these areas should be evaluated for small wetland impacts.
9. Wetland biologists should be certified to delineate wetlands. DEM would then spot check the work of private sector. It was mentioned that DEM was not interested in a licensing program. It would consider allowing individuals with a defined set of qualifications to certify the delineation of wetland edges in their application as being correct.
10. The DEM regulations concerning floodplain alterations in urban areas should be consistent with FEMA regulations.
11. Wetlands and storm water regulations should be consistent.
12. A wetland mitigation policy should be considered.

13. DEM should conduct simultaneous engineering and biological reviews of wetland applications.

The issues identified at the first meeting were organized into two tables. Table 1 identified issues that needed further clarification from the task force. Table 2 grouped the issues and identified the resources that could be used to study the issue. Due to time constraints, a discussion was not held on the prioritization of the identified administrative, policy or regulatory issues. In order to move the process forward a work group was assigned to develop recommended solutions for each of the problem groupings. Table 3 below is a compilation of the membership of each work group and a brief description of the topics to be reviewed.

A leader was solicited for each group at the meeting. Each group was requested to meet prior to the next meeting and bring back a recommendation to resolve each issue or a schedule for resolving the more complex issues. Tom Getz can be used to help organize the working groups.

The chart entitled "Discussion Later" (Table 2) was reviewed and people volunteered to participate in the work groups. The following additional points were raised:

- DEM wetlands program should allow for and include municipal participation in major projects early in the process.
- Use URI/Cooperative Extension and the RI Association of Wetland Scientists for staff and municipal training on wetland issues.
- There are a number of mapping resources available (including GIS, utility industry maps and information in CD's). It was suggested that we contact Peter August from URI to give the task force a brief overview of his Critical Lands project that demonstrates some of the tools available for wetlands mapping.

Statutory revisions were discussed and it was decided that:

- Third-party access issues and a variance provision should be added to the existing list of items to be discussed.
- The declaration of intent should be clarified and strengthened and should include a statement that state policy is no net loss of wetlands.
- The definition of wetlands and adjacent buffer zones should be discussed and the definitions used in the previous legislative revisions should be evaluated. A point was raised that increasing buffer zones would be looked on as DEM attempting to expand its authority. Another issue raised was the accuracy of USGS maps to identify perennial watercourses. These maps may not accurately depict these watercourses and could cause problems that would decrease DEM regulatory authority.
- Chuck Horbert will forward his information on wetlands definitions to the statutory working group.

The Wetlands Task Force Roster will be reformatted and distributed prior to the next meeting.

The meeting was adjourned and the Wetlands Task Force will meet again on Thursday March 2, 2000 at 8:30 AM in the same location.

<b>Table 1 Discussion Now</b>	
<b>Attachment A Issues</b>	<b>Priority ( H – L )</b>
<b>Administrative</b>	
# 7 CRMC / DEM Consistency	
# ? Deficiencies	
<b>Policy</b>	
# 2 Enforcement of Conditions	
# 9 Guidance / Outreach	
<b>Regulations</b>	
# 2 3 <sup>rd</sup> Party Access	
#8,9 Exemptions	
# ? Footprint vs. Square Foot	
# ? Avoidance vs. Mitigation	
# ? Deficiencies	
# ? Certification	

<b>Table 2 Discussion Later</b>	
<b>Attachment A Issues</b>	<b>Assignments / Due Date</b>
<b>Administrative</b>	
#1 “Simple Applications”	DEM Staff
#4 CRMC / DEM Consistency	DEM / CRMC
<b>Policy</b>	
#1 Remove vs. Stop & Reapply	DEM Staff
#3,4 Watershed, Significance of Wetlands	DEM Staff + Subgroup
#9 Guidance / Outreach	DEM
<b>Regulations</b>	
#1,3,5 Significance of Wetlands	Subgroup
#4 Cumulative Alterations	DEM Staff + Subgroup
#7 Beneficial Projects	DEM Staff + Subgroup
#8,9 Exemptions	DEM Staff + Subgroup
#10 Application Modifications	DEM Staff

**Table 3  
Wetlands Working Groups**

<b>Issue #</b>	<b>Brief Description</b>	<b>Team Leader</b>	<b>Working Group Members</b>	<b>Phone / Fax</b>	<b>E-Mail</b>
1 (A),10(R)	Application Processing	Chuck Horbert	Chuck Horbert	222-6820 x7402	chorbert@doa.state.ri.us
4 (A)	CRMC / DEM/ Federal Consistency	Dave Reis		783-7402	dreis@crmc.state.ri.us
			Carol Murphy	222-3961 x7208	cmurphy@dem.state.ri.us
			Dave Baudouin	521-3248 fax: 751-2434	dbaudouin@provchamber.com
			John Boehnert	861-8200 Fax: 861-8210	jmb@psh.com
			Joe Frisella	783-5949	jfrisella@frisella.com
			Dennis Esposito	274-7200 Fax: 351-4607	desposito@apslaw.com
			Vin Palumbo	222-2023 x4049	vpalumbo@dot.state.ri.us
			Peter Holmes	(617) 918-1397	peter.holmes@epa.gov
1,2,6 (P)	Field Enforcement; Complaint Response	Hank Ellis		222-1360 x7401	hellis@dem.state.ri.us
			Chuck Horbert	222-6820 x7402	chorbert@doa.state.ri.us
			John Boehnert	861-8200 Fax: 861-8210	jmb@psh.com
3,4(P), 1,3,4,5 (R)	Watershed, Significance of Wetlands, Cumulative Impacts of Alterations	Chris Mason		647-3835 Fax: 647-5430	cmason@mason-associates.com
			Alison Walsh		alison.walsh@epa.gov
			Peter Holmes	(617) 918-1397	peter.holmes@epa.gov
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			Carol Murphy	222-3961 x7208	cmurphy@dem.state.ri.us
			Gary Ezvoski	232-3353 x134	ri@lincolnnv.com
			Frank Golet	874-2916	fgswamps@uri.edu
			Sarah Porter	377-4551	swampy@gis.net
3,5(A) 8,9 (P)	Permitting Process Outcomes: Outreach; Public Education; Communication & Wetlands Mapping	Bryan Wolfenden		521-5980 x13 Fax: 331-8956	bwolfenden@louisberger.com
			Ron Gagnon	222-6822 x7500	rgagnon@dem.state.ri.us
			Jeff Brownell	272-3540 x108	jbrownell@savebay.org
			Sarah Porter	377-4551	swampy@gis.net
			Joe Frisella	783-5949	jfrisella.com
			Mike DeLuca	461-1000 X3137 Fax: 467-4603	cranplan@aol.com
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			Derry Riding	222-3949 fax: 222-3809	driding@doa.state.ri.us
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2(A), 7(P)	Inclusive Meetings, Staff Problem Solving	Ron Gagnon		222-6822 x7500	rgagnon@dem.state.ri.us
			Chuck Horbert	222-6820 x7402	chorbert@doa.state.ri.us
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			Derry Riding	222-3949 fax: 222-3809	driding@doa.state.ri.us
5(P), 7,8,9 (R)	Beneficial Projects; Exemptions	Russ Chateaufneuf		222-2306 x7700	rchateau@doa.state.ri.us
			Jeff Brownell	272-3540 x108	jbrownell@savebay.org
			Carol Murphy	222-3961 x7208	cmurphy@dem.state.ri.us
			Chuck Horbert	222-6820 x7402	chorbert@doa.state.ri.us
			Joe Bachand	822-8818	joseph.bachand@ri.usda.gov
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			Greg Gerritt		gerritt@edgenet.net
			Paul Ryan	272-3540 x108	oceanstatelaw@aol.com
	Variance procedure	Dennis Esposito		274-7200 Fax: 351-4607	desposito@apslaw.com
			Vin Palumbo	222-2023 x4049	vpalumbo@dot.state.ri.us
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**Table 3 (Continued)  
Wetlands Working Groups**

	Statutory Work Group	Sean Coffey		831-8330	soc@p-a.com
			Russ Chateaufneuf	222-2306 x7700	rchateau@doa.state.ri.us
			Jennifer Perkins	272-3434	rilocat@compuserve.com
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			Alison Walsh	(617) 918-1397 ??	alison.walsh@epa.gov
			Alan Shoer	222-4700 x2308	ashoer@doa.state.ri.us
			John Boehnert	861-8200 Fax: 861-8210	jmb@psh.com
			Paul Ryan	272-3540 x108	oceanstatelaw@aol.com
			Jan Reitsma		jreitsma@dem.state.ri.us
			Dennis Esposito	274-7200 Fax: 351-4607	desposito@apslaw.com
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			Jason Martiesian	334-1000 x107	martiesian@nrchamber.com
			Peter Holmes	(617) 918-1397	peter.holmes@epa.gov
			Bob Ballou	222-2771 x4420	rballou@doa.state.ri.us
			Frank Golet	874-2916	fgswamps@uri.edu

\*Issue Numbers refer to Attachment A designations of the Draft Wetlands Report.

<b>Attachment 1</b>				
<b>Wetlands Task Force Attendance 2/2/00</b>				
2/4/00				
<b>Business Organizations</b>				
<b>Present</b>	<b>Name</b>	<b>Organization</b>	<b>Phone /fax</b>	<b>E-mail Address</b>
✓	Dennis Esposito	Adler Pollock & Sheehan 2300 BankBoston Plaza Providence, RI 02903	274-7200 Fax: 351-4607	desposito@apslaw.com
✓	Sean Coffey	Peabody & Arnold One Citizen Place 11 <sup>th</sup> Floor Providence, RI 02903	831-8330	soc@p-a.com
✓	Scott Moorehead	SFM Engineering Associates 410 Tiogue Avenue Coventry, RI 02816	826-3736	sfmengineer@earthlink.net
✓	Joe Frisella	23 Arnold Street Wakefield, RI 02879	783-5949	jfrisella@frisella.com
✓	Chris Mason	Mason & Associates 771 Plainfield Pike Scituate, RI 02857	647-3835 Fax: 647-5430	cmason@mason-associates.com
✓	Jason Martiesian	N. RI Chamber of Commerce 6 Blackstone Valley Place Suite #105 Lincoln, RI 02865	334-1000 x107	martiesian@nrchamber.com
✓	John Boehnert	Partridge Snow & Hahn LLP 180 South Main Street Providence, RI 02903-7120	861-8200 Fax: 861-8210	jmb@psh.com
✓	Susan Moberg	VHB Inc. 530 Broadway St. Providence, RI 02909-1820	272-8100	smoberg@vhb.com
	Brian Wolfenden	Louis Berger Group 295 Promenade St. Providence, 02908	521-5980 x13 Fax: 331-8956	bwolfenden@louisberger.com
✓	Gary Ezovski	Lincoln Environmental 333 Washington Highway Smithfield, RI 02917	232-3353 x134	ri@lincolnenv.com

<b>Present</b>	<b>Environmental Community</b>			
✓	Eugenia Marks	Audubon Society RI 15 Sanderson Rd Smithfield RI 02917	949-5454	audubon_ri@ids.net
✓ ✓	Jeff Brownell Paul Ryan	Save the Bay 434 Smith Street Providence, RI 02908	272-3540 x108	jbrownell@savebay.org oceanstatelaw@aol.com
	Harold Ward	Brown University Prospect Street Providence, RI 02912	863-3449 fax: 863-3503	Harold_Ward@brown.edu
✓	Frank Golet	University of Rhode Island Woodard Hall 9 East Alumni Avenue Kingston, RI 02881	874-2916	fgswamps@uri.edu
<b>Government</b>				
✓	Jan Reitsma	Director, DEM 235 Promenade St. Providence, RI 02903	222-4700 x2771	
✓	Dave Reis	Coastal Resources Mgmt Council Steadman Gov't Center 4800 Tower Hill Road Wakefield, RI 02879	783-7402	dreis@crmc.state.ri.us
✓	Tom Getz	DEM	222-4700 x2417	tgetz@dem.state.ri.us
✓	Alicia Good	DEM	222-3961 x7214	agood@doa.state.ri.us
✓	Russ Chateauneuf	DEM	222-2306 x7700	rchateau@doa.state.ri.us
✓	Alan Shoer	DEM- Legal	222-4700 x2308	ashoer@doa.state.ri.us
✓	Chuck Horbert	DEM	222-6820 x7402	chorbert@doa.state.ri.us
✓	Bob Ballou	DEM	222-2771 x4420	rballou@doa.state.ri.us
✓	Carol Murphy	DEM	222-3961 x7208	cmurphy@dem.state.ri.us
✓	Vin Palumbo	RIDOT 2 Capital Hill, Room 226 Providence, RI 02903	222-2023 x4049	vpalumbo@dot.state.ri.us
	Janis Loiselle	Governor's Office State House Governor's Office Providence, Rhode 02903	222-2080x265	jloiselle@gov.state.ri.us
✓	Michael DeLuca	City of Cranston, Planning Dept. 869 Park Ave. Cranston, RI 02910	461-1000 X3137 Fax: 467-4603	cranplan@aol.com
✓	Jennifer Perkins	RI League of Cities & Towns One State Street, Suite 502 Providence, RI 02903	272-3434	rilocat@compuserve.com
✓	Derry Riding	RI Dept. Of Admin. Statewide Planning 1 Capitol Hill Providence, RI 02908-5873	222-3949 fax: 222-3809	driding@doa.state.ri.us
✓	Joe Bachand	NRCS 60 Quaker Lane, Suite 46 Warwick RI 02886	822-8818	joseph.bachand@ri.usda.gov
✓ ✓	Peter Holmes Alison Walsh	USEPA 1 Congress St. Boston MA 02203	(617) 918-1397	peter.holmes@epa.gov alison.walsh@epa.gov
	Mike Elliott	USCE, N.E. District Corps of Eng., Regulatory Branch 696 Virginia Rd. Concord MA 01742-2751	(978)-318-8131 fax:(978) 318-8303	michael.j.elliott@usace.army.mil

<b>Present</b>	<b>Associations</b>			
✓	Sarah Porter	Rhode Island Association of Wetland Scientists 623 Main St. Hope Valley, RI 02832	377-4551	swampy@gis.net
	Greg Mancini	RI Assn. of Realtors 100 Bignall Street Warwick, RI 02888	785-3650 x245	
	Roger Warren	RI Builder's Association 450 Veterans Memorial Pkwy. Suite 301 E. Providence, RI 02914-5380	483-7400	ribldrs@ids.net
<b>Legislative</b>				
	Peter Ginaitt	Chairman Joint Committee of Energy and Environment State House Providence, RI 02903	Fax: 222-6167	rep-ginaitt@riln.state.ri.us
	Scott Rabideau	House Minority Office State House Providence, RI 02903	568-7390 Fax 222-1209	rep-rabideau@riln.state.ri.us

**Language On Municipal Veto/Wetland's Legislation**  
**(From 1999 Proposed Bill)**

2-1-21. Approval of director. – ~~(a)(1)~~ No person, firm, industry, company, corporation, city, town, municipal or state agency, fire district, club, nonprofit agency, or other individual or group may excavate; drain; fill; place trash, garbage, sewage, highway runoff, drainage ditch effluents, earth, rock, borrow, gravel, sand, clay, peat, or other materials or effluents upon; divert water flows into or out of; dike; dam; divert; change; add to or take from or otherwise alter the character of any ~~fresh water~~ freshwater wetland, bordering land or floodplain as defined in section 2-1-20 without first obtaining the approval of the director of the ~~department of environmental management~~. The director shall approve, approve with conditions, or deny an application in accordance with provisions of this chapter and the rules and regulations promulgated hereunder.

~~(2) Approval will be denied if in the opinion of the director granting of approval would not be in the best public interest. Approval shall not be granted if~~ If the city council or town council of the municipality solely within whose borders the project lies disapproves of the project within the forty-five (45) days notice period provided for objections set forth in section 2-1-22; and has within said notice period provided written comments to the director which substantiate a justifiable environmental rationale for said objection, the director shall not approve the project. The applicant's appeal of the municipal disapproval shall be directly to superior court. ~~Disapproval does not preclude the director of the department of environmental management from granting an approval of alterations of wetlands relating to a state highway project proposed by the department of transportation that passes through or crosses two (2) or more municipalities.~~

**Freshwater wetland permits: life and renewal**  
for Applications to Alter - RIGL 2-1-22 (d)

If an application is approved, the director shall issue a written permit to the property owner to proceed with the project. Permits may be issued upon such terms and conditions, including time for completion and expiration of the permit, as determined by the director. Permits shall be valid for a period of three (3) consecutive years from the date of issue unless the director has, by permit condition, set an expiration date of more than three (3) consecutive years. Permits shall expire at the end of the designated period unless they are renewed. Prior to the expiration of an original permit, the permit holder may file an application requesting renewal. The director shall issue a renewal of an original permit for an additional two (2) year consecutive period provided that the permit holder is in compliance with the terms and conditions of the original permit. The director may issue an original permit for more than three (3) consecutive years and a renewal for more than two (2) consecutive years if the property owner can show good cause that the additional time is needed to complete the project. ...

Draft 2/1/00

for wetland task force 2000