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January 13, 2008

Ms. Florence Prisco, Town Supervisor
Town of Washington Town Hall
10 Reservoir Drive
Millbrook, NY 12545

RE: Wetland and Watercourses Law
Supplemental Technical Review
Comments

Dear Supervisor Prisco and Members of the Town Board:

I have been requested to review the proposed wetlands ordinance on behalf of the citizen's group, Millbrook Matters. As many of my comments mirror those of David Clouser & Associates (comment letter dated January 11, 2008) I will confine my comments to items that were not covered in Mr. Clouser's communication. I concur with Mr. Clouser that this proposed wetland ordinance is an important step forward in the Town of Washington's commitment to conserve its natural resources and I applaud your efforts. The following comments are made in the spirit of improving certain aspects of the proposed law.

Two of Mr. Clouser's comments bear repeating...the first that the Zoning Administrator should not unilaterally make determinations concerning what is and is not a regulated activity. I have had the unfortunate first hand experience when I was chairman of the City of Rye Planning Commission of placing that initial decision in the hands of zoning staff. We subsequently amended our procedures to ensure that these decisions were made by individuals knowledgeable about wetlands—but only after some embarrassing and costly incorrect determinations by our staff. In a similar vein, I do believe that any amendments to your wetlands and watercourses map be conducted in the manner that Mr. Clouser suggests, in order to maintain a transparent and public process that considers the impacts of additions and deletions to the wetlands map under SEQRA.

Under Section VIII (Activities allowed without permit) I have two areas of concern. Under "A" I would suggest deleting aquaculture as an exempt use. Aquaculture has the potential to severely impact wetlands unless designed and conducted in an ecologically sensitive manner. I believe that aquaculture should be a regulated activity and would benefit from the type of review that a regulated activity would trigger. Under "D" I am concerned that not only operation and maintenance of the Village of Millbrook's public water supply is grandfathered as an exempt activity, but also expansion activities. In the past, the creation of reservoirs and impoundments has resulted in the loss of many sensitive and important wetlands through flooding. Municipal wells also can lower the water table and disrupt (lower) the overlying wetlands. Therefore it is my advice that expansion activities of the Village of Millbrook's public water supply be a regulated

activity. This will result in additional water extraction or collection being conducted in a manner that minimizes impacts to wetlands and watercourses, while meeting public needs for clean drinking water.

Under Section X: B (Long Form): No. 9 That the planning board may also require information on “wetland-dependent biota” and “ecological interactions between wetlands on or near the proposed activity”. This latter would factor movements of wildlife (corridors) between various wetlands both on and off site and would be especially important to many wetland-dependent amphibians and reptiles.

Under Section XI: B. I would recommend that the planning board also consider, as part of its permitting process “ecological interactions between the wetlands on or near the proposed activity” as a proactive way to maintain wildlife movement corridors between various wetlands on a site.

My final comments concern vernal pools, many of which are already mapped by Town of Washington. Some of these important resources are less than 0.25 acres, and therefore would not be protected under your new ordinance. I would suggest that you extend protection to wetlands that are less than 0.25 acres if they are vernal pools. Also, I recommend that the regulated area around a vernal pool be a minimum of 100 feet, to correspond to the area that is needed to fuel the pools with leaves and detritus and the form a staging area for young amphibians. In addition, as vernal pools have extensive upland habitat needs, I would suggest that the Planning Board consider extending the regulated area well beyond 100 feet surrounding exemplary vernal pools. There is a large volume of literature on vernal pool conservation, and I would be available to work with the Town of Washington to incorporate standards that would enable vernal pools to be identified, ranked, and protected in a transparent manner based on their individual ranking. Not all vernal pools are equal in their ecological importance, and as they require large of areas of habitat surrounding them, protection should be focused on those pools with the highest biological and ecological values. Much of this information including an assessment and ranking methodology) is contained in a publication that I co-authored (Calhoun and Klemens, 2002: Best development practices for conserving vernal pool breeding amphibians in commercial and residential developments in the northeastern United States. You may wish to include this reference in your list of recommend readings in the proposed ordinance. A copy of this publication is included as an attachment to this letter.

Thank you for this opportunity to comment on this important initiative that you have undertaken.

Sincerely,

Signed Original Submitted

Michael W. Klemens, PhD

Attachment (1): Calhoun and Klemens (2002), MCA Tech No. 5