

July 13, 2010

Mr. Michael Murphy
Town of Washington Wetlands Committee
Town Hall
P. O. Box 667
Millbrook, NY 12545

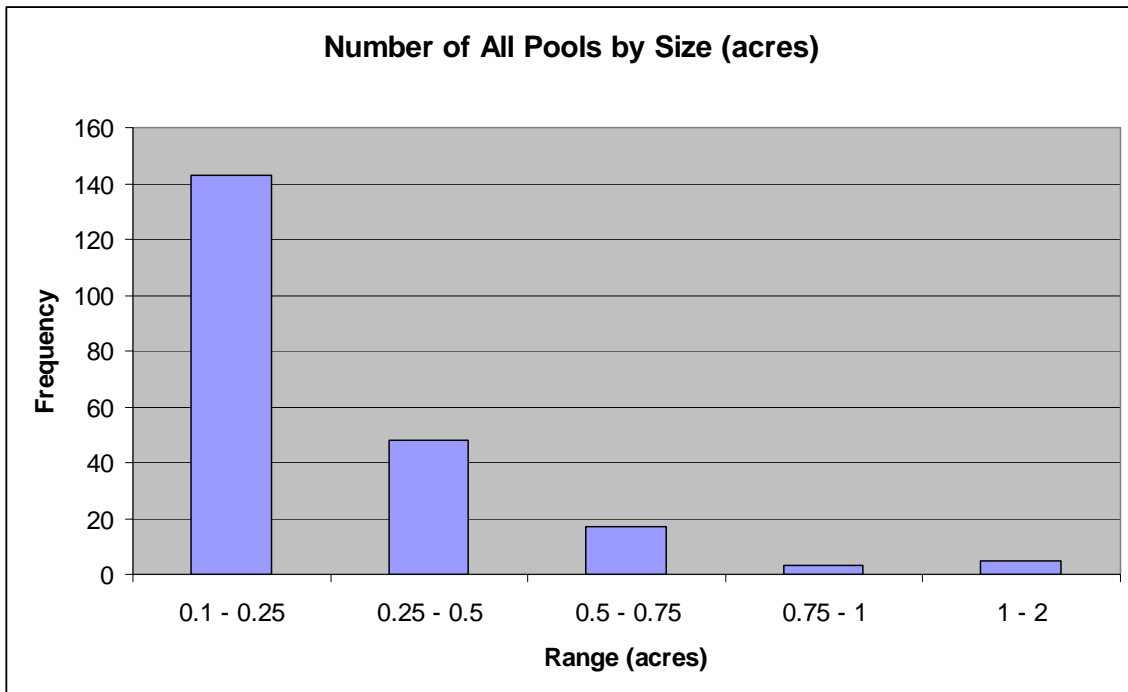
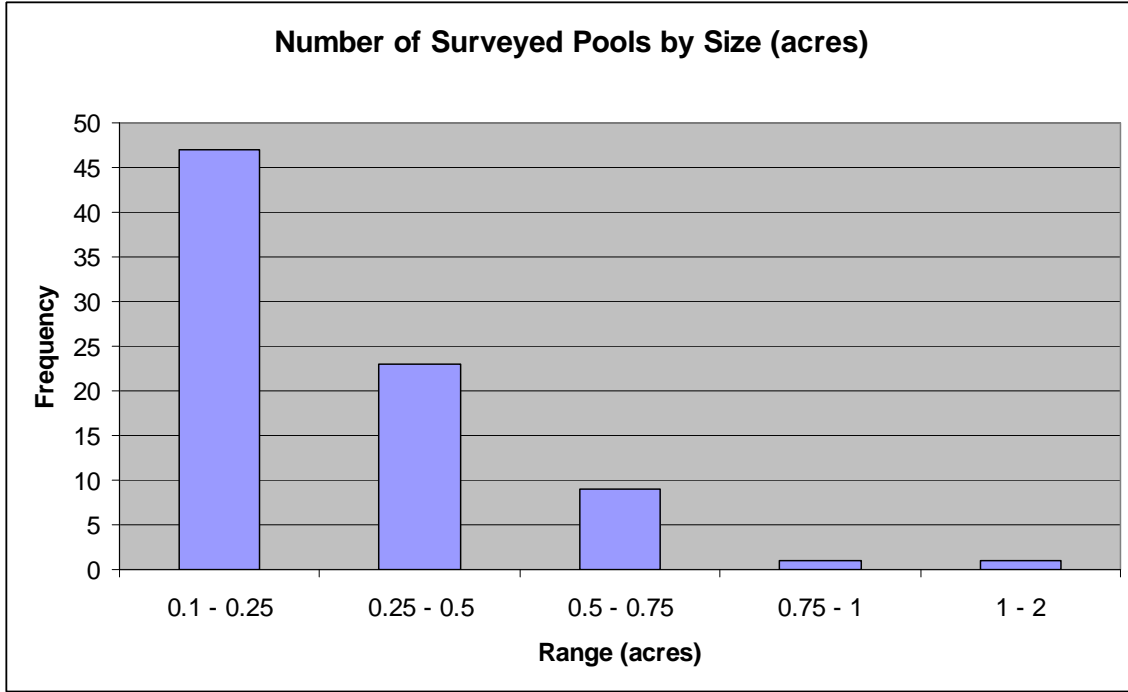
Dear Mr. Murphy:

I have read the revised wetlands ordinance and wish to make the following comments. While the revised ordinance is an improvement over earlier drafts in its clarity, definitions, and standards, it falls short of adequately protecting many of the Town's smaller wetlands that are biologically productive and provide important ecological services to the citizens of the Town of Washington.

While the Town is making an important step forward in extending regulation to wetlands that do not fall under ACOE jurisdiction as "waters of the United States" and DEC regulation, many smaller wetlands within the Town remain unregulated and therefore unprotected from encroachment, pollution, and outright filling. These small wetlands of less than a 1/4 acre in size play an important role within the Town providing ecological services that include flood water retention, aquifer recharge, de-nitrification, as well as habitat for wildlife, including many wetland-dependent species that are considered to be endangered, threatened, or of special concern.

The number of wetlands that will remain unregulated and therefore unprotected within the Town by the proposed 1/4 acre regulatory threshold is not trivial. I have included two summary tables below from the work the citizen-science study that the Cary Institute conducted in 2009 in partnership with Cornell Cooperative Extension of Dutchess County. These were the data that were presented at the March 6th conference at the Cary Institute which you and other town officials attended. The first table shows the size distribution of 83 of the small wetlands that we studied to determine amphibian productivity. The second table shows the distribution of the 216 smaller wetlands that were identified using a combination of various sources including the Hudsonia map of intermittent woodland pools in the Town of Washington and the National Wetland Inventory. Both these tables show that the majority of these critical small wetlands are less than 1/4 acre in size. Lowering the size threshold for regulation in the proposed ordinance to 0.10 acre would encompass this critical class of productive wetlands and afford them protection from encroachment, pollution, and outright filling.





Section IV: Definitions "Controlled Area" there are two categories of regulated buffer. For larger wetlands (great than 1 acre) the proposal is for a 100-foot controlled area. For wetlands less than 1 acre the proposal is for a 50-foot controlled area. This reduction in controlled area (= regulated buffer zone) for smaller wetlands makes no ecological sense. In fact it could be argued that because of their smaller water volume, these wetlands are more vulnerable to pollution as there is less volume of water contained within to dilute pollution entering the



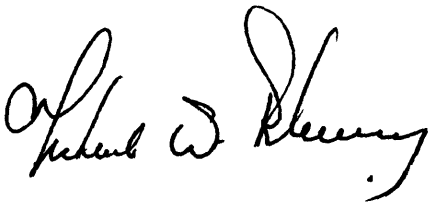
wetland from the adjacent uplands. I suggest that all wetlands regulated under this proposed ordinance have a controlled area of a minimum of 100 feet.

Section VI: Activities Allowed without a Permit "E", I reaffirm my testimony of January 13, 2008 that expansion of the Village of Millbrook's water supply be a regulated activity. Regulation should not be equated with denial, especially in the case of this important community service, but would provide an opportunity to minimize and mitigate impacts that could arise from the expansion of the Village's public water supply.

Section IX: Permit Requirement and Procedures: "C:11 Additional Information". The ordinance should reserve the ability of the Planning Board to require information on State listed species and on biota and significant habitats. Such information is generally not part of the "wetlands functional assessment" described in Section IX C-11e: Being able to request that information is important as it is described under Section X "Standards for Permit Decisions: E-2 which calls for examination of adverse impacts of the proposed regulated activities on "Disturbance or destruction of flora and fauna, endangered and threatened species and significant habitats in a regulated areas".

I appreciate the opportunity to comment on these proposed regulations. As with all regulations, enforcement and the political will to require that enforcement will be critical to your efforts to promote more comprehensive stewardship of the Town's wetlands.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael W. Klemens". The signature is written in a cursive, flowing style.

Michael W. Klemens, PhD
Research and Policy Conservationist

