

OFFICE OF THE COMMISSIONER

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SEP - 3 2024

Honorable George M. Borrello
New York State Senate
2 East Second Street
Jamestown, NY 14701

Honorable Andrew Goodell
New York State Assembly
Fenton Building
2 E. 2nd Street
Suite 320
Jamestown, NY 14701

Dear Senator Borrello and Assemblymember Goodell:

Thank you for your letter of June 18, 2024, and your interest in this important topic. I appreciate your ongoing efforts to work with the Department of Environmental Conservation (DEC) as we implement the 2022 statutory changes to the Freshwater Wetlands Act (ECL Article 24) that take effect in January 2025. To that end, DEC released draft regulations for comment on July 10, 2024, with a 71-day public comment period ending on September 19, 2024. In addition, as part of our continuing outreach efforts, we will be holding three virtual webinars to explain the regulatory proposal and three public hearings to collect comments.

Since 1975, Article 24 has defined freshwater wetlands to include areas with aquatic or semi-aquatic vegetation and specifically described submergent vegetation as a type of regulated wetland (ECL 24-0107(1)(a)(8)). Thus, any area within a navigable lake that supports 12.4 contiguous acres of submergent vegetation has always qualified for regulation under Article 24. However, prior to January 2025, DEC was required to first map freshwater wetlands before those areas could be regulated under Article 24. Unfortunately, submergent wetlands were mapped inconsistently across the state because the original mapping was based on black and white photographs dating back to the late 1960s and early 1970s. After January 2025, mapping regulated wetlands will no longer be required under Article 24. Areas with submergent vegetation that meet the statutory size threshold of 12.4 acres will be regulated by DEC, regardless of previous mapping status. In Chautauqua Lake, much of the South Basin and other bays and shoals with more than 12.4 contiguous acres of submergent vegetation have been functioning as wetland for many decades.

As discussed during a March 2024 meeting with County Executive Wendel, DEC remains committed to developing general permits that can provide a simplified path for the residents of Chautauqua Lake, and other shallow lakes with extensive areas of submergent wetland vegetation, to comply with Article 24. DEC will be inviting

representative stakeholders to a meeting on October 3, 2024, in Mayville to solicit input for the development of an Article 24 general permit. We will be inviting two representatives from each of the major stakeholder groups, municipal representatives, and representatives from your offices. The meeting will include small group discussions designed to solicit ideas for activities that DEC could include in a general permit covering regulated areas of Chautauqua Lake. This approach will provide a streamlined regulatory process for lake residents.

Thank you again for your interest, we look forward to the upcoming further discussion on this matter.

Sincerely,



Sean Mahar
Interim Commissioner