

STATE OF NEW YORK

ANDREW W. GOODELL
ASSEMBLYMAN, 150TH DISTRICT
MINORITY LEADER PRO TEMPORE



GEORGE M. BORRELLO
SENATOR, 57TH DISTRICT
RANKING MEMBER OF
BUDGET AND REVENUE

August 29, 2024

Roy Jacobson, Jr.
New York Department of Environmental Conservation
625 Broadway, 5th Floor
Albany, New York 12233-4756

Re: Wetland Part 664 Comments

Dear Mr. Jacobson:

In our opinion, it is absolutely essential that the proposed wetland regulations reflect the legislative intent behind the new statutory language, as well as a proper balance between environmental protection and the legitimate concerns of affected landowners.

Consistent with that objective, we strongly support the recommended amendments to the proposed wetland regulations as set forth in the attached letter from attorney Andrew Molitor, including the following:

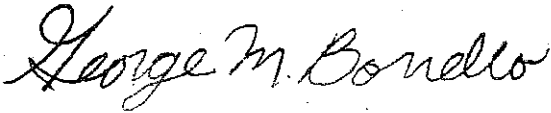
1. The DEC should not change the definition of a class 1 wetland to grant itself a dramatic increase in regulatory authority far beyond that envisioned in the original legislation.
2. The proposed definition of "regulated adjacent area" should be amended to include the phrase "to the extent that activities specified in section 24-0701 of the Act impinge upon or otherwise substantially affect the wetland" in order to be consistent with the statutory language.
3. The proposed regulations related to "extended adjacent areas" (6 NYCRR 664.7(a)) should be amended to include the phrase "to the extent necessary to protect and preserve such wetland," thus ensuring consistency with the statutory language.
4. To avoid any ambiguity, the proposed regulations in 6 NYCRR 664.2(o) defining "freshwater wetlands" should be amended to include the following sentence: "Navigable waters in an inland lake shall not be considered wetlands."
5. The proposed regulations requiring an additional notification by the landowner as set forth in 6 NYCRR 664.8(f) should be eliminated, and the proposed regulations in 6 NYCRR 644.8 (g) should be amended consistent with the statutory language to provide that if the department fails to provide a definitive answer in writing, or notification of an extension based on weather or ground conditions pursuant to 24-0703(5) of the Act, freshwater wetland

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jurisdiction shall be deemed waived. Such waiver shall serve as a complete defense to the enforcement of the Act for a period of five years from the date of the waiver.

We hope and trust that you will carefully consider these recommendations. Please contact us if you or your staff have any questions or need any additional clarification.

Sincerely yours,



George M. Borrello
Senator, 57th District



Andrew W. Goodell
Assemblyman, 150th District