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WETLANDS DEMYSTIFIED

Timber Harvest and the Protection of Wetlands and Watercourses, Part III

by

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This series of articles addressed some issues that wetlands agencies must consider in reviewing a timber harvest application for a Wetlands Permit. The harvesting of timber is an agricultural/farming activity and is, therefore, a matter of right under the Wetlands Act. If there are wetlands or watercourses on the logging site, the forest practitioner must come to the wetlands agency for a permit. If there are no wetlands or watercourses present, the wetlands agency has no jurisdiction over the matter. However, only the wetlands agency can make that determination.

The second important issue discussed in Part II was that the forest practitioner must be properly certified for his or her activity by the Connecticut Department of Environmental Protection (DEP). This is a DEP enforcement responsibility. A town wetlands agency may report to the DEP the lack or misuse of a certification, but the agency itself has no direct authority to stop a logging operation.

So where does this leave us? If we cannot deny a forestry application, can we demand that the forester follow best management practices (BMPs) to avoid or reduce adverse impacts to a wetland or watercourse? The answer is yes and no.

Forestry BMPs detail recommended methods for conducting stream crossings, designing haul roads, establishing erosion and sedimentation controls and planning access and landing areas for the temporary storage and removal of harvest products. These BMPs are DEP recommendations and, therefore, fall under the category of guidelines at best. An agency may make it a condition of permit approval that BMPs are followed, but these guidelines may be partially or totally ignored. This would be a permit violation, but how does an agency initiate an enforcement action when the logging activity in wetlands and watercourses is a matter of right? There is nothing in Pomfret's Wetlands regulations that addresses this issue and nothing in State statutes that would apply to Pomfret. What can be done?

Forestry practitioners are business people and their business reputations are their most important asset. If a forester trashes a property, destroys wetlands and watercourses, the abuse should be reported to the Connecticut Professional Timber Products Association, Inc., DEP's Forestry Division, and, most importantly to a local and/or State Better Business Bureau. It is important that forest practitioners who abuse the land, cause a public disturbance and deliberately avoid their environmental stewardship responsibility be exposed to the public.

This will be my last Wetlands Demystified article. I have resigned from the Pomfret Inland Wetlands and Watercourses Agency (IWWA) as of June 6, 2007 because of what I consider an improper applicant billing policy that is contrary to Pomfret's IWWA regulations. I will not go into details here, but I will inform Pomfret's citizens who may be subjected to their unethical decision by separate means.