

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 9
270 Michigan Avenue, Buffalo, NY 14203-2915
P: (716) 851-7165 | F: (716) 851-7168
www.dec.ny.gov

SENT VIA EMAIL

April 27, 2020

Ms. Victoria Liberty
National Fuel Gas Distribution Corporation
6363 Main Street
Williamsville, New York 14221

Dear Ms. Liberty:

NOTICE OF INCOMPLETE APPLICATION
GREENBUSH PIPELINE INSTALLATION PROJECT
DEC NO. 9-1456-00200/00001
TOWN OF NEWSTEAD, ERIE COUNTY

The New York State Department of Environmental Conservation (NYSDEC) has reviewed the above-referenced Article 24 permit application, submitted on your behalf by Haley & Aldrich of New York and received by NYSDEC on April 16, 2020. Based on this review, the application has been determined to be incomplete. The following items must be addressed:


- 1) Please send a delineation request form to verify the delineated wetland boundary. A copy of the form has been enclosed with this letter.
- 2) Please send the shapefiles from the wetland delineation for the project to Angela.Driscoll@dec.ny.gov.
- 3) Please clarify if the following two sections within the project area were delineated:
 - Location 1: Along the west side of Greenbush Road, just north of Rapids Road
 - Location 2: Along the north side of Swift Mills Road, just east of Greenbush Road
- 4) This application will require a \$200 permit application fee. Only checks or money orders will be accepted, made payable to the NYSDEC.

Please note that NYSDEC Bureau of Ecosystem Health staff may have additional technical comments after completing an inspection of the project site.

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If you have any questions or comments regarding this letter, please do not hesitate to contact me at (716) 851-7165.

Sincerely,

A handwritten signature in black ink that reads "Michelle R. Woznick". The signature is written in a cursive style with a distinct loop for the letter 'M'.

Michelle R. Woznick
Environmental Analyst

Enclosure

ecc: Mr. Charles Rosenburg, NYSDEC Division of Fish & Wildlife
Ms. Angela Driscoll, NYSDEC Division of Fish & Wildlife
United States Army Corps of Engineers, Buffalo District
Mr. Steve Phillips, Haley & Aldrich of New York

**For State-regulated Wetlands in Niagara, Erie, Wyoming,
Chautauqua, Cattaraugus and Allegany Counties**

NYSDEC Region 9 Main Office

270 Michigan Avenue, Buffalo, New York 14203

(716) 851-7010 (phone) or (716) 851-7005 (fax) or R9BEH@dec.ny.gov



**Department of
Environmental
Conservation**

Bureau of Ecosystem Health

REQUEST FOR WETLANDS DETERMINATION, VERIFICATION, OR DELINEATION

If you would like a DEC Wetlands staff person (Biologist or Technician) to come to your property to determine whether a New York State regulated wetland or its regulated 100-foot adjacent area exists on the property, you must complete this form and mail, email, or fax it, along with the items listed below, to the address listed above. A staff person will then contact you to confirm receipt of your request. When scheduling and weather conditions allow, a DEC wetlands staff person will make arrangements to fulfill the request and can discuss with you how the presence of regulated areas may affect your plans. These services are provided free of charge and are provided in the order the requests are received. However, if your proposed activities may impact a wetland that is also under Federal jurisdiction, you may be advised to instead obtain a federal delineation from the U.S. Army Corps of Engineers or qualified wetland consultant. If your proposed activities may impact the regulated areas, you will need to apply for an Article 24 Freshwater Wetlands Permit from the Department prior to starting your project.

PLEASE NOTE: A wetland delineation is based on field indicators of plants, soils, and other ground features. Therefore, wetland field work is limited to when conditions allow (**typically May 1 to November 1**).

1. Check the box which describes what you are requesting:

Wetland Determination – A staff person will examine the property to determine if a wetland and/or its 100-foot adjacent area exists on the property and will only point out its boundary.

Wetland Verification – A staff person will evaluate the boundary of a wetland that a private wetland consultant has delineated on the property. A delineation report from the consultant must be submitted with this request.

Wetland Delineation – A staff person will examine the property and place flagging along the wetland boundary. A DEC delineation is considered valid for 5 years, with or without an approved survey. However, a survey map is usually required when a proposed project will cause any disturbance to the land within 100 feet from the delineated wetland boundary, thus requiring a wetland permit from this Department. A survey, if required, must be arranged with a private surveyor by the landowner, at his/her expense, according to Department requirements (available upon request), and 3 copies must then be submitted to this office for review and approval.

2. Person requesting the services:

Name: _____
Mailing Address: _____
City/State/Zip: _____
Daytime Telephone: _____
Email Address: _____

Landowner (if different):

Name: _____
Mailing Address: _____
City/State/Zip: _____
Daytime Telephone: _____
Email Address: _____

PLEASE NOTE: If the person requesting the delineation, verification, or determination is NOT the owner of the parcel of land, both the requestor and landowner must sign below in order for DEC staff to inspect the property.

3. Reason for requesting a field inspection at this time:

Purchasing or selling property Proposing a project to: _____
 Other (explain): _____

4. Property Location:

Street address of property: _____
City/Town/Village: _____ County: _____
Wetland ID (if known), e.g., BU-10: _____ Section/block/lot number from tax map (if known): _____

5. Attach one 8½" x 11" copy of either a tax map OR survey map showing all the property boundaries, if available.

I hereby request that a Department representative inspect the property indicated to determine the presence or boundary of any wetlands present. If a delineation is performed and the Department deems necessary for the purpose of any subsequent permit application, I agree to have the boundary surveyed according to the Department requirements and to send three (3) copies of the survey map to the Department for approval.

Signature of Requestor

Date

Signature of Landowner (Required, if different)

Date

NYSDEC Freshwater Wetlands Program

The Freshwater Wetlands Act: The State Legislature passed The Freshwater Wetlands Act in 1975 with the intent to preserve, protect, and conserve freshwater wetlands and their benefits. For more information, visit www.dec.ny.gov/lands/4937.html

The presence of freshwater wetlands and/or its associated 100-foot adjacent area on a property may affect where and to what extent, development can occur on a property, if at all. If wetlands are present, you may need to obtain a state and/or federal wetland permit and/or local authorization before commencing your project.

Wetland Mapping: The DEC has mapped the approximate boundaries of all known freshwater wetlands in the state that are 12.4 acres in size or larger. In some cases these maps include smaller wetlands of unusual local importance. These maps are used to provide guidance as to the potential presence of freshwater wetlands on particular properties and they show the approximate boundary at the time the maps were made, which in some cases, can be more than 20 years ago. The actual wetland boundary may now be different due to changes in the landscape caused by agricultural uses, ecological succession, new water drainage patterns caused by recent commercial/residential development, beaver activity, mapping inaccuracies, and deviations produced by different map scales. For more information on the wetland mapping process, visit www.dec.ny.gov/lands/5124.html

DEC Wetland Maps: Copies of the original DEC wetland maps have been provided to local government clerks' offices and are available for review at DEC Regional offices. You can also view the wetland maps and other environmental resources on the Environmental Resource Mapper at the following website: www.dec.ny.gov/animals/38801.html

Permit Requirements: All DEC mapped wetlands and a 100-foot adjacent area surrounding them are regulated. All regulated activities in either the wetland or 100-foot adjacent area, based on an actual delineation rather than the approximate maps, require a permit. For information on whether a proposed activity is regulated and requires a permit, visit www.dec.ny.gov/permits/6058.html and also review additional links at bottom of that website.

Wetland Boundary Surveys: Generally, a survey of the delineated wetland boundary line, prepared according to the Department requirements (available from the Department), will be required for your permit application. You must then submit at least three copies of the map to the DEC Biologist for review and approval. Once the map is approved by the Biologist, a copy will be returned to you. The map and wetland delineation are considered valid for a period of five years. There is no fee for the DEC Biologist to delineate the wetlands and review the map prepared by the surveyor, however, the surveyor's fee is the responsibility of the requestor/landowner.

Purchasing Property with Regulated Wetlands: If you are planning to purchase or develop a parcel of land, it is important to first verify whether a regulated freshwater wetland or its regulated 100-foot adjacent area is present, and if so, to determine what portion of the parcel is considered to be regulated. Information on how this may affect your taxes can be found at www.dec.ny.gov/lands/5129.html

PLEASE NOTE: While information regarding state-regulated wetlands may be available from many sources (County websites, Town staff, realtor, consultant, surveyor, etc.), FINAL AND OFFICIAL WETLAND DETERMINATIONS, DELINEATIONS, VERIFICATIONS, AND/OR PERMIT REQUIREMENT DECISIONS CAN ONLY BE MADE BY NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION (NYSDEC) STAFF.

NYSDEC Services Available

Services provided by NYSDEC staff will vary depending on the project circumstances:

1. **Small projects by a current landowner involving a single family residence, accessory structure, or agricultural lands** - A DEC Biologist or Technician will visit the site and may flag the wetland boundary, if deemed necessary.
2. **Prospective purchasers of land** - DEC Wetlands staff will review materials in the office and provide a written response. A single site visit will only be made at the request of the landowner and if deemed necessary by a DEC Biologist or Technician.
3. **Development projects involving state and federal wetlands** - In most situations, the landowner/developer should retain a private wetland consultant to flag all state and federal wetlands on the site. Upon receipt of a copy of a survey map of the property showing the wetland boundary, DEC staff will meet in the field with the consultant to review and approve the wetland boundary. If federal jurisdiction of the wetland also applies (see below), a joint site visit with U.S. Army Corps of Engineers staff should be arranged.
4. **Interveners in a Development Proposal** - DEC Biologists will review materials in the office to assess the potential for state wetlands on the site. When appropriate, the DEC will contact the project sponsor or local government reviewing board to coordinate identification of wetlands on the project site.
5. **Wetland Violation Resolution** - A DEC staff person will visit the site to determine the location of the wetland boundary and the nature and extent of the violation. Depending on circumstances, a portion of the wetland boundary may be flagged.

Questions regarding these services may be directed to DEC Wetlands staff at (716) 851-7010.

Please note the following information pertaining to state and federal wetland permits:

State vs. Federal Jurisdiction of Wetlands: The New York State Department of Environmental Conservation (NYSDEC) has regulatory jurisdiction over wetlands that are 12.4 acres in size or larger, while the U.S. Army Corps of Engineers (the Corps) regulates wetlands of all sizes. This means that almost all state regulated wetlands are also regulated by the Corps. Wetlands less than 12.4 acres in size are usually regulated only by the Corps and not the state.

In cases where both state and federal wetlands are involved, a state wetland permit and a state 401 Water Quality Certification (WQC) may be required for a project, in addition to a federal wetland permit.

In those cases where only a federal wetland is involved and not a state wetland, you would not need a state (Article 24) wetland permit, but you may still need to obtain a Water Quality Certification from the state, based on the type of work you propose to do.

Even if a DEC Wetlands staff person determines that there are no state-regulated wetlands on the parcel, this does not necessarily mean that you will not need any wetland approvals for your project. In most cases the presence of any wetlands on the site means that those wetland areas would be regulated by the Army Corps of Engineers.

When you are considering undertaking a project you should first consult directly with both the Army Corps of Engineers and the NYSDEC to discuss what regulatory requirements will apply to the project.

It is the responsibility of private landowners to find out whether wetlands are present on their property and whether their proposed project will impact those wetlands. The Army Corps of Engineers does not have maps of all federal wetlands and does not delineate wetlands on private property. The DEC only delineates state wetlands. Therefore, if there is wetland on the property the landowner should have a private wetland consultant delineate all the wetlands on the parcel and submit a copy of the map to the Army Corps and to DEC for review and approval. Otherwise, if the landowner only requests a delineation by a DEC staff person the landowner may be required by the Army Corps to have a second wetland delineation performed by a private wetlands consultant to determine the location of federal wetlands. This may result in increased costs and delays in the landowner's project. **Determining whether a federal wetland delineation will be required by the Corps and, if so, having that done early on in the permit application process and also submitting it to the DEC for review can save time and money.**

Inquiries to the Corps for proposed projects within the six counties in NYSDEC Region 9 (Allegany, Cattaraugus, Chautauqua, Erie, Niagara, and Wyoming) should be directed to:

U.S. Army Corps of Engineers
Buffalo Field Office
1776 Niagara Street
Buffalo, NY 14207
(716) 879-4330