

## **Wetlands: Regulatory Status and Local Protection Strategies**

May 19, 2021, 3:00 – 4:30 pm

Hudson River Estuary Program Conservation and Land Use Webinar Series

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00:00:03.173 --> 00:00:17.844

Right. Good afternoon, everyone. My name is Ingrid Haeckel, and I'm a Conservation and Land Use Specialist with the DEC Hudson River Estuary program through a partnership with Cornell University. Welcome to the final session of our 3 part webinar series about wetlands.

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The series is being offered through a partnership between our program and Hudsonia

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and today our speakers will provide an overview of state and federal wetland regulations, addressing wetlands through environmental reviews, and local laws and strategies to extend protection of these vital resources.

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00:00:34.853 --> 00:00:37.673

And I'll introduce our speakers in a moment.

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00:00:41.365 --> 00:00:55.405

So, let me quickly review a few webinar details. You should have been able to connect to audio through your computer or by phone. The different options for audio are at the bottom of the screen on the left side through connect audio.

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00:00:55.765 --> 00:01:04.674

If you're having difficulties with sound, I recommend trying to call in or requesting a callback number, and you can get that information through the chat box.

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00:01:05.905 --> 00:01:17.784

If you have technical difficulties, you can direct questions to us through the chat box. But we recommend that if you have questions for the speakers, please use the Q and A function.

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If you don't see it, you can access Q and A by clicking on the 3 dots to the right of the chat box in the bottom right corner of the screen. Note that your phone lines have been muted.

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00:01:30.564 --> 00:01:42.444

The webinar is being recorded and we'll let you know when the recording is available, and at the end of the webinar, there'll be a short survey that pops up and we appreciate your response and feedback on our programs.

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00:01:42.894 --> 00:01:48.355

And lastly, for those of you who are seeking municipal training credit, you'll receive an automatic

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00:01:48.719 --> 00:01:54.299

Email confirmation of attendance from Webex at the end of the program. **since around 430. P. M.**

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For those of you, who are new to the series, the Hudson River Estuary Program is a unique program at the New York State Department of Environmental Conservation established to help people enjoy protect and revitalize the Hudson River and its Valley.

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00:02:08.544 --> 00:02:10.074

We work throughout the 10 counties

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bordering the tidal Hudson River in **the area and pollution on the map on the right** to ensure many key benefits,

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00:02:16.585 --> 00:02:25.014

including ensuring clean water; community resilience to climate change; conserving the vital estuary ecosystem and its fish, wildlife, and habitats;

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00:02:25.764 --> 00:02:38.664

the natural scenery of the river valley; and providing opportunities for education, access, recreation and inspiration on the river. And we invite you to read the State of the Hudson 2020 report for more information about our progress.

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00:02:41.490 --> 00:02:54.060

Within the estuary program, our conservation and land use team works with municipalities and regional conservation partners to incorporate important habitats and natural areas into land, use, planning and decision making.

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00:02:54.060 --> 00:03:04.229

Our program Website is a clearinghouse for information and guidance on these topics and we encourage you to check it out. And Nate is sharing these links through the chat.

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00:03:05.784 --> 00:03:19.435

So we're holding this series in honor of American wetlands month, which is established by the EPA to celebrate wetlands and educate the public about their vital importance. And we hope you'll take the opportunity to get out and visit a wetland near you.

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00:03:19.735 --> 00:03:29.155

And this is the spectacular Swartakill wetland complex in my neighborhood here in Ulster County, a place that I like to walk to.

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00:03:31.104 --> 00:03:45.745

So just to recap: our first session was about wetland habitats, wildlife and ecosystem service values. And we followed that up last week with the session that described existing wetland maps and techniques

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00:03:45.745 --> 00:03:54.414

For using topographical maps, soils data, and air photos to remotely identify wetlands, as well, as some tips on field verification.

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And we also shared a link to a related virtual field trip about wetlands and the Millbrook Preserve in New Paltz that we invite you to view and you can access these recordings and others through our webinar homepage.

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00:04:09.264 --> 00:04:17.634

Next month, our webinar series will introduce a new scenic resource protection guide for the Hudson River Valley with Professor George Frantz from Cornell University.

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00:04:17.904 --> 00:04:25.495

And my colleague Nate Nardi-Cyrus, who will be presenting some case studies, and Nate will provide the link to the new guidebook in the chat.

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00:04:25.918 --> 00:04:29.098

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00:04:29.124 --> 00:04:42.533

Also, I guess before I move on, just a quick note that you probably received a notification from DEC Delivers earlier today or yesterday about being added to our new Conservation and Land Use email list. And going forward

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00:04:42.533 --> 00:04:51.624

we will be sharing upcoming webinars and other news and events through that new list, and of course, you're welcome to opt out at any time.

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00:04:53.423 --> 00:05:06.684

So we have a very full agenda today, so I'm going to go ahead and introduce our speakers. today who will be Roy also known as J. R. Jacobson from DEC.

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00:05:06.863 --> 00:05:17.634

Gretchen Stevens from Hudsonia and Emily Svenson of Svenson and Gordon, LLP, and I will briefly introduce each of them before they present.

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00:05:17.903 --> 00:05:30.564

We'll also have a few minutes for questions between the presentations and some extra time for Q and A at the end of the session. So, I'm going to go ahead and pass you the ball JR right now so that

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00:05:30.988 --> 00:05:35.488

you can go ahead and put up your

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00:05:35.488 --> 00:05:39.809

your slides of course, I'm not seeing.

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00:05:39.809 --> 00:05:46.978

Now, my, , this is funny. Oh, neat.

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00:05:48.329 --> 00:05:52.319

There we go, sometimes my windows are getting hidden.

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00:05:52.319 --> 00:05:57.329

I'm so I'm going to pass this to...

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00:06:00.718 --> 00:06:03.718

It's not working.

38

00:06:03.718 --> 00:06:07.379

I don't see it yet. No.

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00:06:11.213 --> 00:06:25.134

Excuse the technical difficulties please here we go. Sorry. , okay, so, , well, while J. R. is putting up his slides, I'll let, , briefly introduce him.

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00:06:25.134 --> 00:06:25.403

So,

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00:06:25.644 --> 00:06:26.064

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00:06:26.334 --> 00:06:31.704

Roy Jacobson has been working for the New York State Department of Environmental Conservation for almost 30 years,

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00:06:31.704 --> 00:06:39.144

and is currently head of the habitat protection section and oversee statewide administration of freshwater wetlands,

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00:06:39.173 --> 00:06:42.264

aquatic habitat protection, in stream flow,

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00:06:42.504 --> 00:06:45.774

renewable energy, and stream electric programs.

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00:06:46.163 --> 00:06:55.223

But more importantly, he would let you know, he has a wonderful wife and 2 great kids. So I will, , we're very happy to have you with us today. Thanks.

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00:06:56.213 --> 00:07:07.043

J.R. Jacobsen: Well, thanks, Ingrid. Can you hear me? We're good. Yes. Okay. Great. Terrific. Well, thank you. I am I am actually, very excited today to talk with this group about a program that is near and dear to my heart.

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00:07:07.494 --> 00:07:19.793

Ingrid said, I've been working for the department for a while, and most of that time has been with wetlands and stream protection. So, , I've been in knee deep. I've worked in various places I've been down in Long Island. I was in the Hudson Valley.

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00:07:19.793 --> 00:07:24.834

Dutchess county as my county for a while and now I'm up in Albany to do that work. So.

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00:07:25.553 --> 00:07:39.473

the real title of my thing would be that I'd call it the "wonderful world of wetland regulation." So, you know, , if I could sing, I might sing a few bars of that song from Louis Armstrong, but I can't sing.

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00:07:39.473 --> 00:07:50.723

So, I won't bore you with that. So what am I going to talk about today? I'm gonna give you an overview of the New York state regulatory wetlands programs, and a few different versions of that, but I'm going to go into that;

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talk about a particular programmatic challenge that may actually tie into some of the other

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00:07:57.504 --> 00:08:11.303

alks that you've heard in the series; talk about the dream on solving that challenge -my wetland dream; and then talk a little bit about the federal regulatory programs, and the differences between the state and the feds.

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00:08:11.303 --> 00:08:16.463

I'm gonna focus most of my time on state, because that's what I do most of the time, but I give a little bit of .

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00:08:16.769 --> 00:08:31.588

on the federal side as well. So, regulatory options for New York state, and the first one that I think probably everybody knows is the Freshwater Wetlands Law, Article 24 of the Environmental Conservation Law. So what I spent most of my time in.

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00:08:31.588 --> 00:08:36.359

There's also provisions within the protection and use of waters, article 15,

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00:08:36.359 --> 00:08:40.583

That deal with wetland protections; the Tidal Wetlands Act,

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00:08:40.583 --> 00:08:54.683

Of course, south of the Mario Cuomo bridge is, , where the article 25 is king and then, we also use the certification process, or what are 40q water quality certification, to to protect wetlands as well.

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00:08:56.729 --> 00:09:01.889

So, I'll, I'll take each of those in sequence so we'll start off with article 24.

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And, you know, like, probably many of you already know that the state regulates mapped wetlands that are greater than 12.4 acres in size.

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So, in 1975, when the legislature passed article 24, they were looking to catch the bigger wetlands, and they came up with the 12.4.

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00:09:20.068 --> 00:09:33.953

acre, , compromise, but they also allowed for protection of some smaller wetlands. So these are unusual, local important wetlands, things that might have things like the bog turtle in it. But but they also allowed to go down to smaller wetlands

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00:09:33.984 --> 00:09:44.423

, again, they need to be mapped, but of unusual importance and what's particularly, I think valuable from my perspective, is that 100 foot regulated adjacent area.

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00:09:44.423 --> 00:09:50.844

So, we can kind of keep things back from the edge of the wetlands and to create a nice buffer to, to those wetlands

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00:09:53.214 --> 00:10:03.984

So here's a map of all the state regulated wetlands. It's about 7% of the landscape. I like to use the joke that there are no wetlands in the Adirondacks. Of course, everybody knows, that's not the case

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00:10:03.984 --> 00:10:16.913

, but that that program is administered by the Adirondack park agency. So DEC doesn't get involved in, in regulation of wetlands in the park , the Adirondack park agency does, and they, they, they go down to

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00:10:17.668 --> 00:10:21.298

1 acre and smaller for, for within the park.

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00:10:21.298 --> 00:10:25.168

The other thing I wanted to mention is, you know is

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00:10:25.168 --> 00:10:39.053

the official maps are actually paper maps, , you know, and there's 950 or so across the state. And this is kind of the grid pattern, and they're based on the USGS Quad sheets. And so that's when I say maps, those are the maps that we're actually talking about.

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00:10:40.764 --> 00:10:54.413

And here's an example of one from Rensselaer County, you know, you can see that there's a wetland there that the dark line around the edge is the approximate wildland boundary. We name it. And in this case means the Nassau map. That's the name of the map.

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00:10:54.714 --> 00:10:58.433

And then 28 is just the number, the number doesn't really mean anything other than for us to.

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00:10:59.489 --> 00:11:12.803

differentiate things. The other thing I wanted to point out is that's a house. So we're in our world of using GIS and being able to be on the Internet, zoom in to everything. These are the actual official wetlands maps.

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00:11:12.833 --> 00:11:15.894

These are the ones that we use for our regulatory purposes.

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00:11:16.168 --> 00:11:28.408

I'm going to a little bit about the unusual local, importance wetlands. I said, that, you know, for things like the bog turtle, or maybe the tiger salamander that are endangered or threatened, that gives them [the wetlands] a class 1 status. Now, we

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00:11:28.823 --> 00:11:41.844

classify our wetlands between 1 and 4. One being having the most benefits in, four having fewer benefits and, and we, we give more protection to those class 1 wetlands. And what we said is unusual, Local importance

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00:11:41.844 --> 00:11:46.043

wetlands can be ones that, that those, those, those rare species in them.

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00:11:46.558 --> 00:11:56.489

But we can go beyond that. We have 1 of the areas where we did a lot of this work was done in Suffolk County on Long Island and where we actually



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00:11:56.489 --> 00:12:08.428

Added 600 wetlands for a total of about 2400 acres to those maps. And that was done for a wildlife habitat whether it be for the green tree frog or maybe the common yellowthroat.

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00:12:09.688 --> 00:12:17.038

In our review process, we kind of take a step wise process and there's a 3 step and there's nothing there's no rocket science here.

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00:12:17.038 --> 00:12:31.859

Let's avoid first, if you can avoid, then you need to minimize your impacts, and then if once you've minimized everything, then we talk about mitigation. You can't go from 1 step to the next without, , fulfilling or, or, , evaluating those, each step.

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00:12:31.859 --> 00:12:42.089

But at the end of the day, I mean, ultimately we deal with regulations and we can issue a permit if we determine that the proposed activity satisfies

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00:12:42.089 --> 00:12:52.739

a standard. And these are in the weighing standards. One is for class 1 wetlands, a compelling economic and social need that clearly and substantially outweighs the loss of wetland benefits.

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00:12:52.739 --> 00:13:00.869

That's for class 1 for class 2 it's a pressing need that clearly outweighs. And then for a class 3, it's just a, a need.

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00:13:01.224 --> 00:13:16.134

So you can see differences in there, but I'll be honest. I've been doing this a very long time for any individual project, it's really tough to know, you know, is that a compelling or pressing need? , but that's at the end of the day that's what we have to evaluate all our projects against.

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00:13:16.408 --> 00:13:20.938

So protection and use of waters, that's article 15.

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00:13:20.938 --> 00:13:35.399

Primarily, article fifteen's a big law. But we focus on a particular spot that deals with excavation and fill in navigable waters because in that section, there's also provisions to include adjacent and contiguous wetlands

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00:13:35.399 --> 00:13:42.413

that are below the mean high water level. So we have a great ability to, in areas that have, , that are navigable.

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00:13:42.413 --> 00:13:43.283

So say,

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00:13:43.552 --> 00:13:44.364

the Hudson River,

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00:13:44.364 --> 00:13:47.964

if something's not mapped on our DEC maps, article

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00:13:47.964 --> 00:13:51.083

15 can take up the wetlands there immediately adjacent there.

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00:13:51.714 --> 00:13:56.903

The permanent standards a little more vague than than the ones I showed for article 24 you know,

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00:13:56.903 --> 00:13:58.403

it just needs to be reasonable and necessary.

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00:13:59.249 --> 00:14:07.288

That's a good thing. And it's it's kind of a bad thing at the same time, cause it's big enough where you can issue permits or,

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00:14:07.288 --> 00:14:12.448

deny them. Tidal wetlands- and that's really done in the article 25.

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00:14:12.953 --> 00:14:25.884

And, like I said, it was, but it's, it's the areas below the tap and see or the air Cuomo bridge and there's about 2800 acres of vegetated tidal wetlands that looks like this, you know, where you have marsh hay and sparina.

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00:14:25.884 --> 00:14:28.014

There's shoals and mud flats about 275 acres.

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00:14:30.269 --> 00:14:42.389

Water quality certifications that's really based on the Clean Water act and there's a section in a clean water act section 41 that we that we use and it requires that.

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00:14:42.389 --> 00:14:50.578

The states certify any federal action that it meets the state water quality standards. So if, if the Army Corps of Engineers are going to issue a

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00:14:50.578 --> 00:14:58.438

Permit, that's a federal action if, you know, the Army Corps of Engineers is doing a project that's a project as well that needs to be

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00:14:58.438 --> 00:15:09.443

certified by the State in New York. Where it's particularly important least in my line of work is on FERC projects. So, so projects that are being reviewed by the Federal Energy Regulatory Commission.

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00:15:09.714 --> 00:15:21.833

You know, the best example in recent times is the Constitution pipeline that folks may be familiar with. I may have seen in the news. You know, we denied that 401 water quality certificate as a way to, to protect the wetlands and streams along that route.

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00:15:22.589 --> 00:15:34.499

I'm a big Allen Jackson fan at least I used to be, you know, one of his, one of my favorite songs is "Here in the Real World." And so now we'll move on to the challenge in the real world.

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00:15:38.428 --> 00:15:44.849

Wetland maps stink. I think a lot of people already knew that; it shouldn't come as a big surprise.

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00:15:44.849 --> 00:15:49.078

But it's, it's really based on how they were mapped. Okay. They were done

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00:15:49.078 --> 00:16:02.489

back in the sixties and seventies, using an old technology with air photographs, you know, you can kind of see this person looking at the maps with the hand lens that was pretty much what we did to generate those maps I showed you earlier, very subjective.

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00:16:02.489 --> 00:16:14.249

We drew those lines manually with a pen and then the width of the line can be alone can be about 60 to 150 feet on the ground. So, you know, you saw the, it's pretty coarse scale.

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00:16:14.634 --> 00:16:25.014

So here's an example of us doing that right? So here's an actual photograph that we use. You can see on the upper left hand corner is 1968 date and this is from Lewis County. If we zoom into a particular area.

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00:16:25.014 --> 00:16:32.303

Well, now you can see the notes that the technician used to, to kind of evaluate what what was going on in that air photograph.

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00:16:33.894 --> 00:16:48.083

This eventually led to state map. Like I showed before this is the actual state map for that area. So you can kind of see where the technician figured that out. Now, if you were to use today's technology with the GIS and all the different layers

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00:16:48.083 --> 00:16:59.724

we can put on the screen of the computer, this is what you'd find, so you can see a significant amount of extra wetlands are depicted here that weren't depicted on our original mapping.

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00:17:00.028 --> 00:17:08.759

And I like to describe this as sort of two different problems. The 1st problem is a completely unmapped wetland. So here's an example in Rensselaer county.

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00:17:08.759 --> 00:17:18.209

We just missed it. This is almost easier. It's not regulated until we map it. Okay. Fair enough. Once we do a map amendment, and we did for this one, okay, then we have jurisdiction.

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00:17:18.804 --> 00:17:32.334

What's more difficult is when they're inaccurately mapped. Now, here's a site down in Dutchess county that I was back in the day actually delineated. Too many years ago. But I was out delineating and so I'm hanging flags and doing my thing.

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00:17:32.574 --> 00:17:35.003

I get to about this point, and the engineer that with me goes, Jer,

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00:17:35.519 --> 00:17:43.794

not for nothing, but you're nowhere near that map. Well, he's like, I'm not arguing with you. It's wet, but I said, well, I don't know it goes well, just keep just keep doing it.

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00:17:43.794 --> 00:17:57.503

Well, we eventually did a map amendment and included that area and what's problematic for us is with the original mapping. Where do you draw the line? It's all continuous... 100 feet away. Do you go 200 feet away, 500, 1000 feet away?

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00:17:57.503 --> 00:18:04.973

This is the really difficult part in this continuum, because it's continuous wetland. And how do you deal with those.

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00:18:09.118 --> 00:18:23.243

A Million acres is what we estimate needs to be added to the fresh water wildland maps to just meet that 12.4 acre threshold. Put some context on it. That's there's about 1.2 Million on the maps now. So, we need to pretty much double, , the, the acreage that's there.

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00:18:25.703 --> 00:18:29.273

As you can imagine this creates a headache for me quite a bit every day,

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00:18:29.273 --> 00:18:29.784

in fact,

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00:18:30.443 --> 00:18:35.334

and to add to that the process of amending maps is what I like to call a paper tiger.

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00:18:35.513 --> 00:18:37.824

It involves mandatory,

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00:18:38.034 --> 00:18:38.483

you know,

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00:18:38.483 --> 00:18:40.493

a notice in papers,

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00:18:40.824 --> 00:18:42.564

but more problematically.

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00:18:42.564 --> 00:18:50.544

it requires individual land owner, notice via certified mail to every single landowner affected by it.

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00:18:50.848 --> 00:19:01.108

Not that Target sells this, but it's big money in order just to this to pay for the, the notice and and those sorts of things for map amendments.

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00:19:02.999 --> 00:19:10.888

So, for folks who may not know the Everly Brothers, you may have heard the song back from the 50's "All I have to do is dream." So Here's my dream, right?

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00:19:10.888 --> 00:19:14.249

In 2019, this is when the dream really started.

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00:19:14.249 --> 00:19:19.769

It's part of the executive budget, the governor proposed to do some work with fresh wetlands.

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00:19:19.769 --> 00:19:31.259

Part J, just remember part J, that's the that's 1 of the critical pieces. The other critical piece is we just wanted to make a map amendments cheaper. So, the proposal was to, instead of doing

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00:19:31.259 --> 00:19:34.679

certified mailing you just we would just do

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00:19:34.679 --> 00:19:41.909

1st class mailing. And so at the end of that process, the budget process, this what happens - remember it was part J: intentionally omitted.

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00:19:41.909 --> 00:19:55.588

It just got dropped. Not, "J.R., Sorry we did the best we could. We thought we try and get nothing...." Just intentionally omitted so kind of bureaucratic in that sense. But then I'm channeling my inner Yoda so in 2020.

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00:19:55.614 --> 00:20:09.384

Governor had another proposal this time it was part TT. I was hoping that would be better for part TT than part J. And in this case, it was really let's get rid of the maps entirely. Let's just make them educational and not regulatory.

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00:20:09.384 --> 00:20:12.354

So, let's break the link between the regulations and

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00:20:12.689 --> 00:20:17.489

the maps. Well,

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00:20:17.489 --> 00:20:28.618

here we are again part TT: intentionally omitted. , now, in fairness, it was a pandemic. There were budget issues. There's a whole bunch of things that were working here but again no, "Sorry. J. R."

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00:20:29.759 --> 00:20:36.598

Inner Yoda still coming through 2021. Now, the proposal did not make it into the Governor's

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00:20:36.598 --> 00:20:37.284

Budget bill,

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00:20:37.433 --> 00:20:37.884

although the,

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00:20:37.943 --> 00:20:41.094

the Governor's office still seems supportive of the concept,

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00:20:41.094 --> 00:20:43.523

but the Senate has taken up that bill,

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00:20:43.584 --> 00:20:47.064

and they pretty much took what the Governor had proposed, add some things,

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00:20:47.064 --> 00:20:49.584

change some things and still make

147

00:20:49.614 --> 00:20:52.284

the maps educational and not regulatory.

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00:20:52.558 --> 00:21:00.749

Now, this is the Senate proposal. We don't know what's happening in the Assembly. There are talks. This is

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00:21:00.749 --> 00:21:09.868

I guess, we're on three iterations of this. , it's supposed to be coming to a vote not to, to, in the too distant future. So, what am I doing? I am

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00:21:09.868 --> 00:21:19.348

holding my fingers. Well, let's just say, maybe I cross my fingers and toes and and we might get something this year because that mapping problem.

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00:21:19.348 --> 00:21:23.489

it's been a decades long problem that has been annoying everybody

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00:21:23.489 --> 00:21:30.328

that works for DEC, the wetlands program, and the environmental communities as well as the development community as well.

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00:21:30.328 --> 00:21:37.648

So, federal wetlands, so let's talk a little bit about what's going on with federal wetlands.

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00:21:37.648 --> 00:21:48.628

Clean Water Act is what generates that primarily the, the programs we talk about for what federal protection is the section 404 program. That's the Clean Water Act. It's administered.

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00:21:48.628 --> 00:21:59.189

By the Army Corps of Engineers. There are 2 districts within New York. There's the Buffalo district for western New York and then the eastern part is administered by the New York district.

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00:22:01.584 --> 00:22:13.284

No, regulatory maps. Probably talked already about the National Wetlands Inventory maps: they're not regulatory. They might depict regulated wetlands. They might not. They may be accurate. They may be inaccurate.

157

00:22:13.314 --> 00:22:17.814

They are for, all intents and purposes, informational maps. Kind of where the state wants to head.

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00:22:19.044 --> 00:22:31.824

There's also no size threshold so, unlike ours, that that legislature decided to go for the larger wetlands, unless they're of unusual local importance, these, these go down to small wetlands.

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00:22:31.854 --> 00:22:38.814



Okay, what's critical though is their jurisdiction is based on the definition of waters at this of the United States. So WOTAS.

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00:22:39.773 --> 00:22:41.693

And if anyone's been following this,

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00:22:41.933 --> 00:22:48.413

you probably already saw that last year Trump administration came up with a new way of defining wetlands,

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00:22:48.443 --> 00:22:51.564

it was different from what the Obama administration had done,

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00:22:51.564 --> 00:22:55.824

which was different from what previous folks had done, in a way.

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00:22:55.824 --> 00:23:08.064

And in this case, it actually decreased protection of a lot of wetlands. There it was, it's been confusing. There are situations where, , you know, many things are lost but

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00:23:08.459 --> 00:23:18.534

because of the wording, it's really tough to pinpoint exactly a precise amount that's been lost. But I can tell you this is there there's been multiple lawsuits out there.

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00:23:18.773 --> 00:23:32.213

New York is, is with a bunch of other states who have been, who sued the federal government, and that, process is working its way through. I'm amazed at how long those things take. I was lucky enough to help out with some of that.

167

00:23:32.213 --> 00:23:41.034

And provide some affidavits to support that that work. And it's ongoing, and I believe in the next month or so there's supposed to be the next court date for that.

168

00:23:41.368 --> 00:23:53.128

So, and then the permitting, so there's nationwide permits versus individual permits. So, the nationwide permits is the vast majority of the actions that the, the Army Corps of Engineers

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00:23:53.128 --> 00:24:07.618

Takes. It's easier for everybody. Everybody gets to, you know, it's a lot simpler process. Large projects, though, do sometimes need individual permits. Most people don't want to do the individual permits. They would much rather do the nationwide permits.

170

00:24:07.618 --> 00:24:19.409

, cause they're just a lot easier to get to get through. We of course, have our 401 water quality cert that we issue for for, for those, those permits. For nationwide permits we have some blanket

171

00:24:19.409 --> 00:24:28.138

water quality certs for some fairly minor activities. But then we require individual 401s for a lot of work.

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00:24:28.138 --> 00:24:37.409

So with that, that was all that I had prepared, I'd be happy to take a few questions.

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00:24:37.409 --> 00:24:44.459

From there. Ingrid Haeckel:Thank you.

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00:24:44.459 --> 00:24:57.144

That was great. , so, yeah, we have a couple of questions coming in and just a reminder to folks to please use the Q and A function if you can for your questions. Is there any chance that DEC

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00:24:57.144 --> 00:25:09.173

will change the 12 acre threshold for regulated wetlands. One acre or even smaller would be much better asks one person. J.R.: Yeah. That's a good question. Yeah, and we have

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00:25:09.628 --> 00:25:20.394

talked about that. What we've decided to do was to keep the 12.4 acre threshold, but, expand the unusual importance criteria in the statute.

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00:25:20.394 --> 00:25:34.223

So, , we wouldn't go down to some of the proposals from decades ago, or go down to an acre. We went, we decided to make a more targeted approach for those smaller ones by focusing in on particular types of wetlands, you know, in urban areas,

178

00:25:34.253 --> 00:25:41.034

and that are particularly important for flood retention, those kinds of things. So now is the least the .

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00:25:42.598 --> 00:25:48.179

Governor's proposal did not include going going down wholesale to those smaller acreages.

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00:25:48.179 --> 00:25:56.909

Ingrid Haeckel: Related to that, there was a question about what unusual local importance and whether that includes class 1, a, for drinking water.

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00:25:58.884 --> 00:26:13.314

J.R.: That's a good question. I'm trying to remember the criteria for the class 1 wetlands, because the drinking water does play into our classification system. We just don't have it out in front of me to know exactly where the, where drinking water supplies bring it.

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00:26:13.973 --> 00:26:17.814

I think it brings it to a class two not necessarily a class 1.

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00:26:18.054 --> 00:26:18.503

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00:26:18.594 --> 00:26:20.634

Those sorts of things though are important

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00:26:20.663 --> 00:26:21.263

,

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00:26:21.953 --> 00:26:22.584

to consider,

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00:26:23.034 --> 00:26:33.624

but it's not the mandatory class 1 characteristic. Ingrid Haeckel: and does DEC keep track of municipalities or counties that regulate down to a smaller than 12.4 acres?

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00:26:35.068 --> 00:26:39.419

I guess that would refer to like, local wetland laws.

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00:26:39.419 --> 00:26:46.769

J.R.: Yeah, sadly, we don't we're so focused on trying to keep our head above water with what we've got, but that's

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00:26:46.769 --> 00:26:53.159

would be the, the best way to protect those wetlands that fall through the regulatory cracks, whether it doesn't,

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00:26:53.159 --> 00:27:01.019

the feds don't catch it, State doesn't catch it. That's where the municipalities can do a lot to help the wetlands.

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00:27:01.019 --> 00:27:13.199

Ingrid Haeckel: Thanks. And yeah, Emily will be telling us more about that shortly. So there's a question about clarifying, kind of, whether making maps educational versus regulatory,

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00:27:13.199 --> 00:27:17.338

Why that's better? J.R: Well,

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00:27:17.338 --> 00:27:30.804

I guess primarily it avoids the whole map amendment process, so that we can update the map, we can put them on a website. We can show everybody, but that paper tiger I talked about is truly a big deal. It involves public notice.

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00:27:30.804 --> 00:27:43.344

It involves public comment, it involves hearings and potential litigation and it's been very difficult to do those at the scale

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00:27:43.344 --> 00:27:52.733

we need to if we want to get a 1 million acres of wetlands mapped, we need to do large scale mapping and just hasn't been the ability to do that.

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00:27:53.483 --> 00:27:53.874

,

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00:27:54.023 --> 00:27:56.124

Ingrid Haeckel: So, another question:

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00:27:56.304 --> 00:27:58.463

if NWI maps aren't regulatory,

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00:27:58.463 --> 00:28:03.773

how are the boundaries of the federal wetlands determined ,

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00:28:03.804 --> 00:28:09.953

and I'll tack onto that maybe if you could also just clarify whether under the federal regulations,

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00:28:09.953 --> 00:28:12.263

whether adjacent areas are ever protected?

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00:28:12.538 --> 00:28:20.578

J.R.: The first one's easy. No adjacent area. People can go half an inch from the wetland and not be under the federal

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00:28:20.578 --> 00:28:25.709

regulation. As far as

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00:28:25.709 --> 00:28:39.804

The NWI maps. They are not regulatory. Maybe I missed the question. I was, I got distracted. Ingrid Haeckel: Oh, it's I think it's like how Army Corps determines where are the regulatory wetlands are. J.R.: Yeah. It's by field work.

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00:28:39.804 --> 00:28:46.223

So someone has to actually be physically out there to determine where the wetland boundaries are, and they've got an elaborate system that we

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00:28:46.499 --> 00:28:58.318

also use to delineate wetlands, that involves looking at the, plants and looking at the hydrology and the soils and all of that. Where that boundary is, that's where the feds

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00:28:58.318 --> 00:29:04.499

determine where the wetland boundary is, and then they go further to say, "okay, are these regulated according to the WOTUS rules?"

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00:29:04.499 --> 00:29:07.919

Ingrid Haeckel: Would a project sponsor, if

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00:29:07.919 --> 00:29:17.034

they're proposing a project, it's kind of up to them to then go to the feds for permits? J.R.: The feds will do it, but they have long delays.

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00:29:17.034 --> 00:29:30.084

So, most larger developers, actually, just they hire a consultant to go and do the work for them and then they submit paperwork to the Army Corps. Small folks can get the Corps to do it. But not very much.

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00:29:30.328 --> 00:29:41.128

Ingrid Haeckel: Yeah, well, thank you so much. There are a bunch of other questions still in the Q and A and some in chat. Perhaps you can

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00:29:41.128 --> 00:29:54.358

help fill in some of those questions as we're moving along. And we'll have some more time at the end as well. So thanks a lot. I'm gonna go ahead and pass the ball over to Gretchen.

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00:29:54.713 --> 00:30:09.683

And while, Gretchen is putting up her slides. I'll introduce her. Gretchen Stevens is the Director of the Biodiversity Resources Center at Hudsonia, a nonprofit environmental research and education institute, based in Dutchess County.

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00:30:10.044 --> 00:30:23.844

She has over 35 years of experience as a field biologist. And is a longtime partner delivering education programs with the Estuary Program to local land use decision makers throughout the Hudson Valley. Thanks for joining us again today, Gretchen.

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00:30:24.628 --> 00:30:29.368

Gretchen Stevens:

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00:30:29.368 --> 00:30:36.028

Can you hear me? Yes. Okay. Good. Good. Well, Hello everyone.

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00:30:36.028 --> 00:30:50.784

In this segment, I'm going to very briefly discuss some ideas for gathering wetland information and applying conservation principles to environmental reviews of land development projects

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00:30:50.814 --> 00:30:59.634

at the municipal level. This will be especially relevant to members of planning boards, zoning boards and conservation advisory councils.

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00:31:00.203 --> 00:31:14.003

But the idea is applied to many other situations where someone is considering new land uses at a particular site. So we hope that you will all find these ideas worthwhile for your purposes.

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00:31:15.568 --> 00:31:19.169

We've mentioned that...

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00:31:19.169 --> 00:31:28.288

my slides are not advancing. Hang on a second, late. Yeah. Sometimes you just need to click on the screen to activate it.

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00:31:28.288 --> 00:31:32.608

Let me try it again.

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00:31:42.868 --> 00:31:46.019

Once you're in slideshow? Yeah.

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00:31:46.019 --> 00:31:54.598

Click on the slide I can and then, and now hit the down button on maybe, the down arrow.

226

00:31:54.598 --> 00:31:58.138

On the keyboard.

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00:31:58.138 --> 00:32:05.338

Nate: Gretchen, this is Nate, it looks like you're at the end of another presentation so it's just closing it down.

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00:32:05.338 --> 00:32:09.808

Do you have another PowerPoint?

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00:32:13.828 --> 00:32:23.308

, there you go. Gretchen Stevens: Yes, my end slide looks just like my beginning slide. So I'm sorry about that. , yes.

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00:32:23.308 --> 00:32:23.909

So,

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00:32:24.023 --> 00:32:24.564

,

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00:32:26.003 --> 00:32:26.963  
we've mentioned,

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00:32:26.993 --> 00:32:27.503

,

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00:32:27.534 --> 00:32:28.703  
in this series,

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00:32:29.034 --> 00:32:43.344  
that many wetlands are not included under state or federal wetland regulatory programs and that many municipalities have no local legislation that specifically extends protection to all those wetlands.

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00:32:44.124 --> 00:32:55.614  
But remember that your public charge as a reviewing agency is to look out for the public welfare. Wetlands are widely recognized for their importance to lots of other water resources,

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00:32:55.888 --> 00:33:07.858  
to wildlife, and to whole ecosystems that serve the human community. So, even wetlands that have no formal legal protections, still deserve attention in the environmental review.

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00:33:08.933 --> 00:33:15.173  
We'll focus in this segment on the most typical kinds of projects that require environmental,

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00:33:15.534 --> 00:33:15.983

,

240

00:33:16.012 --> 00:33:16.884  
reviews,

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00:33:16.913 --> 00:33:17.453

,

242

00:33:17.693 --> 00:33:19.074  
at the municipal level,



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00:33:19.344 --> 00:33:21.413

such as parcel subdivisions,

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00:33:21.653 --> 00:33:25.163

site plans for residential or commercial development.

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00:33:25.739 --> 00:33:29.818

Zoning variances or special permits.

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00:33:29.818 --> 00:33:33.269

The purpose of an environmental review

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00:33:33.269 --> 00:33:39.148

is to understand the current conditions and resources on a site.

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00:33:39.148 --> 00:33:41.963

To figure out the kinds of adverse impacts,

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00:33:41.993 --> 00:33:54.233

if any, to resources of concern that might result from a proposed project, and to help the applicant design the project in ways that avoid or minimize harms to public resources

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00:33:54.683 --> 00:33:58.523

as much as possible. So how should we go about this?

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00:33:58.763 --> 00:34:10.643

The first task is to gather information for onsite and neighboring areas. You can get some of this, , from materials submitted by the applicant, like site maps and so forth.

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00:34:10.643 --> 00:34:17.393

But you should also consult the municipal comprehensive plan and zoning maps,

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00:34:17.813 --> 00:34:19.134

online resources,

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00:34:19.134 --> 00:34:20.543

such as the Hudson Valley

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00:34:20.543 --> 00:34:22.523

Natural Resource Mapper that,

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00:34:22.554 --> 00:34:22.733

,

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00:34:22.733 --> 00:34:25.943

Ingrid described in our last session,

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00:34:26.244 --> 00:34:32.634

any local knowledge or expertise that you can draw on, and your own observations when you visit a site.

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00:34:33.088 --> 00:34:44.639

When examining maps, aerial photos, descriptions of the site, and the proposed project, try to answer a few basic questions

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00:34:44.639 --> 00:34:57.148

related to wetlands. Are there surface water or ground water resources of concern on, or near the site such as streams wetlands or aquifers?

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00:34:57.148 --> 00:35:01.858

Do not rely solely on the information provided to you by the applicant.

262

00:35:03.833 --> 00:35:18.293

Think about where the water is moving from and where it's moving to on the site. Then how is that likely to change when the proposed development is in place? Their analysis of the topography can help answer those questions.

263

00:35:20.034 --> 00:35:33.324

What are the likely effects of the project on wetlands, streams, or other resources of concern? Will there be more runoff? More concentrated runoff, less runoff? Different patterns of runoff?

264

00:35:34.583 --> 00:35:37.824

And how can any adverse impacts be avoided,

265

00:35:37.853 --> 00:35:40.764

or minimized such as relocating the,

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00:35:41.003 --> 00:35:43.284

some of the proposed development features,

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00:35:43.313 --> 00:35:46.103

or establishing broad buffer zones,

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00:35:46.403 --> 00:35:48.623

or reducing impervious surfaces,

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00:35:49.014 --> 00:35:54.293

or employing stormwater management measures such as detention ponds or rain gardens,

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00:35:54.293 --> 00:35:54.893

or other,

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00:35:55.373 --> 00:35:55.884

,

272

00:35:55.914 --> 00:36:00.054

features designed to ensure that run off patterns remain unchanged.

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00:36:00.983 --> 00:36:06.052

These are the kinds of discussions to have with the applicant as early as possible.

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00:36:08.364 --> 00:36:19.193

To assist in these reviews, we put together the sample checklist for site resource assessment, to make sure that reviewing agencies have the information they need. In page

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00:36:19.193 --> 00:36:24.773

1 of the checklist is just a list of questions about the site, describing the site.

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00:36:25.284 --> 00:36:34.403

And page 2 has additional questions that can help you consider ways to avoid or minimize impacts. A few examples of the page 1 questions.

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00:36:34.434 --> 00:36:34.853

,

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00:36:34.884 --> 00:36:35.664

Are these,

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00:36:35.693 --> 00:36:36.293

,

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00:36:36.804 --> 00:36:45.833

Are there mapped wetlands or wetlands soils on the site? And you can get that information from a public web maps. Have wetlands

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00:36:45.833 --> 00:36:47.003

been delineated,

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00:36:47.034 --> 00:36:47.693

onsite,

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00:36:47.844 --> 00:36:51.684

surveyed and mapped onto a site specific plan?

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00:36:52.793 --> 00:36:55.733

Are there intermittent or perennial streams on,

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00:36:55.733 --> 00:37:09.443

or near the site? Use your own analysis of topographic maps and air photos are photos. Don't rely solely on public maps for information provided to you by the applicant to answer that that kind of question.

286

00:37:09.748 --> 00:37:17.849

Have proposed development features, been located to preserve buffer zones around wetlands and along streams?

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00:37:17.849 --> 00:37:26.489

Have the proposed features been located outside of flood zones? This would include new roads, driveways buildings, or other structures.

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00:37:27.353 --> 00:37:42.204

And are stormwater management measures designed to preserve preconstruction patterns, and volumes of surface water runoff from the site? Those are just the kinds of questions that are on page 1 of of this checklist.

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00:37:43.014 --> 00:37:49.403

Ingrid has put a link to this sample checklist in the chatbox.

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00:37:49.648 --> 00:37:53.369

A checklist like, this can be revised according to

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00:37:53.369 --> 00:38:02.759

your own communities, particular needs and concerns, and incorporated into the formal site plan review or.

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00:38:02.759 --> 00:38:08.159

subdivision application, , procedures, and even into the municipal code.

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00:38:08.159 --> 00:38:14.369

The town of Rhinebeck, for example, has codified such a checklist in their subdivision law.

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00:38:14.844 --> 00:38:20.695

I urge you to find your own answers to these questions and if needed call in an expert,

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00:38:20.695 --> 00:38:25.855

such as a wetland specialist to review or verify the presence or absence of wetlands,

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00:38:26.454 --> 00:38:32.125

And the delineation of their boundaries, or an engineer to answer the stormwater management questions.

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00:38:34.914 --> 00:38:43.914

The state environmental quality review, or SEQR is the basic tool in New York state for environmental assessment of a proposed project.

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00:38:44.065 --> 00:38:55.315

It leads the applicant, and the reviewing agencies through procedures and questions designed to describe the project and discover any potential impacts on important resources.

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00:38:55.769 --> 00:39:03.300

The SEQR procedures are meant to be followed for many of the projects that are reviewed by municipal agencies.

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00:39:04.014 --> 00:39:06.144

The environmental assessment form,

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00:39:06.144 --> 00:39:20.965

or is EAF of the basic tools within secret to gather and assess information. A short EAF is used for smaller projects and a full EAF is used for projects expected to have larger environmental

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00:39:20.965 --> 00:39:23.184

Impacts. Part

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00:39:23.184 --> 00:39:26.965

1 of the short EAF is typically prepared by the applicant.

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00:39:28.255 --> 00:39:33.054

And parts 2 and 3 of the short EAF are prepared by the reviewing agency,

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00:39:33.385 --> 00:39:35.364

but the lead agency,

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00:39:35.454 --> 00:39:35.755

which,

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00:39:35.755 --> 00:39:44.635

in many cases is the planning board of a municipality, the lead agency is responsible for the accuracy and completeness of the entire

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00:39:45.534 --> 00:39:50.244

EAF so should insist on thorough and accurate answers to all the questions.

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00:39:51.594 --> 00:40:03.985

In my decades of experience participating in environmental reviews, I've found that many planning boards view the environmental assessment form as just another annoying requirement.

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00:40:04.344 --> 00:40:14.724

They kind of roll their eyes and fill it out in a perfunctory way kind of as an afterthought without paying much attention to the questions.

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00:40:15.239 --> 00:40:27.570

Or to the answers, but I do urge you to use the EAF to its fullest because it can really help you focus your attention on resources of concern.

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00:40:27.570 --> 00:40:40.320

Some of the questions are related directly or indirectly to wetlands are these: does any portion of the site of the proposed action or lands adjoining

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00:40:40.320 --> 00:40:47.489

the site of the proposed action, contain wetlands or other water bodies regulated by a federal, state or local agency?

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00:40:47.489 --> 00:40:54.269

Would the proposed action physically alter or encroach into any existing wetland or water body?

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00:40:54.269 --> 00:41:03.750

Will the proposed action create stormwater discharge either from point or nonpoint sources? And will stormwater discharges flow to adjacent

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00:41:03.750 --> 00:41:08.815

properties? To check on the answers to these questions submitted by the applicant,

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00:41:09.144 --> 00:41:12.565

you can check the Hudson Valley Natural Resource Mapper,

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00:41:12.684 --> 00:41:13.045

,

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00:41:13.074 --> 00:41:17.844

for the National wetland inventory and New York state regulated wetlands,

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00:41:18.114 --> 00:41:18.324

,

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00:41:18.324 --> 00:41:20.635

for wetland soils and for streams.

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00:41:21.150 --> 00:41:34.710

Also examine topographical maps and aerial photos for indicators of other wetlands and streams that do not appear on those maps, use the resources and techniques that we just demonstrated in last week's webinar.

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00:41:35.815 --> 00:41:43.494

Ask the applicant if wetlands have been identified and delineated by a wetlands professional and surveyed by land surveyor,

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00:41:45.085 --> 00:41:45.505

,

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00:41:46.105 --> 00:41:46.344

,

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00:41:46.344 --> 00:41:48.894

ask the applicant for additional information,

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00:41:48.894 --> 00:41:54.894

anything that you feel you need to know for a thorough understanding of the site and the proposed project.

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00:41:55.344 --> 00:41:55.764

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00:41:56.190 --> 00:42:08.574

Visit the site to answer any lingering questions and to see if there are other important aspects of the site that were not apparent from your remote assessment, and, of course, call on experts.

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00:42:08.574 --> 00:42:20.965

when needed. You, as a planning board member are not expected to be an expert on all the, these technical questions around wetlands and stormwater and so forth.

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00:42:23.695 --> 00:42:23.905

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00:42:23.905 --> 00:42:32.695

One of the EAF part 2 questions to be answered by the lead agency is will the proposed action result in an adverse change to natural resources,

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00:42:32.695 --> 00:42:33.594

such as wetlands,

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00:42:33.804 --> 00:42:34.135

Water-

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00:42:34.135 --> 00:42:34.704

bodies,

336

00:42:34.735 --> 00:42:35.574

groundwater,

337

00:42:35.635 --> 00:42:35.844

air

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00:42:35.844 --> 00:42:36.385

quality,

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00:42:36.385 --> 00:42:41.215

flora and fauna? So think about the possible adverse changes to wetlands.

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00:42:41.485 --> 00:42:42.414

That might include,

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00:42:42.414 --> 00:42:43.224

for example,

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00:42:43.704 --> 00:42:45.684

habitat loss or fragmentation,

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00:42:46.195 --> 00:42:55.284

excessive or reduced runoff, pollution, or other disruption of wetlands, streams, or ponds from a runoff from roads,

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00:42:55.434 --> 00:42:56.875

Driveways, or lawns,

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00:42:57.445 --> 00:43:00.295

including thermal pollution and siltation.

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00:43:00.599 --> 00:43:07.710

Degradation of wetlands or streams due to improperly sized or poorly installed culverts.

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00:43:07.710 --> 00:43:20.550

Or reduce groundwater recharge and others. , these are the kinds of impacts that may be invisible while they're happening, but can have ultimately huge effects on wetlands and streams.

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00:43:21.894 --> 00:43:36.324

We strongly encourage you to use the review as an opportunity to learn about natural resources on the proposed development site and to insist on thorough and accurate answers to your questions about natural

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00:43:36.324 --> 00:43:43.735

resources and the project design. Think carefully about how to reduce the environmental impacts of a new land use,

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00:43:44.005 --> 00:43:50.875

and work with the applicant to ensure that any adverse impacts of the proposed project are minimized.

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00:43:52.824 --> 00:44:04.494

Hudsonia also prepared this 4 page SEQR fact, sheet, which provides a quick overview of the SEQR process and how to use it together good information about biodiversity and water resources.

352

00:44:04.914 --> 00:44:09.144

I think that Ingrid has put a link to the fact sheet into the chatbox.

353

00:44:09.480 --> 00:44:13.710

I don't know how we're doing on time.

354

00:44:13.710 --> 00:44:19.260

But is there time to answer any questions.

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00:44:19.260 --> 00:44:22.590

Ingrid Haeckel: Yes, thank you. Gretchen.

356

00:44:22.590 --> 00:44:26.849

I've been trying to answer a couple of myself.

357

00:44:26.849 --> 00:44:34.440

Where I can, so thanks a lot so that we have 1 question here.

358

00:44:34.440 --> 00:44:48.719

The site evaluation checklist seems to presume that there has been no human intrusion prior to the development project being assessed. Is it a fair assumption that if the area is already developed that the regular

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00:44:48.719 --> 00:44:52.650

regulatory review is not required?

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00:44:52.650 --> 00:44:58.829

I guess that's not entirely clear to me, but.

361

00:44:58.829 --> 00:45:06.300

Gretchen Stevens: I'm not sure I understand the question, the regulatory review

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00:45:06.300 --> 00:45:14.820

is always required. It doesn't matter if the site has been disturbed by.

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00:45:14.820 --> 00:45:18.389

Human activities, , but, , .

364

00:45:18.389 --> 00:45:33.329

So, maybe the question was about something else I'm not, I'm not quite sure. Ingrid Haeckel: maybe it was asking if this process still applies, you know, if you're dealing with a site, that's already disturbed. I, that's what I'm reading into it. Gretchen Stevens: Yeah.

365

00:45:33.329 --> 00:45:36.480

I, , it does apply yes.

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00:45:36.480 --> 00:45:46.260

Certainly, I mean your own assessment might differ, depending on the extent of disturbance.

367

00:45:46.525 --> 00:45:47.034

,

368

00:45:47.844 --> 00:45:48.204

but,

369

00:45:48.474 --> 00:45:48.985

,

370

00:45:49.644 --> 00:45:50.034

,

371

00:45:50.094 --> 00:45:54.835

the same kind of assessment should should definitely apply and and do think about,

372

00:45:54.864 --> 00:45:55.105

,

373

00:45:55.135 --> 00:45:55.855

impacts,

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00:45:55.885 --> 00:45:56.094

,

375

00:45:56.125 --> 00:45:59.425  
both on already disturbed wetlands and streams,

376  
00:45:59.755 --> 00:46:00.085

,

377  
00:46:00.295 --> 00:46:00.804  
and,

378  
00:46:00.835 --> 00:46:01.375

,

379  
00:46:01.525 --> 00:46:05.815  
adjacent or nearby wetlands or streams that may be less disturbed.

380  
00:46:06.300 --> 00:46:20.070  
Ingrid Haeckel: Mm, hmm. , another question is what, if the lead agency does not take their responsibility as important, or doesn't do their due diligence at best. What can be done?

381  
00:46:20.070 --> 00:46:24.119

, .

382  
00:46:24.119 --> 00:46:39.054  
Gretchen Stevens: Certainly, , I would bring it up with the lead agency,bring bring up your concerns. And and the reasons you feel that they didn't, , carry out the process properly.

383  
00:46:39.360 --> 00:46:47.820  
, there's not a whole lot else. You can do a short of, .

384  
00:46:47.820 --> 00:47:00.329  
Sort of, you know, taking some legal action. There's a, there's a provision. There's a, , procedure article 78,

385  
00:47:00.329 --> 00:47:08.730  
that is sometimes use to challenge, , public agencies for just thatproblem of, .

386  
00:47:08.730 --> 00:47:18.480

Of making their decisions without the proper information, or without the proper consideration, , of the,  
.

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00:47:18.480 --> 00:47:29.429

Conditions at hand. Ingrid Haekel: How do you combat consultants or developers that say intermittent streams are drainage ditches?

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00:47:29.429 --> 00:47:33.360

Well, I guess what I would say is, .

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00:47:33.505 --> 00:47:44.244

although they are drainage dishes, so, you know, sometimes our regular streams are like, drainage ditches too.

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00:47:44.545 --> 00:47:51.715

They are carrying water into other perhaps more well established streams.

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00:47:52.019 --> 00:47:59.280

And the impacts to intermittent streams can have a very large effects on downstream waters.

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00:47:59.784 --> 00:48:13.945

Intermittent streams themselves, though, too can be important to habitats in their own right. There are lots of animals that use those streams. Some use them seasonally some use them year around.

393

00:48:14.005 --> 00:48:22.135

And, , even when the streams are dry, you'll find them in the, in the, dug into the muddy substrate.

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00:48:22.739 --> 00:48:32.730

I guess that I would say both of those things that, that intermittent streams can have important habitat values themselves and

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00:48:32.730 --> 00:48:42.090

they have can have a very large influence on the downstream areas, the streams, ponds, and wetlands that they flow into.

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00:48:42.090 --> 00:48:46.019

Ingrid Haekel: Thanks and

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00:48:46.019 --> 00:48:56.190

I would say stay tuned that we're hoping to offer a similar program about headwater streams, including intermittent streams later this year.

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00:48:56.190 --> 00:49:07.590

So, another question is just about whether, just to clarify that, we will be sharing the recording of today's event and the slides with you afterwards. So, I think

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00:49:07.590 --> 00:49:17.309

we're going to move along now to stay on track. But again we'll have some more time for questions at the end, so keep them coming and

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00:49:17.309 --> 00:49:21.989

I'm going to pass the ball over to Emily and thank you again, Gretchen.

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00:49:21.989 --> 00:49:34.230

For your presentation, and as Emily is pulling up her slides, I would like to introduce her. Emily Svenson is a partner in the Poughkeepsie law firm.

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00:49:34.255 --> 00:49:42.894

Gordon and Svenson. She counsels and represents residents, nonprofit organizations, and municipalities on environmental and land use matters.

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00:49:43.255 --> 00:49:55.045

Emily began her career in state government, managing water, pollution prevention programs and she has served as an elected town board member and deputy town supervisor. Thank you so much for joining us.

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00:49:56.159 --> 00:50:02.280

And we're seeing, , a slide with the dog.

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00:50:02.280 --> 00:50:07.500

Your dog? Oops , Emily, you're muted.

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00:50:08.005 --> 00:50:22.914

Emily Svenson: There you go. Oh, thank you. All right yeah. Just put a dog up while I was getting my slide certain. That's nice. Now you can see the slide, so I assume. Yes. Perfect. Okay.

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00:50:22.945 --> 00:50:27.235

Thanks. Hi, again. Thanks, Ingrid. My name is Emily Svenson

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00:50:27.445 --> 00:50:38.815

and I really appreciate the opportunity to be here today. Thank you to Ingrid and the Estuary Program and Hudsonia for presenting this webinar and inviting me to be part of it.

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00:50:39.144 --> 00:50:49.135

As Ingrid said, my law practice focuses on land use and environmental law. I have worked with some municipalities developing land use laws.

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00:50:49.434 --> 00:51:03.925

And a lot of what I do is work with citizen groups, when they're concerned about development projects. So, in those situations, I've seen where laws are not sufficient to protect resources.

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00:51:03.925 --> 00:51:11.125

And so, hopefully we can give you some ideas on how you can proactively improve the local laws in your community.

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00:51:11.460 --> 00:51:18.420

Okay, so today's session is going to be in 4 parts.

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00:51:18.420 --> 00:51:32.454

First, I'll quickly review why municipalities may want to regulate wetlands. A lot of that was covered by J.R. earlier. We'll talk about the structure of a typical wetlands ordinance and how it functions.

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00:51:32.815 --> 00:51:39.385

We'll talk about some alternative regulatory options and also the process of adopting a wetlands law.

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00:51:39.750 --> 00:51:46.559

So, starting off with local regulation.

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00:51:46.559 --> 00:51:58.980

So, as JR explained, the New York state regulates wetlands that are larger than 12.4 acres.

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00:51:58.980 --> 00:52:02.969

Sierra club did a study that



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00:52:02.969 --> 00:52:09.474

The wetlands regulated by New York state represented about 7% of the total number of wetlands in New York state.

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00:52:09.474 --> 00:52:21.385

It's a bigger percentage of the total acreage of wetlands but there are many, many, many smaller wetlands that fall below that 12.4 acre threshold and are not regulated by New York state.

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00:52:22.559 --> 00:52:36.655

As far as federal wetland protection under the Clean Water Act, as J. R. went over as well, that's also limited. It only applies to a subset of wetlands, ones that are connected to streams.

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00:52:36.954 --> 00:52:40.405

It doesn't include any buffer on those wetlands.

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00:52:40.650 --> 00:52:50.005

And the nationwide permits allow those federal wetlands to be filled up to a limit. So, that protection is limited.

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00:52:50.184 --> 00:53:02.215

In fact, just before I got in this webinar, I had a new client call and said, I can't believe, there's a proposal for a new project down the street from me and it can't be possible because

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00:53:02.309 --> 00:53:09.864

There are federal wetlands on the site. And I had to tell them that, you know, that does not mean that there isn't going to be construction on that site.

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00:53:10.224 --> 00:53:22.885

Once people understand that and can proactively look towards, if there are wetlands in your community that are not protected, you, as a municipality can protect them.

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00:53:24.360 --> 00:53:38.244

I just wanted to, as an example, look at this a site where, hopefully you can see my cursor. This is in a community near here. There's a whole lot of different water resources on this site.

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00:53:38.244 --> 00:53:52.224

There's a lake in this area, there's a series of wetlands over here. Large wetlands. These ones over here are federally regulated wetlands. I'm sorry this one here is the DEC state regulated wetland.

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00:53:52.559 --> 00:53:58.469

These are federally regulated wetlands. This lake has some small

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00:53:58.764 --> 00:54:10.824

pieces adjacent to it that are regulated. And so when a developer looks at a site like this, they kind of look at it as an obstacle course, and figure out "what's the path of least resistance to put my project in?"

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00:54:12.264 --> 00:54:24.114

And so, in this case, this part over here was already developed as a resort and they decided that they could put a road through here, cross over these wetlands.

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00:54:24.480 --> 00:54:27.869

Put this, road through here, cross over the wetland again.

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00:54:27.869 --> 00:54:33.300

And, put in a bunch of lodging facilities and because those

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00:54:33.300 --> 00:54:39.269

crossings added up to less than a 10th of an acre, they could get that permitted through the

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00:54:39.269 --> 00:54:42.659

nationwide permit, and it was,

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00:54:42.659 --> 00:54:44.815

Pretty simple as far as wetlands are concerned.

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00:54:45.054 --> 00:54:58.255

So, in in a case like this, if the town had decided they wanted to put their own regulations on the wetlands, they could have influenced how all of this construction near these water resources would play out.

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00:55:00.480 --> 00:55:07.619

And what gives the municipality this authority? New York state municipal home rule Law section, 10.

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00:55:07.619 --> 00:55:20.275

Which, actually, it's derived from the New York state constitution, but codified in municipal home law section 10, that a municipality can enact local laws to protect the environment.

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00:55:20.545 --> 00:55:33.324

So that's something that municipalities have the power to do. Your town board, village board city council, the legislative body of your municipality can enact laws to protect environmental resources.

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00:55:36.449 --> 00:55:49.255

And because that power's pretty broad, you can make the choice what's important to your community. Which wetlands do you want to protect? which streams? A lot of local laws protect both wetlands and streams together. Really,

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00:55:49.255 --> 00:55:52.344

they're part of the same resource in a lot of ways.

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00:55:52.829 --> 00:56:01.829

Do you want to protect buffers on those resources? if you're not sure what I mean by buffers you might want to go back and listen to the previous

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00:56:01.829 --> 00:56:12.599

webinars where I'm sure they explained the importance of protecting the dry land surrounding wetlands because, the ecological values and

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00:56:12.599 --> 00:56:17.070

and just the water flow really

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00:56:17.070 --> 00:56:23.429

expand beyond the wetland itself to the surrounding area. So if you want to protect wetlands,

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00:56:23.429 --> 00:56:28.679

generally, it's advisable to protect the buffers around those wetlands as well.

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00:56:28.679 --> 00:56:32.880

, also you can decide what activities you want to regulate.

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00:56:32.880 --> 00:56:36.389

So these are all choices you can make when you adopt a local law.

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00:56:39.269 --> 00:56:45.539

So the next segment we're going to get up the wetlands ordinance.

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00:56:46.614 --> 00:57:00.804

When I started doing these presentations, we didn't have this wonderful resource and now we do so it makes it a whole lot easier. The New York State Department of state, put out a publication called Model Local Laws to Increase Resilience.

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00:57:01.050 --> 00:57:11.039

This guidebook was released last year by the Department of State, and it was based on climate resilience and protection from flooding.

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00:57:11.039 --> 00:57:23.070

But the laws and strategies that are in the guidance package, really protect resources for multiple benefits, obviously a wetland, protecting wetlands

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00:57:23.070 --> 00:57:37.675

protects from flooding and increases climate resilience, but it also has all kinds of other benefits as well. And so these sample laws are very useful in communities where you want to protect these resources.

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00:57:37.945 --> 00:57:47.605

One nice thing about it is that because this is put out by the Department of state , it kind of has the state stamp of approval you know, you're not, you're not just, .

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00:57:48.059 --> 00:57:57.480

some local person that wants to adopt a law, you're trying to do something that the state has endorsed. So, I, I like that aspect of it.

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00:57:57.835 --> 00:58:09.744

We're going to start our discussion by looking at a comprehensive wetlands and water course ordinance, a model that's within this that's on this website within this package of information.

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00:58:10.105 --> 00:58:20.815

And I just want to tell you how to get to these resources. So, on the screen is the link to the website, which you see a picture of the website here.

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00:58:21.179 --> 00:58:24.989

And then once you get to the Department of State website.

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00:58:24.989 --> 00:58:33.360

You'll want to go to the wetland and watercourse protection measures section. There are a number of different sections of different types of natural resources.

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00:58:33.360 --> 00:58:37.139

Then go to part a, and download the word document.

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00:58:37.139 --> 00:58:47.820

And I have a few, , snippets on in my presentation so you don't have to do this right now, but, , later on, if you want to get the whole document, that's that's how you'll get to it.

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00:58:47.820 --> 00:58:53.519

So, within that.

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00:58:53.519 --> 00:58:58.889

the packet that I just showed how to download from the Department of State website,

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00:58:58.889 --> 00:59:07.019

Section 2.1.4 is a local freshwater wetland law on page 19 of that document.

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00:59:07.019 --> 00:59:10.380

And it's about a 20 page sample law.

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00:59:10.380 --> 00:59:18.150

and I want to kind of take you on a tour through it. This is something that you could adapt and adopt in your community.

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00:59:19.224 --> 00:59:33.954

I want to point out in particular a few places where you can customize it based on your community. The science of your community: if you, if you have certain types of wetlands you want to protect, and also the political reality of your community.

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00:59:34.739 --> 00:59:47.309

So, , like I said, it's about a 20 page sample law. If you want to get to the action, you kind of have to jump to the middle section 4.

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00:59:47.309 --> 00:59:51.869

Which is on page 30 of the document.

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00:59:51.869 --> 01:00:00.840

Section 4 says what activities are regulated. So this is kind of the heart of the matter- what activities are regulated by this ordinance.

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01:00:00.840 --> 01:00:10.110

So typically, what happens is there are certain activities that are regulated and certain activities that are exempt.

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01:00:10.110 --> 01:00:23.969

So, if you want to do any of the exempt activities, like maintaining vegetation, repairing existing structures, certain things that the, the government has decided to just be exempt, and you don't need a permit for those things.

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01:00:23.969 --> 01:00:32.969

And then there will also be a list of regulated activities. So those are things that, if you want to do those activities in the wetland, you do need a permit.

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01:00:34.949 --> 01:00:45.175

Some laws actually have another category for prohibited activities and those are things that you just can't do at all. No, it's not a matter of getting a permit.

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01:00:45.505 --> 01:00:57.295

Fr example, in the town of Rhinebeck, they have a prohibition on draining wetlands, clear cutting wetlands or wetland buffers. , so that's something to consider as well.

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01:00:57.780 --> 01:01:00.840

Typically, these laws are permitting.

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01:01:00.840 --> 01:01:10.889

They're not prohibiting laws they're saying, if you want to do certain things, you need to prove that it's okay and and get a permit, but you can decide to just outright prohibit things as well.

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01:01:13.590 --> 01:01:17.340

Hello.

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01:01:17.340 --> 01:01:26.550

So, then the next big question is what areas are included, what areas are you regulating and so for that, if you so going back a slide.

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01:01:26.550 --> 01:01:29.699

You'll see, , except as otherwise provided,

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01:01:29.699 --> 01:01:44.664

it's unlawful without a permit to conduct any of the following activities in a wetland, watercourse, or buffer area. So, in order to figure out what areas are regulated, you have to go to the definition section and find out what is a wetland, watercourse or buffer area.

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01:01:46.679 --> 01:01:52.614

So, go into the definition section on page 22. here's another place where you can make decisions on what's important in your community.

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01:01:52.614 --> 01:02:05.304

So, in the sample, it suggests that wetlands are those geographic areas, greater than 1/4th acre defined in this chapter as brackish, freshwater or tidal wetlands.

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01:02:05.304 --> 01:02:17.094

But not including wetlands regulated by DEC or artificial wetlands. So that actually, within the definitions, there's more specific definitions, for each of those categories.

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01:02:18.570 --> 01:02:29.670

So, you can decide whether you want to go a quarter acre and larger or a half acre or 1 acre or a 10th of an acre, or have no limit.

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01:02:29.670 --> 01:02:44.184

Whether brackish wetlands or something that you have, you know, that might not be something that you have in your community. That's like, along the Hudson, where it's, , where it's, it's tidal and there's, , salt water.

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01:02:44.545 --> 01:02:55.074

, that may, or may not be applicable to your community. So, you know, you can customize the types of wetlands that are related for what makes sense in your community.

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01:02:55.409 --> 01:03:02.730

And then the buffer area, you can also decide what sort of buffer area that you want to protect.

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01:03:02.730 --> 01:03:07.829

Again, there's, there's a lot of science to that, but there's also politics to that. I mean,

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01:03:07.829 --> 01:03:20.880

probably science would say, you know, several 100 feet buffer area is beneficial in a lot of situations that may, or may not be something that's acceptable in your community. So, that's something you can work through as well.

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01:03:23.070 --> 01:03:36.780

And whether or not you want to map the areas that you're regulating is another question, a lot of communities well, sometimes communities include a map. Sometimes they build this an example in New Paltz where they do have a map.

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01:03:36.780 --> 01:03:37.855

But really,

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01:03:37.855 --> 01:03:38.304

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01:03:38.335 --> 01:03:39.534

the map is typically,

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01:03:39.534 --> 01:03:42.445

as J.R. was discussing more of a an educational map,

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01:03:42.445 --> 01:03:44.335

it's telling you where there may be wetlands,

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01:03:44.635 --> 01:03:52.704

but generally that you need to actually go out in the field for a particular project and and map the exact extent of the wetland

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01:03:52.704 --> 01:03:53.425

and based on,

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01:03:53.635 --> 01:03:54.025

,

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01:03:54.054 --> 01:03:55.255

the topography,

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01:03:55.255 --> 01:03:56.215

the geology,

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01:03:56.244 --> 01:03:57.474

the vegetation,

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01:03:57.804 --> 01:03:58.074

,

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01:03:58.105 --> 01:04:02.815

because it's not going to be possible in most cases to map at them all in advance.

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01:04:04.289 --> 01:04:14.815

, what New Paltz does actually is that they provide this map as a sort of a preview for people, but then they provide a free onsite assessment by a wetland inspector.

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01:04:14.905 --> 01:04:20.364

If someone wants to know how much of their land does actually wetland.

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01:04:23.699 --> 01:04:28.079

So then once you figure out, you know, what you want to regulate in your wetlands law.

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01:04:28.079 --> 01:04:42.599

The next question is, how is the law going to work and, there are really 2 things that are going on when your law is gonna come into play. One, is the, the good situation where someone is applying to do a project.

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01:04:42.599 --> 01:04:47.730

And they are seeking permits in advance to figure out, you know.

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01:04:47.730 --> 01:04:56.070

How they're going to lay out their project, but the worst situation is when someone just breaks the law and then you need to use the law to enforce against them.

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01:04:56.070 --> 01:05:02.340

So, first, let's talk about the better situation, the permitting situation.

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01:05:02.340 --> 01:05:07.710

So you want to have a, a section in your wetlands law that explains how permitting is gonna work.

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01:05:07.710 --> 01:05:10.949

And and the.

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01:05:10.949 --> 01:05:15.659

Oh, okay.

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01:05:15.659 --> 01:05:19.619

Ingrid Haeckel: you broke up for a 2nd there Emily.

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01:05:19.619 --> 01:05:22.889

Emily Svenson: Oh, I'm sorry, I'll go back. Repeat that.

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01:05:22.889 --> 01:05:37.260

So, in the sample law, the permitting section starts on page 32 in section 6, and it goes through how a applicant applies for a permit. If they're going to build a development project.

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01:05:39.269 --> 01:05:48.025

And so, some of the questions you want to consider when you're drafting your permitting section. Think about what official or board is going to manage the applications.

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01:05:48.054 --> 01:05:58.014

Who's going to decide on whether a permit is issued or whether you're going to use a wetland inspector. Some communities find that

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01:05:58.440 --> 01:06:03.809

they want to have someone with that expertise to actually go out and

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01:06:03.809 --> 01:06:15.539

and, you know, check where the wetlands are located, as opposed to the, the existing staff. So they might hire a specific wetland inspector to come in just to help with wetland applications.

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01:06:15.539 --> 01:06:23.369

And then you want to talk about the criteria for awarding a permit.

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01:06:25.105 --> 01:06:37.855

Looking at my notes here. Yeah, so the town of New Paltz, they changed. So in the model law, they have an environmental director, which is not a position that a lot of communities have.

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01:06:37.855 --> 01:06:46.644

So you want to think about how that's going to work in your community. It could be the building inspector or the zoning officer who awards the permits.

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01:06:46.920 --> 01:06:55.380

And in the town of New Paltz, I made a note that they have a wetlands inspector, a contracted wetlands professional,

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01:06:55.380 --> 01:06:59.519

Who, , who reviews and awards permits.

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01:07:01.230 --> 01:07:06.420

Just as a

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01:07:06.420 --> 01:07:10.769

one idea you might want to go through is giving your law a test run.

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01:07:10.769 --> 01:07:14.460

This is a, a, a site.

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01:07:14.460 --> 01:07:23.219

In duchess County, where it's a site bordering route 9 and has a stream running through it.

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01:07:23.219 --> 01:07:37.920

And it's a class C stream so there's no DEC protection, but the town has a stream and wetlands which has a 50 foot buffer on the stream. So this town has decided we're going to have

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01:07:37.920 --> 01:07:42.300

I'm going to add a 50 foot protective buffer on streams.

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01:07:42.300 --> 01:07:48.809

Great, but now here comes the question: so when someone wants to develop a project on this part of the property,

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01:07:48.809 --> 01:07:54.809

but they also want to use this part of the property and in order to do that, they're going to need to cross the stream,

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01:07:54.809 --> 01:07:58.980

is there need to do that? quote unquote need

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01:07:58.980 --> 01:08:06.659

to qualify them to get a permit to disturb the stream in order to make their project

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01:08:06.659 --> 01:08:11.880

the size they want it to be. So this is the actual project

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01:08:11.880 --> 01:08:23.130

that was proposed, which obviously has several building that they've got this portion of the site, and they wanted to have some parking over on the side of the site. So they put a

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01:08:23.130 --> 01:08:26.279

car bridge and a pedestrian bridge

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01:08:26.279 --> 01:08:34.020

over the stream, and the justification was that without access to this parking,

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01:08:34.020 --> 01:08:38.609

the project would be greatly reduced in size and would cause an economic hardship.

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01:08:38.609 --> 01:08:45.060

So that was their excuse for why they should get a permit to cross the stream. So think about it, is that something that

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01:08:45.925 --> 01:08:58.045

you want to be permitted in your community, or do you want to have, stricter standards where, you know, in a case like this, maybe they would just to make their project a little smaller and not cross the stream.

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01:08:58.675 --> 01:09:05.784

So, you know, it, I think it helps to do some trial runs with different projects and see what level of scrutiny you want in the law.

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01:09:08.039 --> 01:09:21.659

And then I said the other thing your law will be used for is when someone breaks the law, when someone decides that without a permit, they're going to go out and fill a wetland or disturb a wetland. And so you want to have a section in there

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01:09:21.659 --> 01:09:28.979

on how violations are addressed. And in the model that's section 12 starting on page 40.

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01:09:30.659 --> 01:09:43.649

And unfortunately, this does happen. This is a case I worked on where someone was dumping construction debris in a wetland and needed to be stopped. So, think about that in advance and how that will be handled.

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01:09:43.649 --> 01:09:48.569

I would suggest that your code enforcement officer there should be able to

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01:09:48.569 --> 01:09:57.960

put a stop work order, and you want the code probably to require the violator to restore the land , among other things.

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01:10:00.569 --> 01:10:09.479

So, the 3rd portion of our presentation, some alternative approaches besides a comprehensive wetland and watercourse law.

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01:10:12.119 --> 01:10:26.489

One idea is, you could put regulations in your zoning code. What we've been talking about is a standalone Wetland and water course law that is a separate part of your town code, but you could put a wetland regulations in your zoning code.

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01:10:26.489 --> 01:10:36.779

Typically, then it would really just be regulating construction activities and not other things, which may be fine. It's another approach that some communities take.

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01:10:36.779 --> 01:10:44.489

One thing you can do is put zoning setbacks into your code which would

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01:10:44.489 --> 01:10:48.270

capture applications for site plans, subdivision approval.

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01:10:48.270 --> 01:11:00.720

And rather than a permitting approach, you would simply define the setbacks from wetlands. So, in other words, you might say that, for all wetlands that meet certain criteria,

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01:11:00.720 --> 01:11:04.920

no one can build within 50 feet or 100 feet. Then if

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01:11:04.920 --> 01:11:16.649

someone wants to pursue a project that would have to intrude upon that that area, they would need to seek a variance from that zoning setback as opposed to seeking a permit.

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01:11:16.649 --> 01:11:20.279

So that's another approach that said municipalities take.

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01:11:20.279 --> 01:11:29.250

In the Department of state guide, you'll see there are examples of some of these approaches as well. And they have a model from the town of Ulysses

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01:11:29.250 --> 01:11:38.699

that uses the zoning setback approach. Another approach is to create an overlay district. And that makes sense when you have,

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01:11:38.699 --> 01:11:52.885

typically, like, in a small municipality, where there's 1 or 2 areas, where there, there's a complex you might want to create an overlay districts where you map the parcels that are affected.

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01:11:53.185 --> 01:12:07.614

And where review for wetlands is necessary. So, the example in the Department of State guide is from the village of Trumansburg you'll see this, this map is, from that example, in the blue area is an overlay district

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01:12:07.614 --> 01:12:10.375

they created for wetlands protection.

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01:12:10.680 --> 01:12:21.869

There's no real shortcut to having to define and delineate the wetlands. This is just some different approaches that may work in different municipalities.

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01:12:24.595 --> 01:12:38.965

Another thing you can do, if your biggest concern about wetland impacts relates to residential subdivisions, which is a big issue right now, in a lot of the mid Hudson Valley, there's a lot of pressure for residential subdivisions.

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01:12:39.265 --> 01:12:50.635

If that's something, that's a concern, you could put wetland buffers in your subdivision code. And again, there are some examples of that in the Department of state guide.

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01:12:50.970 --> 01:12:51.689

And,

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01:12:51.715 --> 01:12:52.255

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01:12:52.524 --> 01:12:52.885

one,

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01:12:52.885 --> 01:12:53.604

other idea,

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01:12:53.604 --> 01:12:56.574

it's not exactly for wetlands specifically,

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01:12:56.574 --> 01:13:03.805

but that can be helpful, is creating a process where subdivision applicants have to,

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01:13:04.045 --> 01:13:04.345

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01:13:04.375 --> 01:13:09.744

map the resources to be protected before they lay out their subdivision.

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01:13:10.015 --> 01:13:23.244

So, that's something that the town of Pine Plains has in its code, that before anyone draws any house, the road or anything on the subdivision map, the applicant, and the board have to agree on the areas to be preserved.

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01:13:23.609 --> 01:13:38.250

So that's another idea. And again, if you go back to the Department of state guide, you'll see a number of model laws and sample laws for different approaches.

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01:13:38.250 --> 01:13:43.050

And just a couple of sort of outside the box ideas.

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01:13:43.050 --> 01:13:55.350

Not specifically to regulate wetlands, but, one thought that a lot of communities are starting to use an Ingrid could tell you more about New Paltz's experience with,

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01:13:56.095 --> 01:14:08.064

but establishing critical environmental areas, which is not a regulatory structure, but a town can establish critical environmental areas, just by resolution

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01:14:08.364 --> 01:14:13.045

and it ensures that those areas get a thorough SEQR review.

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01:14:13.164 --> 01:14:27.234

So, , Gretchen talked about when you, when an applicant creates their part 1, EAF, if a town has designated critical environmental areas in their community, those will automatically

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01:14:27.569 --> 01:14:39.595

pop up on the part 1 EAF, and it'll make sure that those areas are given, , that are at least recognized and then hopefully given scrutiny within the, the process.

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01:14:39.925 --> 01:14:45.444

So I think there are more resources on critical environmental areas. If that's something that you're interested in.

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01:14:46.079 --> 01:14:57.899

And then another thought I just want to throw out there is, that if you're finding that there's a lot of sprawl related wetland impacts in your community, you might want to just

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01:14:58.375 --> 01:15:01.675

a community might want to rethink how it's,

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01:15:01.704 --> 01:15:02.154

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01:15:02.185 --> 01:15:15.024

it's planning and zoning can better attract development to the already-developed areas of the town and overall reduce the pressure to sprawl into the areas where wetlands exist.

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01:15:15.329 --> 01:15:18.600

So that's just kind of taking a bigger picture approach.

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01:15:18.600 --> 01:15:22.020

That that might address a problem.

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01:15:25.170 --> 01:15:33.119

So, the final section of the presentation is some tips on engaging in the process of enacting wetlands regulations.

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01:15:36.354 --> 01:15:50.935

So, again, to create any local law, it's going to be your municipal legislative body that has to adopt the law. Usually a town board, or in a village, to be the village board, or city council. That's the board

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01:15:50.935 --> 01:16:00.654

that has to actually adopt the law. Where the law originates can vary, sometimes the planning board or a, or some other local group

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01:16:00.654 --> 01:16:06.414

maybe the first to begin the process of drafting and recommending a local law.

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01:16:06.869 --> 01:16:07.319

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01:16:07.345 --> 01:16:22.284

but make sure that you are in touch with your municipal board and that there's a plan in mind and so that you're considering both the ecological priorities and also the political reality. Thinking about in advance the sources of

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01:16:22.284 --> 01:16:24.055

opposition that you may have

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01:16:24.055 --> 01:16:33.265

and figuring out what's the, the most appropriate type of law to, to achieve your priorities with the minimum, , controversy.

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01:16:33.600 --> 01:16:36.689

I would say, .

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01:16:37.045 --> 01:16:51.595

Think about upfront your capacity to enforce the regulations like we talked about, you're going to want to have a section on permitting and a section and enforcement and think about your actual staff and municipality and their ability to enforce.

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01:16:51.960 --> 01:17:04.890

And then, as you're drafting also think about the potential for legal challenge, and how, you know, make sure you're working with your town attorney and making sure that your law will withstand any legal challenge.

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01:17:04.890 --> 01:17:11.250

Expect a process for the adoption process.

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01:17:11.250 --> 01:17:25.975

A lot of times the first draft you put out won't be the ultimate draft that's adopted. You'll put out a draft you'll have public comment. You'll go back and revise the draft. That's a that's a a good process to go through. During the adoption process,

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01:17:26.005 --> 01:17:40.284

you'll have to do a SEQR review of your law. It seems counterintuitive because you're trying to do a law to protect the environment. , but you still need to do a SEQR review and you can use that SEQR review to your advantage.

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01:17:41.369 --> 01:17:52.704

You can use the SEQR review to look at things that might be used as opposition to your law and really study whether or not those, those concerns are real.

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01:17:52.704 --> 01:18:04.885

For instance, if people say this will stop development in the community, you could use a consultant to really look at how much land would be impacted and how much it would affect development.

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01:18:05.244 --> 01:18:12.805

And, it may be that it wouldn't very seriously affect development in the community. So you can use that process to your advantage.

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01:18:13.170 --> 01:18:17.640

I do want to mention that you may need

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01:18:17.640 --> 01:18:30.210

funding for this process. It's probably useful in many communities to hire some form of consultant to help you through the process. Whether that's a technical or legal consultant.

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01:18:30.210 --> 01:18:41.369

There are funding resources available. The Hudson River Valley Greenway gives small grants, and I believe their program is still operating on a quarterly basis.

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01:18:41.369 --> 01:18:54.475

So that's a source of potential funding. Ingrid may have mentioned that the Hudson River Estuary Program, sometimes has funding available and there's actually a program out right now accepting applications through June.

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01:18:54.475 --> 01:19:05.244

Second and it's more for the planning side so if you need to create a natural resource inventory or an open space plan, ways of

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01:19:05.699 --> 01:19:16.829

that's really documenting what the protection needs are in your community. So those are some funding sources that you may want to consider to help you through the process.

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01:19:19.500 --> 01:19:29.670

A couple pitfalls to avoid. Do you remember that you need to send your local law to the county planning board for 239 review.

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01:19:29.670 --> 01:19:34.890

And also think about the overlap. Usually

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01:19:34.890 --> 01:19:38.189

when people create local wetlands laws,

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01:19:38.189 --> 01:19:47.189

they do not make them apply to state-regulated wetlands. So you're only regulating the wetlands that are

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01:19:47.215 --> 01:19:56.845

not regulated by the state. If you are wanting to add extra regulation to areas that are regulated by the state,

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01:19:57.145 --> 01:19:57.385

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01:19:57.385 --> 01:19:59.215

make sure you think about that and,

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01:19:59.244 --> 01:19:59.604

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01:19:59.604 --> 01:20:05.425

and talk to an attorney about that to make sure that you're not creating an overlap problem.

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01:20:05.729 --> 01:20:16.590

And so I think we have a few minutes for questions. And if we don't get to your question today, that's my contact information. I'm happy to

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01:20:16.590 --> 01:20:20.489

to talk with anyone later. Thanks so much for your time.

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01:20:21.715 --> 01:20:31.375

Ingrid Haeckel: Thank you Emily and that was great. Yeah, we've had a lot of questions coming in , so Emily, knowing your stormwater background, I'm going to start with these ones.

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01:20:33.265 --> 01:20:39.685

The first one is about artificial wetlands, for example, stormwater retention areas that have been established for decades.

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01:20:40.015 --> 01:20:51.085

Maybe considered artificial, but many have the qualities and perform similar services as natural wetlands and would not be protected under some definitions. Can you speak to how

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01:20:51.449 --> 01:20:57.060

those sorts of stormwater practices are treated in

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01:20:57.060 --> 01:21:05.369

wetland laws. Well, the model law specifically defines artificial wetlands and does not regulate

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01:21:05.369 --> 01:21:16.500

them, so I, I think that's, you know, that's probably the typical approach. If they were created pursuant to a SWPP then they would have their own

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01:21:16.500 --> 01:21:20.399

rules for how they're supposed to be managed. So

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01:21:20.399 --> 01:21:26.369

yeah, those are my initial thoughts. If you wanted to regulate them as wetlands you'd probably want to

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01:21:26.369 --> 01:21:38.069

look at what you have in your community and how that would work. Ingrid Haeckel: And related how do MS4 stormwater regulations affect wetland regulation?

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01:21:40.194 --> 01:21:53.034

Emily Svenson: Yeah, so, let me think how to answer that. How do the MS4 regulations? So in an MS4 community, it's the municipality that reviews the SWPP for a new project.

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01:21:53.244 --> 01:21:56.425

I think that's probably what the question is getting at.

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01:21:56.789 --> 01:22:07.404

And so when a new project comes in, and it's large enough to require a stormwater pollution prevention plan, it would be the municipality that reviews that plan.

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01:22:07.675 --> 01:22:21.895

And in a SPPP, the first, step in designing a project is supposed to be to identify the most sensitive natural areas and protect them. A lot of times people don't do that. Noone really checks.

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01:22:21.925 --> 01:22:23.604

But that is something that,

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01:22:23.604 --> 01:22:23.875

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01:22:24.145 --> 01:22:31.435

In an MS4 that the municipality could look for to make sure that wetlands are among the areas that are set aside and protected in the first

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01:22:31.435 --> 01:22:33.024

stage of the SWPP,

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01:22:33.265 --> 01:22:33.774

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01:22:34.255 --> 01:22:39.925

Another was to answer that question is that an MS4 has to do a,

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01:22:39.925 --> 01:22:40.435

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01:22:40.765 --> 01:22:46.314

a whole series of, blanking on the word, what's the.... minimum control measures?

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01:22:46.585 --> 01:22:53.335

And I'm guessing that taking proactive steps to protect wetlands would count towards some of those.

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01:22:53.670 --> 01:22:56.850

Thanks.

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01:22:56.850 --> 01:23:06.090

Ingrid Haeckel: So this is an interesting question. If your town, is your town required to have zoning to pass a wetland law?

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01:23:06.090 --> 01:23:09.090

Emily Svenson: No.

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01:23:09.090 --> 01:23:14.909

Yeah, no, you could do a wetland law.

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01:23:14.909 --> 01:23:24.149

I think that the tough part would be how you would enforce it because usually, you know, when a town has zoning, then they require

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01:23:24.149 --> 01:23:28.770

site plans for certain projects and that's when you would typically, you know.

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01:23:28.770 --> 01:23:39.689

apply a wetlands law, if you didn't have zoning at all it, it would be a little more complicated to apply. Mm. Hmm.

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01:23:39.689 --> 01:23:47.159

Ingrid Haeckel: Okay, so this question is about a town that has a wetland law that protects a 100 foot adjacent area

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01:23:47.159 --> 01:24:00.180

around wetlands, but they're not considered inviolable. In other words, builders are allowed to encroach into those buffers and the question is, can buffers be held to a strict no-build zones?

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01:24:02.220 --> 01:24:14.005

Emily Svenson: That is up to the way you want to write your law. Yeah, but typically, that's exactly right. Typically, a wetlands law is a permitting law. So it says, in these areas, you need a permit before you can build.

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01:24:14.335 --> 01:24:25.404

But as I said, Rhinebeck, they have a prohibited activities list. I don't know if I've seen an example where building is prohibited entirely. I mean, that could get difficult.

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01:24:25.435 --> 01:24:39.234

Like, if you have hamlets, you know, existing developed areas that are near streams, it could be difficult. But you could establish no build zones.

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01:24:39.630 --> 01:24:42.810

Yeah.

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01:24:42.810 --> 01:24:43.439

Ingrid Haeckel: Okay,

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01:24:43.435 --> 01:24:46.975

and there were two questions related to,

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01:24:47.034 --> 01:24:47.725

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01:24:47.755 --> 01:24:50.215

buffer zones around streams

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01:24:50.215 --> 01:24:52.675

and how those are measured. For example,

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01:24:52.914 --> 01:24:53.635

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01:24:53.664 --> 01:24:56.635

whether a buffer can be measured vertically,

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01:24:56.635 --> 01:24:56.755

or,

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01:24:56.755 --> 01:24:56.965

or,

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01:24:56.965 --> 01:24:57.234

I guess,

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01:24:57.234 --> 01:25:00.024

take slope into account in an instance, for example,

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01:25:00.024 --> 01:25:01.585

where you have a steep ravine.

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01:25:02.005 --> 01:25:08.484

You know, along a stream, and in another question, similarly, just asking, how is that buffer

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01:25:08.515 --> 01:25:17.395

where is that buffer measured from, is it from the center of the stream, and from the edge of the stream, and since we know stream edges change how do you take into account that?

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01:25:17.729 --> 01:25:30.329

Emily Svenson: Put it in your definitions, because that can be a big I mean, I took a place to court over that over where the top of the buffer was and how it should be measured. And, .

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01:25:30.329 --> 01:25:43.800

It it really, it just needs to be in the definition as specific as you can, whether you want to make it from, you know, where the land breaks, where there's a certain, you know, 25% slope that, whatever you want it to be just

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01:25:43.824 --> 01:25:57.564

make it clear in the definitions. Ingrid Haeckel: Thanks. Another question is about landscapers and landowners, who are, who habitually dumping yard waste into wetland areas and people seem to think that's not a problem because it's organic.

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01:25:57.864 --> 01:26:00.054

, is that something that can be regulated?

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01:26:01.649 --> 01:26:07.079

Emily Svenson: Sure, yes, you can put that in your law.

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01:26:10.649 --> 01:26:15.449

Ingrid Haeckel: Okay, and I just want to send a, I guess, add a reminder .

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01:26:15.449 --> 01:26:21.270

At that if you have questions that haven't been answered, you can

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01:26:21.270 --> 01:26:28.314

add them to the chat. I think that our speakers have it , signaled that they can stay on a little bit longer past 4:30.

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01:26:28.314 --> 01:26:28.734

so,

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01:26:28.734 --> 01:26:29.125

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01:26:29.395 --> 01:26:31.404

we'll keep going with Q and a,

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01:26:31.404 --> 01:26:31.734

and,

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01:26:31.765 --> 01:26:32.335

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01:26:32.784 --> 01:26:33.324

okay,

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01:26:33.354 --> 01:26:34.045

so this is,

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01:26:34.045 --> 01:26:34.345

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01:26:34.375 --> 01:26:34.885  
one

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01:26:34.914 --> 01:26:36.324  
I think we hear a lot,

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01:26:36.324 --> 01:26:36.895  
which is that,

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01:26:36.895 --> 01:26:37.404  
you know,

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01:26:37.404 --> 01:26:37.885  
if a developer,

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01:26:37.885 --> 01:26:38.335  
what,

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01:26:38.364 --> 01:26:41.484  
if a developer has friends on the village planning and ZBA boards,

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01:26:41.484 --> 01:26:44.664  
that may well allow the developer to do what they want,

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01:26:44.664 --> 01:26:46.704  
ignoring the concerns of the public,

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01:26:48.300 --> 01:26:52.560  
How do you address that situation?

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01:26:52.560 --> 01:26:56.430

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01:26:56.430 --> 01:27:06.359

Emily Svenson: How do you address that situation? If, if you're within the municipality, that you make sure that the laws are really clear so that, you know, it's

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01:27:06.359 --> 01:27:18.630

equally applied to everyone. If you're not within the government, if you're an applicant, if you're a, a neighbor who's concerned about the way things are being done,

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01:27:20.154 --> 01:27:33.204

you show up with facts and science and get all that on the record and try to be persuasive. As Gretchen said, there are article 78 proceedings you can bring if the board really messes up.

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01:27:33.204 --> 01:27:36.625

But that's it's tough because there's a lot of deference built in.

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01:27:37.170 --> 01:27:45.149

Those boards are there to look at the facts and make decisions and so it's not easy to get them overturned. .

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01:27:45.149 --> 01:27:55.979

So, you know, I think my advice is, you know, within the municipality to make sure that the laws are as clear as possible, and that they're applied as fairly as possible.

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01:27:57.835 --> 01:28:11.635

Ingrid Haeckel: So, there's two questions here. One is what is a 239m review? And then there's a comment about 239m review saying that it will only have to come to the county if a wetland law amends a zoning law. Usually it does not need to be referred

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01:28:11.635 --> 01:28:13.284

if it is a freestanding law.

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01:28:15.715 --> 01:28:27.774

Emily Svenson: Well, yes, and no. I disagree with that. I mean, it's true that technically only zoning laws need to go to the county.

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01:28:28.164 --> 01:28:40.524

But there have been cases where laws have been challenged and overturned because they do affect land use and did not go to the county for 239 M review.

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01:28:42.270 --> 01:28:54.180

So, I would just say, it's the kind of thing where you just don't want to take a chance, just send it on to the county. So, just to back up, what is 239 m review? There are certain,

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01:28:54.180 --> 01:28:59.880

when the municipality enacts local laws and certain,

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01:28:59.880 --> 01:29:08.189

land use approvals they have to be circulated to the county planning board for their review and their recommendation.

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01:29:08.189 --> 01:29:20.994

And that's 239 m and 239 L. I think depending on what type of approval it is, but it's just an opportunity for the county to look it over and weigh in. And, I would say, just err on the side of caution; Do it.

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01:29:20.994 --> 01:29:33.654

Ingrid Haeckel: So I know we're, we're coming up on 4:30. I just want to I know some people are gonna have to jump off and I want to thank everyone who's joined us today and for the entirety of the series.

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01:29:33.685 --> 01:29:46.465

And if you, , were only able to make 1 or 2 of the webinars, we encourage you to go back and watch the other recordings. And, do remember to keep an eye out for that confirmation of attendance from Webex that's gonna be sent right

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01:29:46.465 --> 01:29:57.954

Around now. But we can keep going a bit longer with Q andA, and there are a couple of questions actually going back to J.R.'s presentation if you're still on the line about

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01:30:02.789 --> 01:30:05.970

the state wetland maps, and

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01:30:06.805 --> 01:30:19.164

updating those. Someone comments that in Vermont, it's required to submit sheet files for wetland permits, could this be something to look into for DEC permitting to add files to the maps database?

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01:30:19.404 --> 01:30:29.814

, and I, I think, you know, this could apply similarly in a local wetland law situation, , where there's a local map that that could be updated over time.

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01:30:30.354 --> 01:30:40.375

And there was a similar comment about why doesn't DEC get wetland delineation maps from all development proposal submitted to village town and county offices?

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01:30:40.470 --> 01:30:45.119

To be, you know, to guide these updates.

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01:30:47.609 --> 01:30:49.795

J.R. - Yeah, sorry. still here. Great.

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01:30:49.795 --> 01:30:50.064

So,

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01:30:50.515 --> 01:30:50.784

yeah,

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01:30:50.784 --> 01:30:50.994

those,

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01:30:51.055 --> 01:30:51.324

I mean,

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01:30:51.324 --> 01:30:53.005

those are great suggestions as far as,

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01:30:53.034 --> 01:30:53.335

you know,

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01:30:53.335 --> 01:30:54.204

what to do with,

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01:30:54.234 --> 01:30:56.635

with those to update those,

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01:30:56.694 --> 01:31:05.364

those information on maps. When we get to the informational maps that will that'll be the easiest way to get every opportunity to make those as accurate as possible. The problem now,

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01:31:05.364 --> 01:31:10.614

is that now it the way it works is it goes through a promulgation process,

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01:31:10.614 --> 01:31:11.484

which involves,

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01:31:11.515 --> 01:31:12.024

like I said,

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01:31:12.055 --> 01:31:14.335

public hearings and a lot of process,

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01:31:14.335 --> 01:31:16.225

which is good from a public standpoint.

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01:31:16.225 --> 01:31:18.564

But the problem is, by the time that all gets done.

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01:31:18.869 --> 01:31:22.079

one could argue that the maps are outdated by then.

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01:31:22.079 --> 01:31:25.140

Then we spend an awful lot of time and energy to get

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01:31:25.140 --> 01:31:30.180

A little better, they're better maps, but there's, they're clearly not fully accurate. So.

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01:31:30.180 --> 01:31:44.664

Using that that existing shape files, you know, our folks, you know, unlike the federal folks we go I mean, the statute says we need to go out, we can go out and delineate wetlands for folks and we do that quite a bit.

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01:31:44.694 --> 01:31:54.295

And we have our own GPS units so we have internal system that we use to track all of that. So we would that would all go into the system as well.

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01:31:54.569 --> 01:32:00.599

Ingrid Haeckel: Mm, hmm. , there were some comments I saw related to

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01:32:00.599 --> 01:32:05.038

wetland mapping in the context of climate change and I'm

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01:32:05.038 --> 01:32:17.309

I was just wondering if you could comment on or have been following how this issue is being addressed by the climate act advisory panels. , and, and.

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01:32:17.309 --> 01:32:21.838

And the sort of guidance that's going into

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01:32:21.838 --> 01:32:35.184

implementation at that law. J.R. yeah, I haven't been fully, you know, in the weeds about that, , with carbon sequestration and all that sort of world. But, you know, the idea of getting accurate maps is critical for any of these efforts.

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01:32:35.634 --> 01:32:41.724

Whether it, you know, I'm in the regulatory world. So every time I'm thinking, how do we do that with, with

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01:32:42.029 --> 01:32:47.519

promulgated maps and all that, but, in the rest of the world, just having accurate maps.

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01:32:47.724 --> 01:32:57.293

As best as we can do it, you know, the NWI maps aren't that accurate. Some places they're really great, other time places, they're not. And there's a few places in the state they don't even exist.

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01:32:57.684 --> 01:33:11.724

So, you know, whatever we can do to get more accurate maps to then help with all the other things to inform our, you know, zoning decisions that Emily was talking about. But then also to inform climate change and that's what you were talking about Ingrid.

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01:33:11.753 --> 01:33:16.493



So, you know, that clearly accurate maps is what everybody wants and

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01:33:16.769 --> 01:33:20.429

making that as easy as possible to get it done would be the best.

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01:33:20.429 --> 01:33:28.859

Ingrid Haeckel: Yeah, and there was a comment about whether increased UAV use for spatial analysis could help automate the process.

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01:33:28.859 --> 01:33:34.708

Assuming it's the UAVs is related to drones is that what.

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01:33:34.708 --> 01:33:41.099

J.R.: I don't I'm not sure that that acronym. Yeah I'm not sure the acronym in it either, but using remote.

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01:33:41.099 --> 01:33:53.033

Sensing and, you know, there's there's a lot of work, going on in, in that, to, to make it more automated. , and again, I would argue that if we're doing it just for informational purposes. Let's do whatever we can at the broadest scale

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01:33:53.033 --> 01:34:01.043

we can. When we're doing the regulatory side, people want it as accurate as possible. But even if there is some error associated with some of this remote data,

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01:34:01.288 --> 01:34:06.059

great, that's fine. Again, having something is much better than having nothing.

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01:34:06.059 --> 01:34:09.628

Ingrid Haeckel: Yeah, sure .

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01:34:09.628 --> 01:34:13.738

I'm just giving back over to see, , there was a comment, .

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01:34:13.738 --> 01:34:19.769

And I'm not sure if this is referring to something that Emily said that even if a stream is not.

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01:34:19.769 --> 01:34:34.014

C- T, or higher class, if it's navigable as defined under article 15, they can't place fill on the banks and can't excavate there. Furthermore, recall J.R. shared that adjacent wetlands are protected under article 15.

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01:34:34.434 --> 01:34:38.213

So, it's just, I guess, clarifying that there is some, you know, some additional protection

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01:34:38.488 --> 01:34:44.609

for streams that may not be classified under article

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01:34:45.444 --> 01:34:56.154

15. But for the, J.R. There's two sections of article 15 that we deal with all the time. Protected streams, C-t or higher streams that we deal all the time.

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01:34:56.634 --> 01:35:05.274

But then there's the navigable waters piece that kind of gets forgotten to be perfectly blunt. The definition of navigable is very broad.

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01:35:05.578 --> 01:35:17.573

We like to joke, it's a paper canoe with somebody out there. It's not quite that that the way it is, but it's a 1 person craft that can navigate a waterway and it doesn't have to be the Hudson River.

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01:35:17.573 --> 01:35:31.913

It can be pretty small and that line between the Hudson that everyone knows navigable and something less, something on a smaller scale is difficult. But, yeah, we certainly have that section of article 15 that that that we can use and do use.

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01:35:32.219 --> 01:35:41.429

Yeah, okay. I I think we've touched on most of the questions.

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01:35:41.429 --> 01:35:46.649

And I apologize if we missed yours, and somebody yeah.

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01:35:46.649 --> 01:35:52.498

Does that Gretchen? Yeah, this is Gretchen. I have a question for

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01:35:52.498 --> 01:36:04.559

J.R., and this goes back to the illustration you had of Hopewell junction I think it was. There was an existing mapped wetland.

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01:36:04.559 --> 01:36:12.719

You went out and to delineate the actual boundaries, and you found it to be much much larger than than what was on the map.

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01:36:12.719 --> 01:36:21.748

Right now, I've understood that the DEC will regulate

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01:36:21.748 --> 01:36:25.078

the actual wetland as delineated.

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01:36:25.194 --> 01:36:32.634

Even, in a case like that, where it turns out to be, you know, twice as large as the what is on the map is that true?

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01:36:32.634 --> 01:36:40.734

Or do you need to do a whole map revision process to be able to bring that whole wetland under state regulation?

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01:36:41.514 --> 01:36:54.083

Yeah, and that gets really complicated. And that's what, if the other picture I had there is of a headache, because those are ones that are just very difficult for folks, you know, if it's a few 100 feet away. Yeah, we always regulate those.

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01:36:54.083 --> 01:36:58.463

It's fine. When you start going thousands and thousands of feet away

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01:36:58.798 --> 01:37:11.934

That gets really difficult, because the statute envisions notice. I mean, that's part of the problem with getting the, the maps done is we need to provide notice to the landowners. On one hand that's great. Yeah. We should notice notice notify folks.

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01:37:12.293 --> 01:37:17.304

But the other hand is, you know, if folks don't get notified, are they really regulated.

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01:37:17.849 --> 01:37:30.868

That's an open legal question that wrestle with every day because, you know, if it's a large lot and a piece, a portion of it is regulated and yeah, you could say that person got noticed, but if it's 14 lots away.

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01:37:30.868 --> 01:37:38.759

, it it gets really tough. So I'm not answering your question, because it's really a case by case situation on how far it is and,.

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01:37:38.759 --> 01:37:44.609

the, like. In the case of the 1 that I showed and Hopewell, that was 1 where the developer was was.

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01:37:44.844 --> 01:37:59.724

And last I checked, and maybe 5 years ago, they hadn't developed it, but, it was to the south of that wetland, and to be honest, the developer really didn't care. it was, you know, it didn't matter. So that they didn't challenge it.

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01:38:00.024 --> 01:38:01.913

But we do have times where people challenge that.

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01:38:02.189 --> 01:38:13.259

And they have a right to challenge it. And then that's where we get into, well, how far away? And then you get a question of well, are we going to do a map amendment? We can always have that ability to

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01:38:13.259 --> 01:38:19.979

start a map amendment and complete a map amendment, but to get to that 1 million acres, it's almost impossible to do that as a one by one.

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01:38:19.979 --> 01:38:26.759

It's just impossible to get to the acreage that we need in that way.

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01:38:26.759 --> 01:38:32.639

At least in in my lifetime, and in my kids lifetime, and it'd probably be their kids too. So.

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01:38:32.639 --> 01:38:35.639

Ingrid Haeckel: Okay, thank you.

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01:38:37.613 --> 01:38:45.833

Well, I'd like to thank, all of our speakers again, JR, Gretchen Stevens and Emily Svenson for your great talks.

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01:38:45.863 --> 01:38:55.163

And I'm encourage folks if, if you have additional questions that weren't answered, to follow up with the presenters, we'll share their contact information

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01:38:55.373 --> 01:39:09.293

along with the many links we shared through the chat, and the recording and slides from today and a follow up message in a day or two. Keep an eye out for that. And I'm hoping you all enjoy the rest of this beautiful afternoon.

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01:39:09.569 --> 01:39:12.599

Afternoon and thanks for joining us.

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01:39:13.618 --> 01:39:16.948

Thank you bye take care.