

## **FREQUENTLY ASKED QUESTIONS**

### **1. What does Prime wetland designation mean?**

Prime wetland designation is a way for individual towns to provide additional protection to wetlands that are particularly unique, fragile and/or unspoiled. These wetlands protect and purify our drinking water, buffer us from floods, and harbor a diverse community of plants and animals. Prime wetlands are designated by a municipality according to the requirements of RSA 482-A:15 and Chapter Env-Wt 700 of the State administrative rules. A town can vote to have selected high value wetlands be designated as 'Prime'. If the local vote passes, a map and description of the wetlands is submitted to the NH Department of Environmental Services (DES) for approval. Once approved by the state, any filling or dredging proposed for a prime wetland would require a public hearing at the NH Department of Environmental Services in Concord prior to approval.

### **2. Have other New Hampshire towns designated prime wetlands?**

There are currently about thirty-three (33) towns in New Hampshire that have designated Prime wetland areas, including New Ipswich, Hillsboro, and Weare.

### **3. How will the Town determine which wetlands should be designated as prime wetlands?**

In 2014, the Town's Board of Selectmen supported a ballot measure to pay for an update to the existing Surface Water Map that was a part of the 2009 NRI. In order to do this, they hired Dr. Rick Van de Poll of Ecosystem Management Consultants to conduct a Wetland Inventory and Assessment of the entire town. Using aerial photographs, soil maps, surface and groundwater maps, and roadside surveys, Dr. Van de Poll will compile a map of all surface water resources, with an emphasis on wetlands. The latter will be designated into "wetland evaluation units" or WEU's, and these will be subjected to a preliminary point-based ranking. Once approved by the Conservation Commission and Board of selectmen, the highest ranked wetland units will be further evaluated using the 2013 revision of the "NH Method" (Method for the Inventory and Evaluation of Freshwater Wetlands in New Hampshire). Dr. Van de Poll will then prepare a draft final report that identifies those wetland units that have scored high to very high in connection with important functions such as flood control, contributions to water supply (or groundwater recharge), contributions to water quality (such as nutrient transformation, sediment trapping, and shoreline stabilization), and wildlife habitat. These findings will also be presented to the town as a whole in a public information forum. Upon receiving the feedback from this forum as well as a special hearing of the Board of Selectmen, Planning Board, Zoning Board and Conservation Commission, Dr. Van de Poll will then

finalize the draft wetlands inventory and assessment report. This report will be suitable for submission to the NHDES Wetlands Bureau for consideration of approving certain wetlands as prime.

**4. What role does the town play in having prime wetlands approved by the state?**

The town must hold the necessary hearings and draft a warrant article that recognizes certain wetlands as prime. Typically, this recognition takes the form of an amendment to the existing wetlands or water resources protection ordinance. It is therefore typically an amendment to an existing ordinance that must be voted on by the entire town at Town Meeting. Only through passage of this vote will the state consider approving certain wetlands as prime wetlands.

**5. What activities are regulated in prime wetlands?**

All activities are regulated in prime wetlands. A person wishing to fill, dredge, alter, or construct structures must get a permit from NH DES. A property owner may request a waiver from NH DES to perform forest management work and related activities in the forested portion of a prime wetland.

**6. How does NH DES review an application to work in prime wetlands?**

Since 1988, “No net loss” has been the key policy in wetlands protection at both the federal and state level. In New Hampshire, policy makers have adopted a no net loss strategy that aims to maintain a minimum number of wetland acres throughout the state. NH DES reviews Prime Wetland permits to determine that there will be no significant net loss of wetland values, that the project could not otherwise be located outside of the wetland, and that the impacts are as minimal as possible.

**7. Why are buffer zones recommended for prime wetlands?**

Buffers protect the wetlands from activities that may erode or degrade the functions of a wetland.

Buffers help:

- Protect the quality of the town's surface waters.
- Protect the ability of the wetlands to recharge aquifers.
- Provide flood control.
- Protect important wildlife habitat.
- Provide recreational opportunities.

**[Note: In 2010, the State rescinded its 100-foot buffer for prime wetlands. While this may change in the future, it's conceivable that Fitzwilliam may impose a buffer that's more, or less, significant than what the State sets.]**

**8. What is the basis for buffers, or the lack of buffers, set by the State? Are they based on science?**

## **FITZWILLIAM WETLAND INVENTORY & ASSESSMENT PROJECT – FAQ (cont'd)**

The amount of buffer set by the State has never been, nor will it ever likely be, based purely on science since each wetland has a unique set of functions and values. The previous statewide 100-foot buffer for prime wetlands is a round number that is intended to protect most of the important functional values that wetlands provide. It is also a number that has been used in several other states in the Northeast and is currently the default setback distance for many prime wetland municipalities in the state.

### **9. If the State has gotten rid of the prime wetlands buffer, why should Fitzwilliam impose one on its citizens?**

Wetland functions absolutely depend on adequate buffers. Hundreds of research reports have testified that damage to essential services such as property loss due to flooding, loss of drinking water quality, elimination of wildlife – have resulted from inadequate buffer integrity. Any locally recommended buffers would be appropriately sized so that the buffer protects the integrity of these wetland functions. In certain instances (*e.g.*, sand & gravel soils next to a deepwater wetland) a buffer that exceeds 100 feet may be appropriate, particularly if that wetland overlies and aquifer or contains a community drinking water supply well field. In most cases, however, the standard setback used by dozens of towns in the region (*i.e.*, 100 feet) should be sufficient for protecting the integrity of a prime wetland.

### **10. Does Fitzwilliam currently protect wetlands or have buffers or setbacks for wetlands?**

Yes, Fitzwilliam does have an existing ordinance that is generally suitable for protecting surface waters and buffers relating to the same, for example, most development activities including septic systems must be set back 75 feet from wetlands as defined by the ordinance. The Wetland Protection Overlay District (WPOD) is currently assigned to all “poorly and very poorly drained soils as identified by the United States Soil Conservation Service’s Soil Survey of Cheshire County.” Municipal approval must be sought first through the Conservation Commission, then the Planning Board, and finally the Zoning Board (as needed) for wetland alterations up to 5,000 square feet. There are no provisions for alterations above this amount (except for a zoning variance as covered elsewhere in the Town Code).

### **11. If the town already regulates wetlands and their buffers, why seek prime wetland designation?**

The existing ordinance provides a generalized approach to protecting wetlands and surface waters. That is, it treats all wetlands and surface waters as having the same value. Just like bedrock and groundwater aquifers, none are exactly the same. There is no provision in the existing ordinance for either increasing wetland setbacks based on very high functioning systems or providing relief to landowners for low-functioning systems. The intent of the wetland inventory and assessment project is certainly identify those wetlands that are high or very high functioning; however, in the process it will also provide a *de*

*facto* ranking of those wetlands that moderate to low functioning. The project will also propose to provide relief to landowners for setbacks to such low-functioning systems such as ditches, old gravel pits, and previously disturbed wetlands. As a part of this process, it will also refine the definition of wetlands, ensure that it is based on state and federal law, and recognizes the varying degree of setbacks – *as determined by science* – based on the type of wetland or water resource that is involved.

**12. Does designating a wetland as a prime wetland mean that existing activities can no longer occur in the wetland?**

Designation of a wetland as a prime wetland has no impact on existing activities within the wetland. For example, if you are currently legally permitted to carry out recreation activities (such as boating, kayaking, hiking, skiing, fishing, hunting, or snowmobiling) in a wetland before it is designated as a prime wetland, you will be able to continue those activities after the wetland is designated as a prime wetland. Similarly, if you have a culvert, bridge, septic leach field or other structure in the prime wetland, these can remain or be replaced in-kind. Existing forest management and agricultural activities are allowed, although if you conduct any new activity or expand current activities (e.g. a structure greater than 100 square feet), you must obtain conditional approval, a special exception, or both.

**13. How can a wetland boundary be designated on my property when no one ever walked on that part of my property?**

If on-site access to some part of a wetland is not available, the wetland scientist hired to delineate the wetland boundaries will rely solely on aerial imagery and topography, which with today's technology is extremely detailed. The aerial images to be used in the Fitzwilliam Wetland Inventory project are 4-band, 1-foot pixel resolution images that included an infrared component. These images show distinct vegetation and temperature changes that will be used to determine wetland boundaries. In certain instances, additional information will also be gained from roadside evaluations, where possible, and from off-road surveys where written property permission has been obtained.

**14. Does prime wetland status mean that now everybody knows where the wetland is behind my house, and they get to go see it because it is deemed valuable?**

No. Information relating to the location of all prime wetlands is publicly available, so people will know where prime wetlands are located in Town; however, that does not mean that a landowner ever has to allow people on their property to see a wetland, or that the landowner can't post their land. An exception to that would be if your land is in current use and you receive the public recreation adjustment, in which case, current use regulations require you to allow public access to your land for various

recreational purposes. The requirement to allow the public on your property under that scenario exists regardless of any wetlands designation.

**15. My house was built 10 years ago. If my house ends up being within a Prime wetlands buffer, will I be able to put an addition on my house? Build a shed? Landscape my back yard?**

Existing uses and structures will be "grandfathered", but proposed new construction, including additions to existing structures, may require a conditional use permit, and approval from the Planning Board and or Zoning Board of Adjustment. Normal land use, such as trails, (including snowmobile trails), gardens, brush cutting and mosquito spraying are not regulated under wetlands permits, and will likely not be affected.

**16. If you are within the buffer zone, is everything pre-existing grandfathered in? For example, can the Town come in and say we think your septic system is within the buffer and we don't want that there?**

The Town cannot require a landowner to move or relocate anything that is pre-existing within the buffer zone, however they may require a permit for any expansion or change to the existing use. In general, like most ordinances, prime wetlands designation is a forward-looking ordinance.

**17. How is a prime wetland permit application different from a regular wetland application?**

Regular wetlands applications do not require a public hearing to allow for community input. They also have faster turn-around times at the State offices.

**19. The Prime Wetland boundary will be delineated on the tax maps. If a landowner believes the boundary is not correct, or if the wetland boundary shifts over time, what does the landowner need to do to have the boundary revised?**

Landowners can petition the Town and NH DES for a change to the wetland boundary, but must provide data and evidence relative to the correct location of the boundary. This type of information would be required in any case if the landowner wished to apply for a wetlands permit in or adjacent to a prime wetland.