

Wayne F. MacCallum, Director  
Natural Heritage & Endangered Species Program  
1 Rabbit Hill Road  
Westborough, MA 01581

February 5, 2009

RE: Certified Vernal Pool Revisions

Dear Director MacCallum:

The undersigned members of Advocates for Wetlands & Watersheds (AWW) would like to comment on the proposed revisions to the vernal pool certification process by the Natural Heritage & Endangered Species Program. AWW is an ad-hoc group of watershed associations, state & regional chapters of national organizations, environmental groups and individuals throughout Massachusetts. We solicited input and received feedback from several sources including scientists, naturalists, and members of Conservation Commissions.

The revisions will affect all three methods of state certification, and the dry-pool method will be eliminated entirely. While the dry-pool method is used infrequently, many commentators say habitat protection will suffer with elimination of this time-sensitive method.

One Conservation Commissioner cited the dry-pool method as an asset to a developer who needed to complete his project and have his bond released. The Commission had conditioned an OSRD (Open Space Residential Design) on the premise of the applicant certifying four potential vernal pools.

The elimination of facultative species as vernal pool certification criteria is not justifiable in relation to the stated goal of consistency with the Wetlands Protection Act regulations. The regulations do not distinguish between obligate and facultative species; they simply require that the area be a confined basin depression that holds water for at least two months, is free of fish, and supports breeding habitat for amphibians and other important wildlife habitat.

The revisions of the obligate species method have drawn the most criticism. Increasing the egg mass count from two to five seems arbitrary. Many factors could account for a low egg-mass count, including accessibility, timing and egg-mass predation. Seasonal factors may make a vernal pool seem temporarily unproductive. As well-known vernal pool educator Leo Kenney states, *"Years of drought or other adverse conditions which result in low survival rates might be followed by exceptional years which reestablish a population."*

Other issues:

- In increasing the standard to locate more egg masses, NHESP makes no exemption in areas that have been mapped as priority habitat. Other aquatic creatures (turtles) could be devouring a greater quantity of egg masses.

- Existing certifications should not be affected by the new criteria, since in many instances the new criteria probably could have been met, but the people gathering the information stopped when they had enough for the criteria that existed at that time.
- There is no explanation regarding the appeal process. DEP and NHESP should allow a comment period once the appeal language is drafted.

Volunteer naturalists, who are the backbone of NHESP, donate their time, effort and financial resources. Many feel the documentation process would become more difficult to the average conservationist. Conservation Commissioners feel the ramifications of these imposed changes will devalue the importance of protecting these life-breeding wetlands.

Massachusetts ranks third in the nation in population density. Mass Audubon cites recent data indicating we are losing 44 acres a day to land development. This loss obviously leads to greater habitat fragmentation, yet last year ten species of plants and animals were either de-listed under MESA or had their status downgraded. The spotted turtle was de-listed over the objection of many scientists in this field. There were no additions to the Massachusetts Endangered Species Act (MESA) list.

While these changes are being hailed on the websites of the development community, AWW sees the revisions as another example of the government backsliding on environmental protection and discouraging citizen involvement.

We understand that state agencies such as DEP and NHESP need to coordinate certain criteria in the certification process, but it shouldn't be to the detriment to our precious wildlife habitat. AWW appreciates your time in listening to our concerns. Please feel free to contact any of the undersigned individuals and groups.

Sincerely,

George Comiskey, Vice President  
Parker River Clean Water Association

The Stockbridge Land Trust

Steve Pearlman, Advocacy Director  
Neponset River Watershed Association

Harry LaCortiglia, Chairman  
Town of Georgetown Open Space Committee

Dennis Regan  
Mass Watershed Director

Housatonic Valley Association

Judy Lehrer Jacobs, Executive Director  
Friends of the Blue Hills

Rob Moir, Ph.D., Director  
Ocean River Institute

Shepley Evans  
Vernal Pool Certifier  
Former Cons Comm Chair

Paul Lauenstein, Sharon, MA

Dr. David Deitz  
26 King Philip Rd  
Sharon, MA 02067

Jane Winn, Executive Director  
Berkshire Environmental Action Team

Sue Bass  
Belmont Citizens Forum

Kyla Bennett, Director  
New England Public Employees for Environmental Responsibility

Margaret Van Deusen  
Deputy Director and General Counsel  
Charles River Watershed Association

David Christopher  
Preservation Associate  
Environment Massachusetts

John Reinhardt, President  
Mystic River Watershed Association

Andrea Donlon, River Steward  
Connecticut River Watershed Council

Mettie Whipple, President  
Eel River Watershed Association, Ltd.

Carolyn A. LaMarre  
Executive Director  
Taunton River Watershed Alliance, Inc.

James McCaffrey, Director  
Massachusetts Sierra Club