

# State Wetland Jurisdiction Municipal Day 2024

**Elijah Schumacher,  
Wetlands Ecologist**



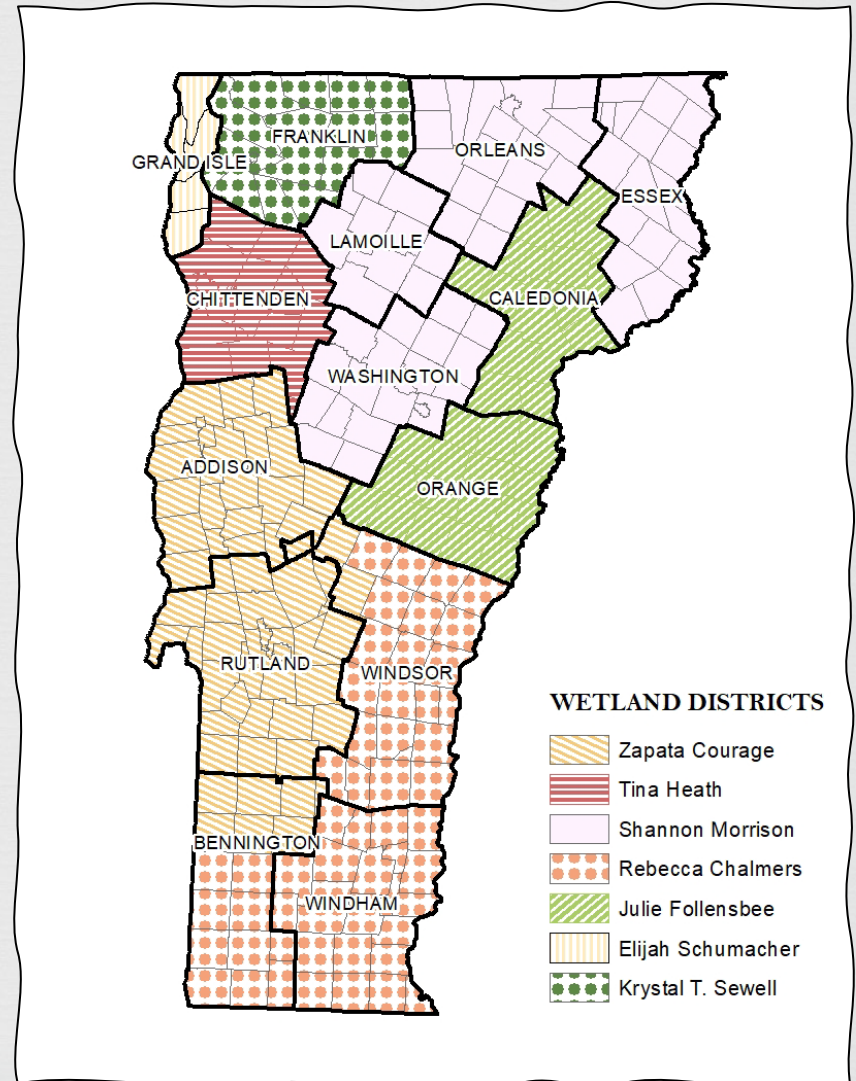
# Overview

**Not Sure? Ask an Ecologist**

- ❧ State Protected Wetlands
- ❧ State wetland permitting
- ❧ Exemptions
- ❧ Allowed Uses
- ❧ General Permit 3-9026
- ❧ Map Updates
- ❧ State Tools

# Districts

- **Julie Follensbee** – Orange County (Co.) and Caledonia Co.
- **Krystal T. Sewell** – Franklin Co.
- **Shannon Morrison** – Washington Co., Lamoille Co., Orleans Co., Essex Co.
- **Tina Heath** – Chittenden Co.
- **Elijah Schumacher** – Grand Isle County. Statewide ARPA funded projects.
- **Rebecca Chalmers** – Windham Co. Bennington Co. BUT NOT Dorset, Peru, Rupert, Winhall, Manchester, or Sandgate. Windsor Co. BUT NOT Landgrove, Rochester, and Stockbridge.
- **Zapata Courage** – Addison and Rutland Co.. Towns of Dorset, Peru, Rupert, Winhall, Manchester, or Sandgate in Bennington Co., and Landgrove, Rochester, and Stockbridge in Windsor Co.





# State Wetland Identification

☞ Same as Army Corps of Engineers



Hydric Soils



Hydrophytic  
Vegetation



Hydrology

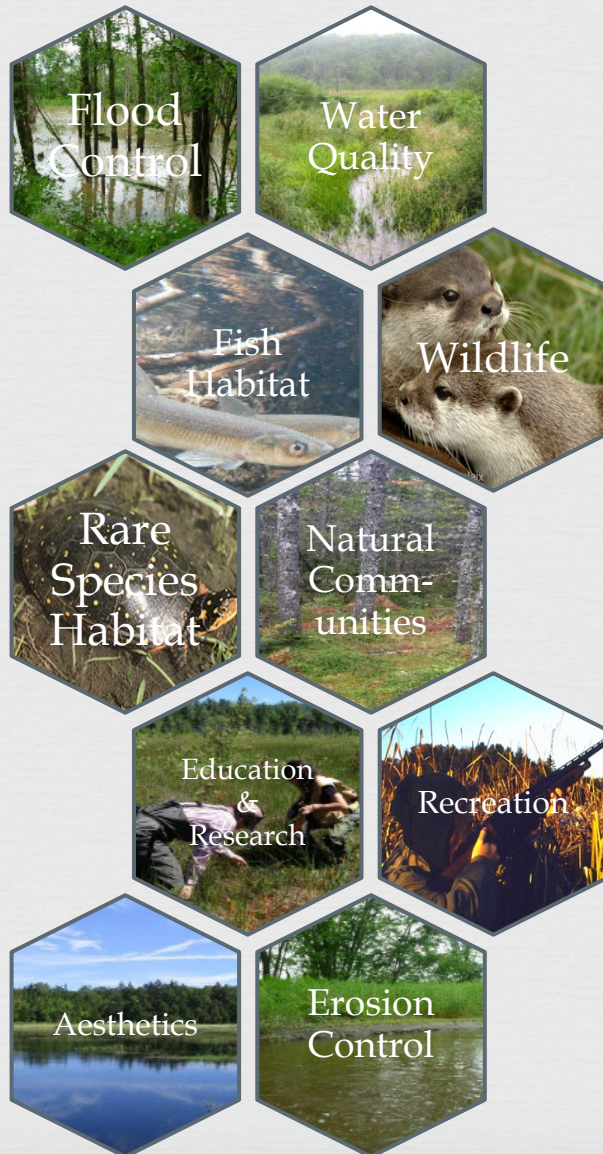


# Not All Wetlands Are Mapped!





# Wetlands Provide Functions and Values



Historically (settlement to 1980) Vermont has lost 35% of wetland area.

Today Vermont is around 4% wetland



# VT Wetland Classification



Based on an evaluation of the extent to which the wetland provides functions and values:



*Class I Wetland:* Exceptional or irreplaceable. Highest level of protection.

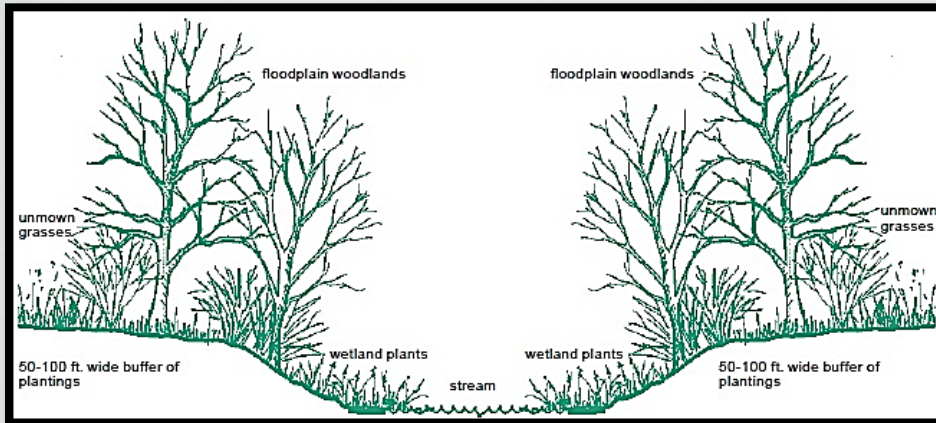
*Class II Wetland:* **Significant. Protected. (many VSWI mapped)**

*Class III Wetland:* Neither Class I or Class II wetland. No State protection.



# Wetland Buffer Zone

Regulated zone of upland around a wetland which can provide protection to functions and values



Width changes with state wetland classification.

Class I = 100-ft buffer or larger

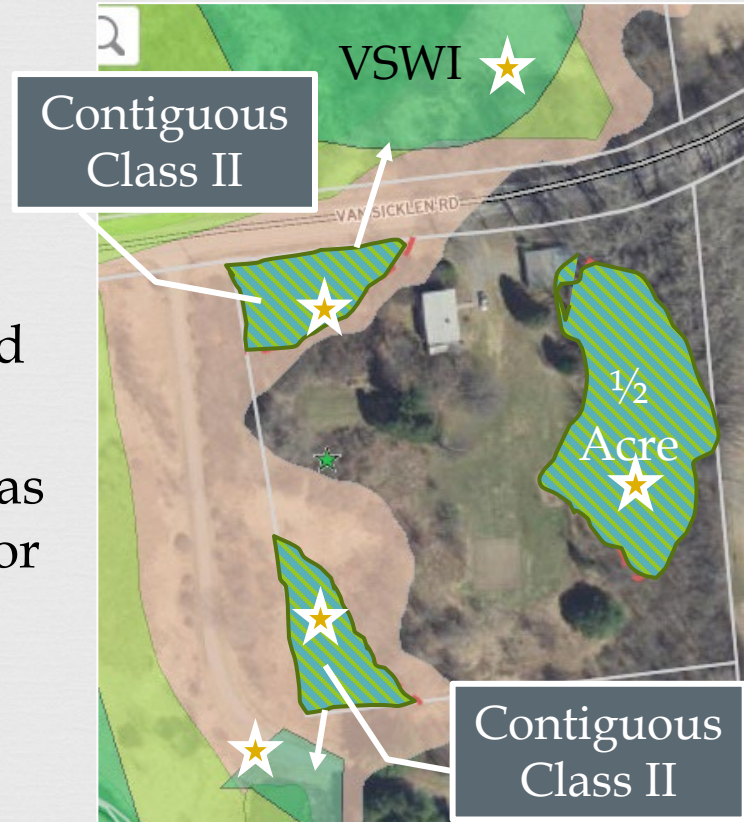
Class II = 50-ft buffer



# Class II Wetlands

Updated  
2023

- Any wetland on the VSWI map is Jurisdictional
- Any wetland contiguous or connected to the VSWI mapped wetland
- Any wetland the same type and size as what is on the VSWI maps (1/2 acre or larger)



- adjacent to a stream, lake, pond, or river > 2,500sqft
- vernal pools (any size)
- Headwater wetlands (any size)
- Rare species and Sig. Natural Communities



# Not All Wetlands Are Mapped!





# Wetland Screening Tool



Video: <https://youtu.be/6lv5en0AB1o>

Tool: <https://anrmaps.vermont.gov/websites/wetlandScreening/>

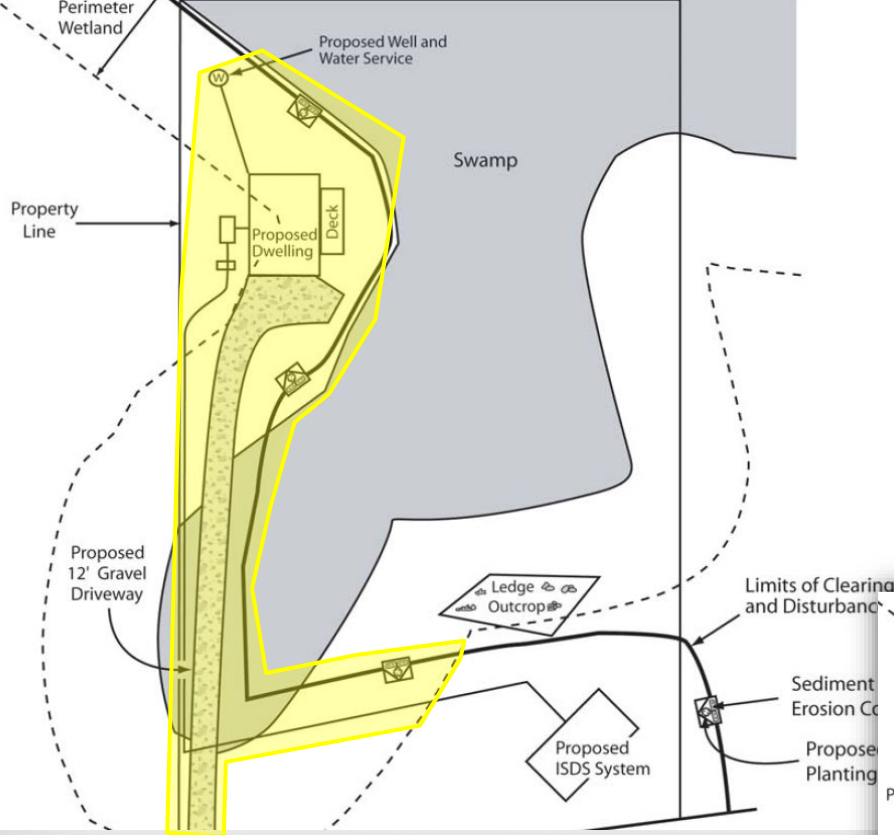



# Who Needs a Permit?



- ☞ Activity occurs in a Class I or II wetland or buffer zone and is not considered an allowed use, or exempt:
  - ☞ Grading, filling, ditching or dredging
  - ☞ Removal of vegetation such as tree cutting or conversion
  - ☞ Construction of buildings, roads, buried utilities or infrastructure



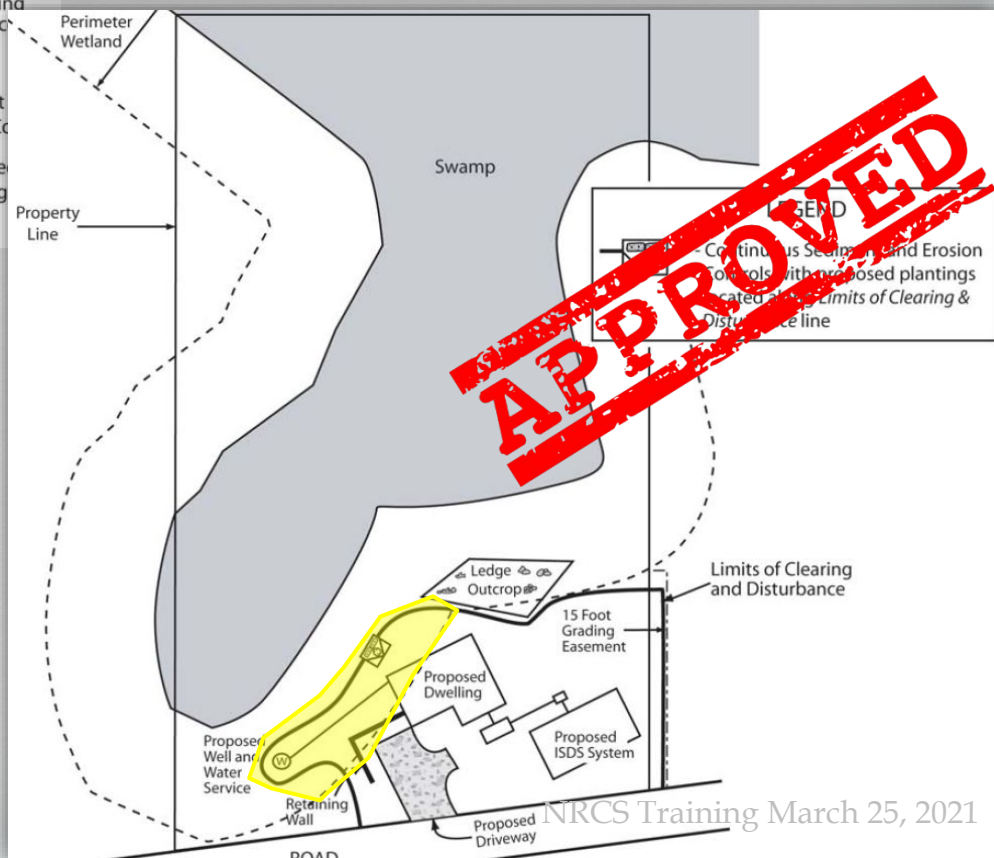


 = Proposed Impact

To receive a permit you must:

Avoid, Minimize, Restore,  
Compensate.

No undue adverse impact to wetland  
function or value.



**APPROVED**



# Vermont Wetland Rules

## Food/Crop Exclusion



Exclusion applies to all areas used to grow food or crops in connection with farming activities, including areas in ordinary rotation, as of the effective date of the rules (1990).

★ Pasture

★ Hayfield

★ Soy field

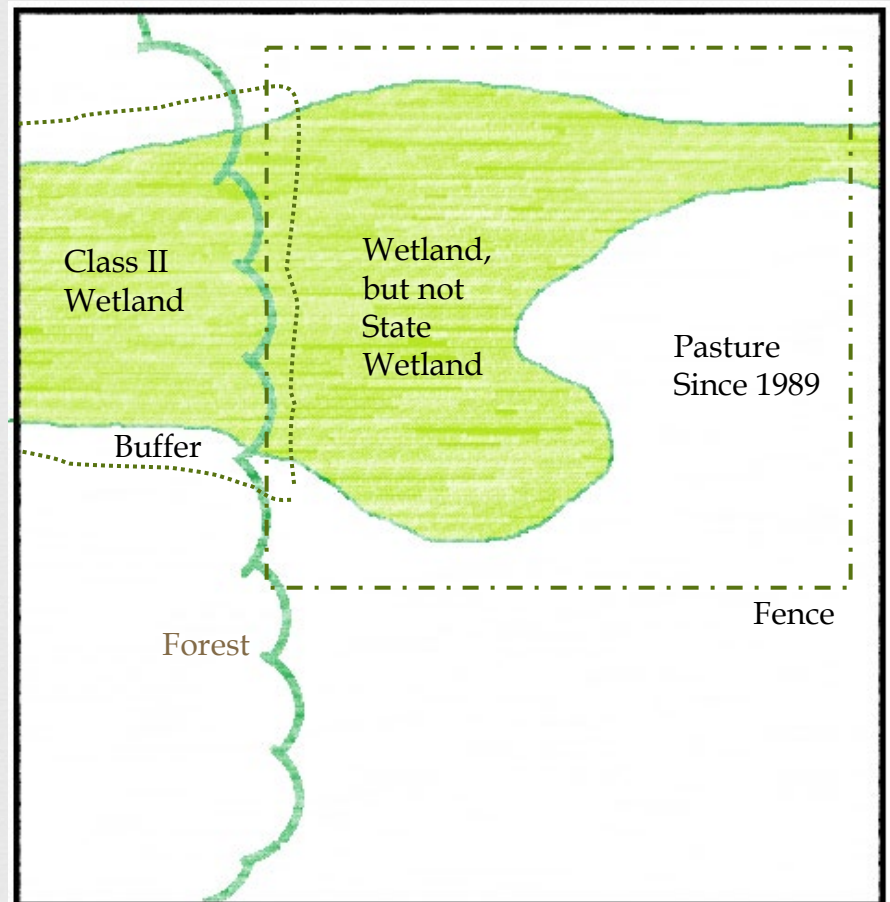
⊘ Timber stand

⊘ Homestead lawn

# Wetland Rule Exclusion



The Growing of  
Food and Crop

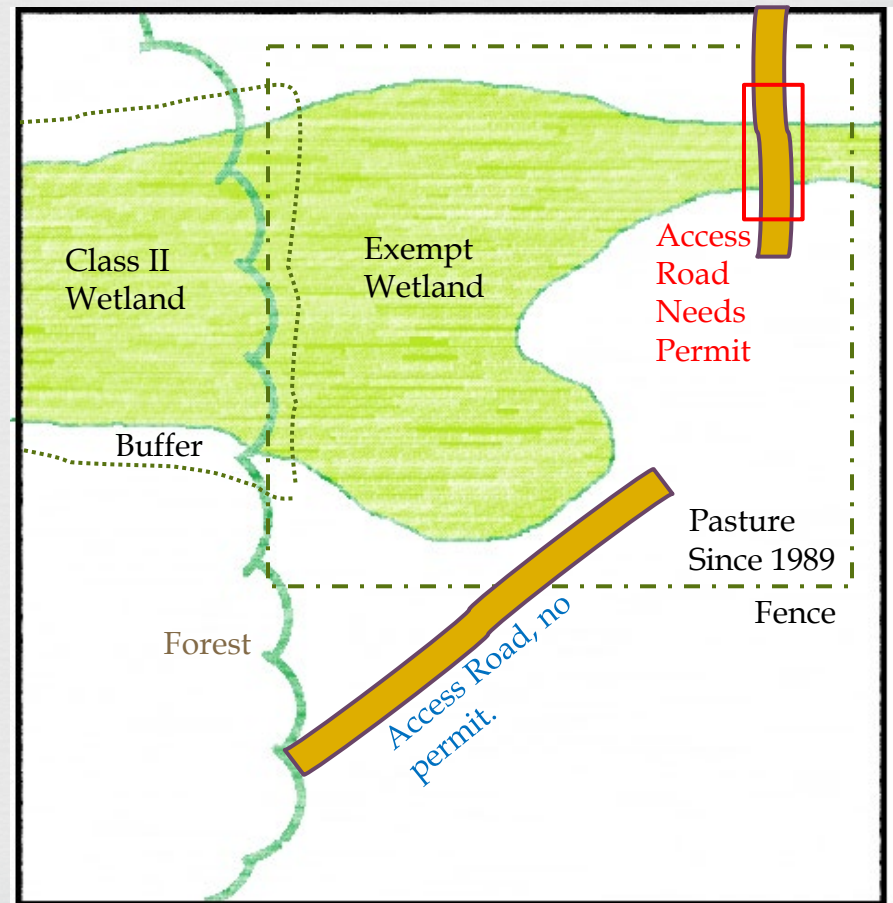




# Wetland Rule Exclusion Limitation



Areas Proposed to  
Stop Growing Food or  
Crop = Jurisdiction



# Section 6: Allowed Uses



## ☞ Low Impact Activities

☞ Birdwatching, hunting, placement of duck blinds\*, boardwalks\*

## ☞ Land Use Activities

☞ Silviculture\*

☞ Agriculture\*

## ☞ Maintaining existing structures/infrastructure

☞ The expansion of a manmade pond or ditch does not qualify



\*Associated with Required or Best Management Practices



# Allowed Use: Post 1990 Cropland

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Active conversion to cropland needs a permit.

Wetland and buffer areas which have been converted to crop after 1990 may continue in crop production provided no new draining, dredging or grading occurs and the VT Agency of Agricultural Food and Markets Required Agricultural Practices are followed.

# Allowed Use: Utilities

Routine repair and maintenance (with BMPs) allowed

New lines and poles allowed when:

- ∞ Less than 250 sq ft of tree clearing/other disturbance required
- ∞ No more than three new utility poles in wetland or buffer



# Allowed Use:

## Maintenance and repair

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- ☞ Applies to existing and compliant structures
- ☞ Includes “non- substantial expansion” typically interpreted as less than 250 sq ft
- ☞ Examples include
  - ☞ Adding a deck, patio, or solarium onto house
  - ☞ Trenching to connect to a town sewer stub
  - ☞ Tear down and rebuild in same footprint
    - ☞ (Careful - need to take construction impacts into account)

# Allowed Use: Boardwalks with BMPs

## No

- ❧ Draining
- ❧ Dredging
- ❧ Ditching
- ❧ Filling
- ❧ Grading
- ❧ Cutting woody vegetation
- ❧ Altering flow



## Do

- ❧ Use appropriate materials
- ❧ Avoid amphibian breeding seasons
- ❧ Allow light and water to pass
- ❧ Keep equipment clean
- ❧ Work during dry periods
- ❧ Size structures appropriately

Boardwalks can be a great way to access and appreciate wetlands (and maybe see a moose) when properly constructed and maintained.



# Allowed Use: Lawn activities





# Allowed Use: Pond Maintenance

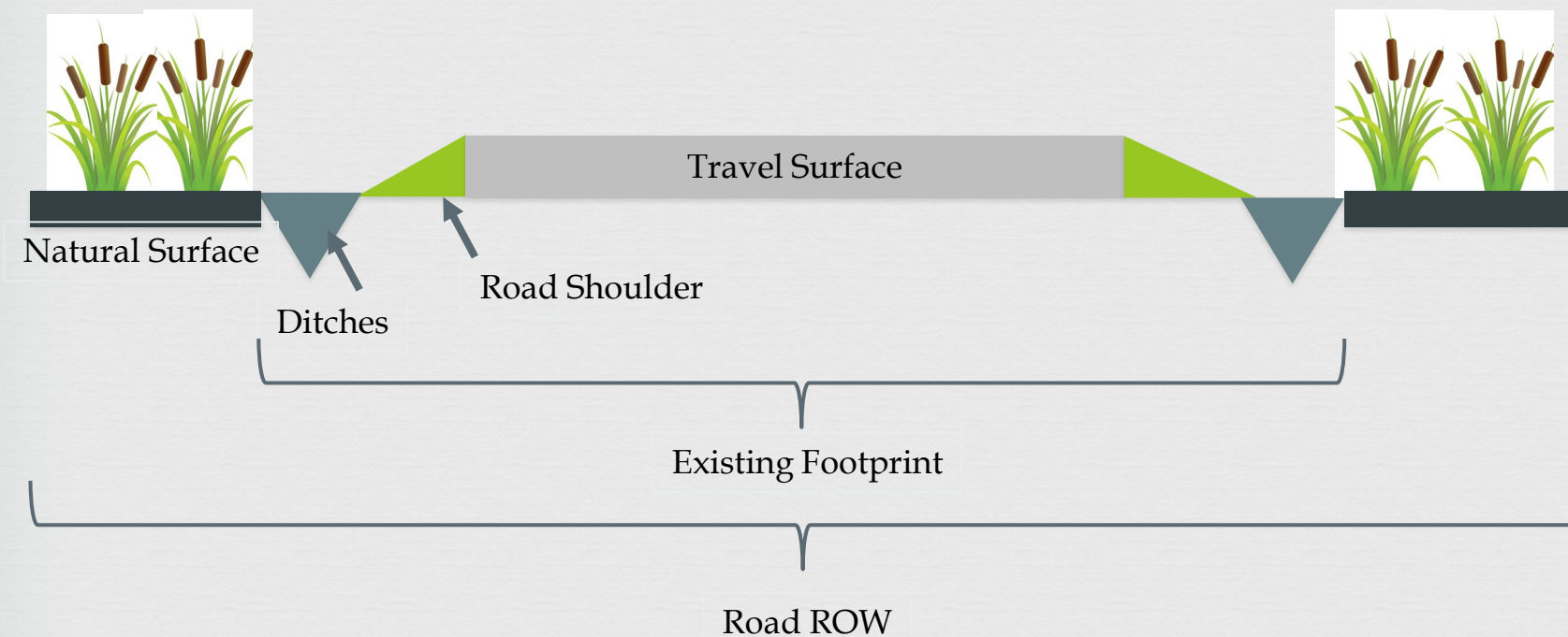
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- ☞ Also allows for dry-hydrant installation
- ☞ May **not** qualify if
  - ☞ Not recognizable as a pond
  - ☞ An on-stream pond
  - ☞ Natural pond (beaver impoundment)
  - ☞ Over two acres in size
  - ☞ Originally constructed in violation
  - ☞ Work results in discharge to waterways
  - ☞ Work enlarges footprint





# Roads and Wetland

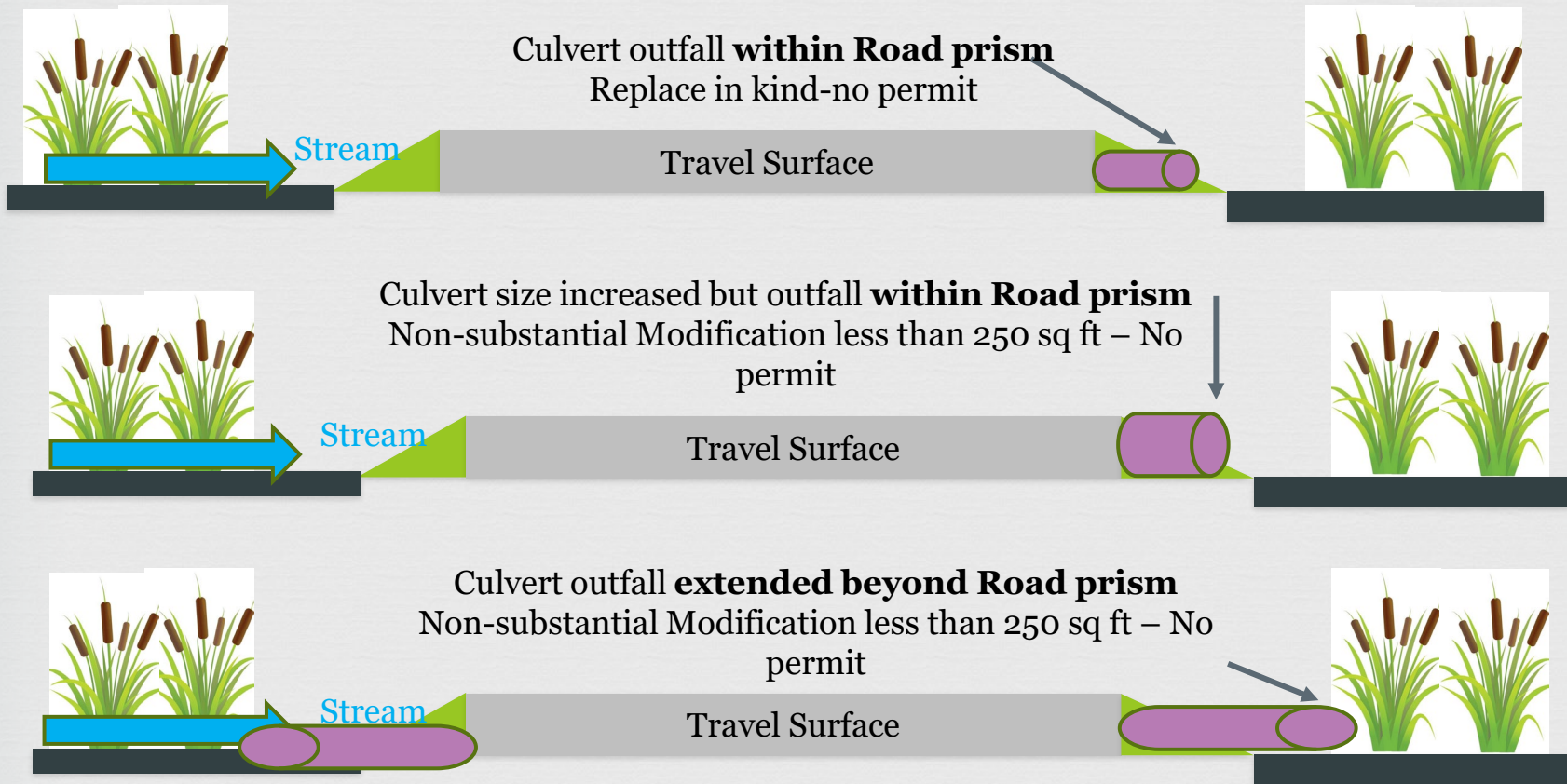


Maintaining existing structures/infrastructure is an allowed use.  
Substantially expanding the existing structure needs a permit.









Calculate the area of new impact on **both sides of the culvert** if applicable to determine 250 sq ft threshold.

If impacts exceed 250 sq ft; then move into permitting options

# Silviculture Allowed Uses

- ☞ Silviculture is “timber management”. If an area is cleared and not allowed to grow back, it is not silviculture. Conversion of forest to cropland needs a permit.

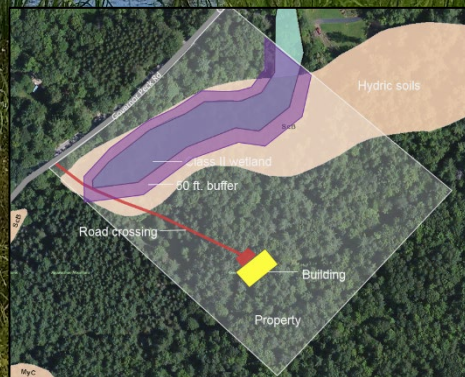






# Avoidance and Minimization

- ☞ Must demonstrate there is no other practicable alternative on property owned or available that avoids wetland and buffer impacts
- ☞ Must use project design to avoid impacts to wetlands, buffers and their functions and values to the greatest extent possible
- ☞ Must offset potential impacts if they are unavoidable through minimization or restoration





# Water Quality Improvement Projects

## General Permit 3-9026

- ❧ Stream Crossing Structure Replacement
- ❧ Stormwater Retrofits
- ❧ Failed Septic Replacement
- ❧ Conservation Practices on Farms:
  - ❧ Trails and Walkways
  - ❧ Access Roads
  - ❧ Heavy Use Areas
  - ❧ Stream Crossings
  - ❧ Constructed Wetlands
- ❧ All Mitigate Known Pollution Sources or Flood Hazards (Stormwater, Stream Instability, Agriculture, Wastewater)





# 3-9025 General Permit



- ❧ NON - eligible project types
  - ❧ More than 3,000 sq ft impacts proposed (non-linear)
  - ❧ More than 5,000 sq ft impacts proposed (linear)
  - ❧ More than 150 sq ft impacts to surface water margins
  - ❧ In Class I wetlands or buffer
  - ❧ In bogs, fens, vernal pools, headwater wetlands or buffer
  - ❧ Allowed uses
  - ❧ Unpermitted as built projects that should have acquired a permit initially
  - ❧ In wetlands significant for RTE or exemplary natural community functions
  - ❧ In perennial stream where project would need a stream alteration permit
  - ❧ Where additional conditions to protect wetland V&F are required

# Individual Permit



∞ For all projects not covered by AU, NRGP, or GP

∞ Requirements

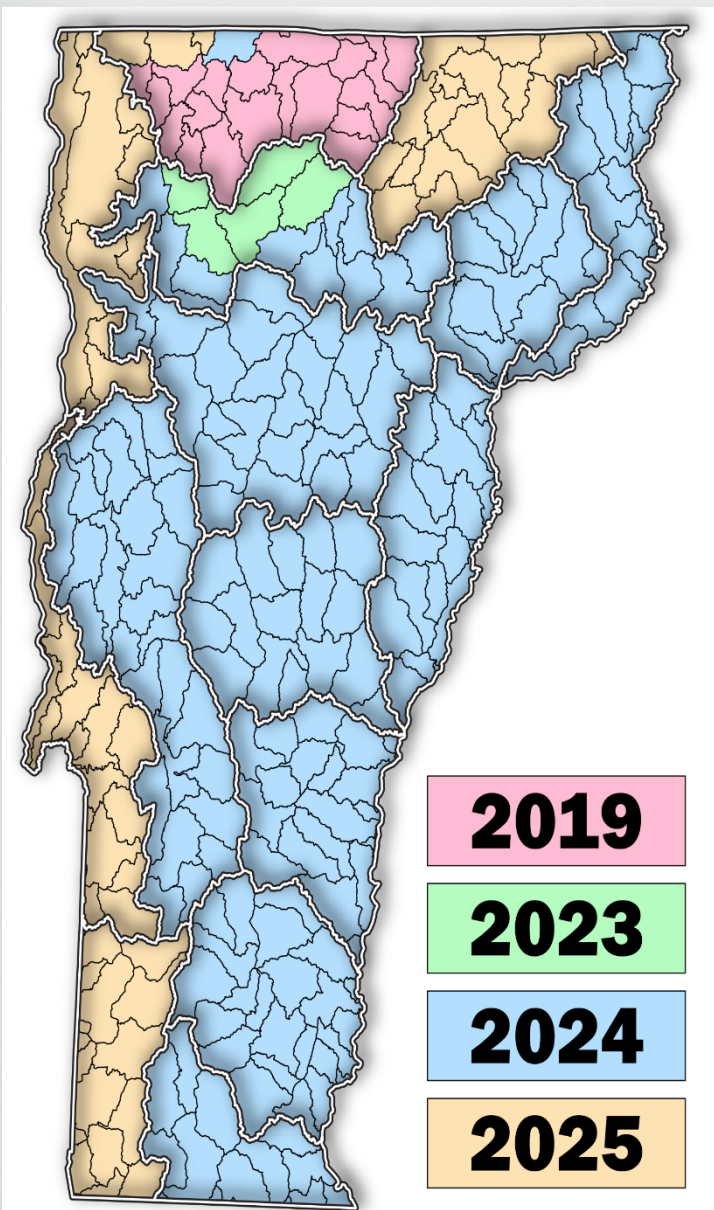
∞ Wetland delineation reviewed and accepted by  
WL program staff

∞ Shapefile of subject wetland

∞ Detailed discussion of mitigation sequence  
(avoid, minimize, restore/offset)

∞ Finding that project will result in no undue  
adverse impact to wetland





# Statewide NWI Update

**Missisquoi River Basin Wetlands were updated for the VSWI in early 2023. Area updated: 603 square miles.**

**(Partial) Lamoille River Basin Wetlands are awaiting USFWS approval. Area to be updated: 233**

**Over 30% of statewide NWI will be complete in July 2024**

**Nearly 80% of statewide NWI will be complete by 2025**

# Not All Wetlands Are Mapped!





# Program Tools

Wetland Screening Tool:

<https://anrmaps.vermont.gov/websites/wetlandScreening/>

Farming and Wetlands: [wl\\_WetlandAgCard.pdf](#)  
([vermont.gov](#))

Landowners Guide To Wetlands:

<https://dec.vermont.gov/watershed/wetlands/what/guide>

Hire a Wetland Consultant:

<https://dec.vermont.gov/watershed/wetlands/what/id/wetland-consultant-list>

Program Inquiry Form:

<https://dec.vermont.gov/watershed/wetlands/contact>

You Tube Channel:

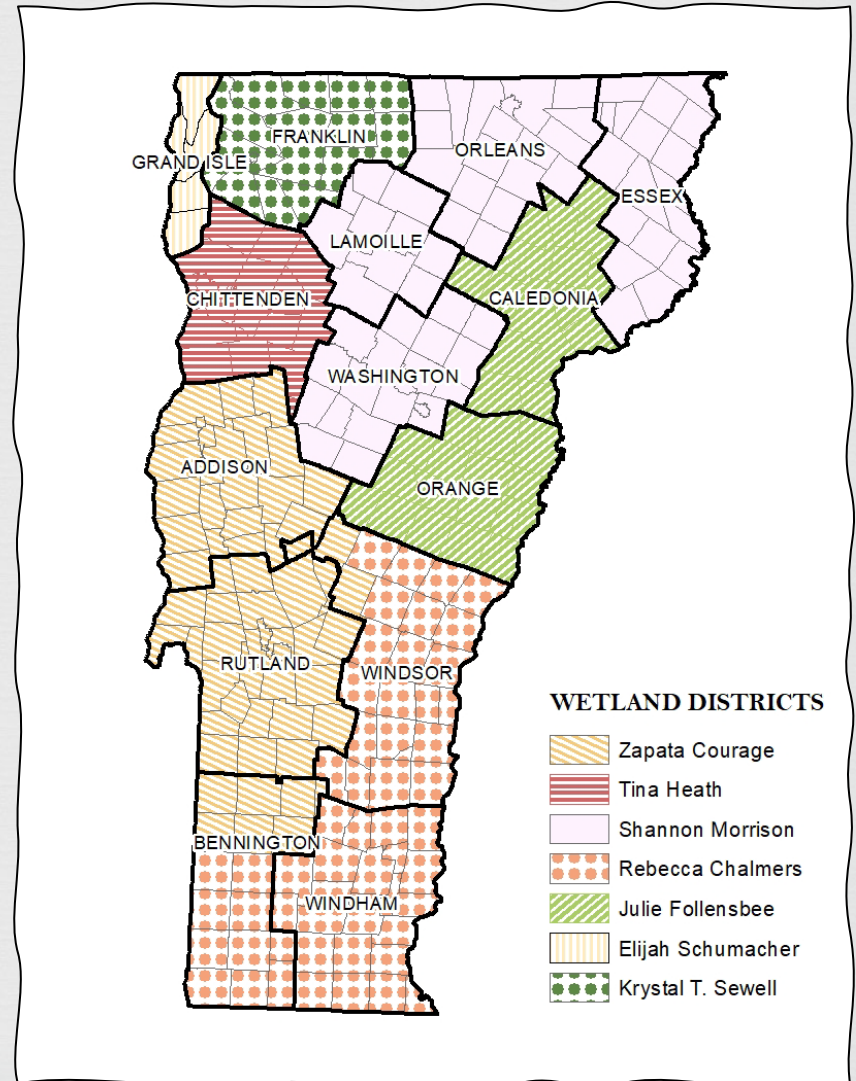
<https://www.youtube.com/watch?v=oDzL6NRIGgs&list=PLLXVJCF6Lbmxkg4ZPOiAg2YybklskikMQ>



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# Vermont Significant Wetlands Inventory

VSWI Only



Plus Advisory  
Wetlands



Plus Hydric  
Soils



<http://tiny.cc/wetlands>

# DEC Permit Navigator

The screenshot shows the DEC Permit Navigator web application. At the top left is the Vermont state logo. A search bar is located at the top center. The navigation menu includes: Permit Navigator, Home, Programs, Permits, Permit Navigator Mappings, Configuration, Permit Navigator Results (highlighted), and Regional Offices. The main content area displays a 'Permit Navigator Result' for 'PNR-000000099'. It features two expandable sections: 'Flood Plain and River Corridor' and 'Construction Stormwater Discharge Permit'. Each section includes a brief description and a 'View details' link. Action buttons for 'Send Email', 'Edit', and 'Printable View' are visible in the top right of the content area.

VERMONT

All Search...

Permit Navigator Home Programs Permits Permit Navigator Mappings Configuration Permit Navigator Results Regional Offices

Permit Navigator Result  
**PNR-000000099** Send Email Edit Printable View

Vermont Department of Environmental Conservation

## Flood Plain and River Corridor

Any development within the FEMA designated 100-year floodplain (Special Flood Hazard Area) in a community participating in the National Flood Insurance Program (NFIP) requires a local development permit. In addition, some communities regulate activities in ANR-mapped River Corridors. Applications for hazard area development permits must come to ANR for State review and comment to ensure compliance with NFIP and local minimum standards. Please be aware that Act 250 jurisdictional projects are reviewed under a state procedure that may result in requirements that differ from the local municipal requirements. Under Act 250, the State reviews projects located within the FEMA designated Special Flood Hazard Area and/or within the ANR mapped River Corridor.

[View details](#)

Vermont Department of Environmental Conservation

## Construction Stormwater Discharge Permit

A construction stormwater permit is required for construction and construction-related earth disturbance of 1 or more acres, or for earth disturbance of less than 1 acre, when part of a larger common plan of development. Permit coverage may be obtained under Vermont's Construction General Permit (CGP) 3-9020, if eligible as either Low Risk or Moderate Risk construction activity. Construction activity that does not qualify under CGP 3-9020 must obtain permit coverage under an Individual Construction Stormwater Discharge Permit.

[View details](#)

Short Video: [https://youtu.be/TmEAB\\_qD7us](https://youtu.be/TmEAB_qD7us)

Permit Navigator Page: <https://vermont.force.com/permitnavigator/s/>



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