

**WETLANDS DEMYSTIFIED**  
**Significant Impact Activities**  
**By Paul Hennen**

Our last topic in the May issue of the *Pomfret Times* concerned wetlands and watercourse evaluation and two methods used in that evaluation process. Hopefully, the article made clear that, while all wetlands and watercourses are important for many reasons, not all have equally important environmental or ecological functions. As a Commission we recognize that not all activities planned in a regulated area, that is, an area we as a Commission have determined to be within our jurisdiction will or may cause unnecessary damage to a wetland or watercourse. However, if the Commission believes that the proposed activity may adversely impact a wetland or watercourse at any location then, under State law the Commission must initiate an inquiry to determine the value and function of the wetland or watercourse system potentially affected. I emphasize again, as I have in the past, that the location of the project is not material. The key issue for the Commission is the possible or potential impact of your project on a wetland or watercourse system at any location in our Town. In other words, could your project or proposed activity have a “significant impact” on some wetland or watercourse system somewhere? If the Commission believes that could be the case, it may declare your proposed project a significant impact activity as defined in Section 2 of our regulations as required by State law. The purpose of this article is to explain what this may mean to you as a property owner and as a wetlands permit applicant.

A significant impact activity is defined as any activity, including but not limited to, the following activities which will or may have a major effect or significant impact on wetlands and watercourses.

1. Any activity involving deposition or removal of material which will or may have a major effect or significant impact on any part of an inland wetland or watercourse system.
2. Any activity which will or may substantially change the natural channel or substantially inhibit the natural dynamics of a water system.
3. Any activity which will or may substantially diminish the natural capacity to: support fisheries, wildlife or other biological life; prevent flooding; supply

water; assimilate waste; facilitate drainage; provide recreation or open space; or perform other functions.

4. Any activity which is likely to cause or has the potential to cause substantial turbidity, siltation or sedimentation in a wetland or watercourse.
5. Any activity which will or may cause substantial diminution of flow of a natural watercourse or substantially affects groundwater levels in an inland wetland or watercourse.
6. Any activity which is likely to cause or has the potential to cause pollution of a wetland or watercourse.
7. Any activity which will or may substantially damage or destroys unique wetland or watercourse areas or such areas having demonstrable scientific or educational value.

As one can appreciate the definition of significant impact activity is rather broad and inclusive. To complicate matters many hedge words are included in the various kinds of impacts the Commission must consider. What degree of impact is needed before it becomes substantial or significant? What is the difference between an ordinary wetland and a unique one? Like people, one might consider all wetlands and watercourses unique in their own right. In future articles we will address some of these issues in more detail, but for now, assume you have submitted an application for a wetlands permit and the Commission has determined your proposed project will or may have a significant impact on a wetlands or watercourse at some location. Also keep in mind that as a property owner a wetland or watercourse need not necessarily be on your property to be considered within the meaning of a significant impact activity. Nonetheless, you have submitted your application for a wetlands permit and the Commission has decided that your project is a significant impact activity. What happens now?

By State law the Commission must hold a public hearing within sixty-five days so that the issues involved in your application may be addressed. Legal notices in a newspaper concerning your proposed project and that a public hearing has been scheduled are required. You must also notify all abutting property owners by certified mail that a public meeting has been scheduled. If circumstances warrant, the Commission may hold a special meeting in your case or a series of meetings during its review process. Once the public hearing is opened, however, the Commission has thirty-five days to hear testimony, review documents, etc. before the public hearing must be closed unless the you, the applicant, agree to extensions, in which case they cannot exceed sixty-five days, and, of course, in

addition to the application fee for a permit there is public hearing fee as well, and there could be other fees or costs assessed under certain circumstances. Once the hearing is closed the Commission has sixty-five days in which to make its decision to grant or deny your wetlands permit.

As one can appreciate, a public hearing can become a lengthy process. The next question you might ask is what happens at the public hearing? Basically, the applicant must convince the Commission that his or her project will not damage a wetland or watercourse. Commission members as well as the public may ask the applicant questions or express their concerns. The applicant is also required to provide detailed information concerning the project. Such information will include comprehensive site plans, engineering reports and analysis, mapping of soil types by a soil scientist, evaluation of the ecological communities and wetlands and watercourse functions that may be affected by a professionally recognized wildlife biologist. The applicant must also consider and present alternatives to his or her plan that would result in less impact or no impact to wetlands or watercourses. The Commission will pay close attention to this part of the review process and has the authority to impose alternatives when indicated. An analysis of the chemical or physical properties of any fill material would also be required as well as proposed management practices that might mitigate the impact of the project on wetlands and watercourses.

It must be apparent at this point that the intent of the Wetlands Act is to hold wetlands permit applicants whose projects might significantly impact wetlands and watercourses to a very high standard indeed. If the Commission is not satisfied with the applicant's arguments or the expert testimony presented, it may seek independent expert analysis and testimony as part of the hearing process, and that too would be at the your expense. Fortunately, most significant impact activities can be avoided or at least mitigated to a point that we do not have to go through this process. A prospective applicant for a permit may request the Commission to determine whether or not a proposed project involves a significant impact activity or not. One could then make an informed decision as to whether to proceed knowing the time and potential expense involved.

In our next article, which should appear in August, I will discuss more of the permitting process, restrictions imposed on Commission members as part of that process and how the process relates to the Planning and Zoning Commission now that we have zoning in Pomfret. I will also discuss a new procedure adopted by the Commission to lessen the burden on potential permit applicants in some cases. We missed getting an article in the June issue of the *Pomfret Times* due to computer problems, so to our many dedicated readers I apologize for that lapse, but hope you will stay tuned anyway. Remember, we are on the web at [www.pomfretct.org](http://www.pomfretct.org). We would welcome your comments and questions.