

March 29, 1995

Mr. Donald T. Witherill  
Director of Watershed Management  
Department of Environmental Protection  
Bureau of Land Quality Control  
Augusta, ME 04333

RE: Hydric Soil Determinations for Wetland Delineation in the State of Maine

Dear Mr. Witherill:

This is a follow up to a letter dated November 14, 1990 from your office to Mr. Norm Kalloch, past president of the Maine Association of Professional Soil Scientists (MAPSS). At that time, you submitted an opinion to MAPSS concerning who is qualified to make hydric soil determinations for wetland delineation under the 1990 DEP Wetland Protection Rules(Chapter 310).

It is our understanding of the opinion stated in your letter that wetland boundary determinations will only require the services of a Maine Certified Soil Scientist when that determination hinges upon the presence of hydric soils, principally because of the "indeterminant nature of the other criteria". You further state that "in many instances, the presence of hydric soil may be inferred based on vegetation, topography and other indicators of wetland hydrology." In such situations, you "may" accept work carried out by "qualified" individuals. At this time, we would like to revisit the issue of who is qualified to make hydric soil determinations in the State of Maine.

Experience indicates that very rarely can hydric soils be inferred by the presence of vegetation or wetland hydrology indicators when making a wetland boundary delineation. The vast majority of boundaries occur in that area where other indicators are of an "indeterminant" nature. Even if the boundary does occur where strong vegetative or hydrology indicators are present, determining the actual boundary still requires observing soil morphological features upgradient to assure that the assumed

boundary is indeed the true boundary. That point is emphasized in the 1987 Corps of Engineers Wetlands Delineation Manual which states the following:

“Positive Wetland indicators of all three parameters are normally present in Wetlands. Although vegetation is often the most readily observed parameter, sole reliance on vegetation or either of the other parameters as the determinant of Wetlands can sometimes be misleading. Many plant species can grow successfully in both wetlands and non wetlands, and hydrophytic vegetation and hydric soils may persist for decades following alteration hydrology that will render a site a nonwetland. The presence of hydric soils and wetland hydrology indicators in addition to vegetation indicators will provide a logical, easily defensible, and technical basis for the presence of wetlands. The combined use of indicators for all three parameters will enhance the technical accuracy, consistency, and credibility of wetland determinations. Therefore, all three parameters were used in developing the technical guideline for wetlands and all approaches for applying the technical guideline embody the multiparameter approach.”

It is the opinion of the MAPSS membership, the MAPSS Technical Committee, and the Maine Board of Certification for Geologists and Soil Scientists, that the law requires all hydric soil determinations (excluding those specifically exempted under Title 32, Chapter 73) be conducted by or under the supervision of a Maine Certified Soil Scientist.

The Maine Board of Certification for Geologists and Soil Scientists stated the following in a letter dated June 28, 1990:

“making hydric soil determinations for any purpose, including the mapping of wetland boundaries, is practicing pedology and therefore must be performed by a person certified in the State of Maine as a Soil Scientist.”

I have enclosed a copy of the above quoted letter, signed by Andrews Tolman, CG, Chairman.

The Department's policy of accepting hydric soil determinations from individuals not certified to perform such work or who are not working under the direct supervision of a Maine Certified Soil Scientist is contrary to state law and is inconsistent with the Department's policy towards other licensed professionals such as geologists, engineers, site evaluators, and surveyors.

In summary, at present Maine Certified Soil Scientists or those previously exempted, are the only individuals legally entitled to practice pedology in the State of Maine. The practice of pedology clearly includes hydric soil determinations made in the course of wetland delineation. Eventually there may be a certification program for Wetland Scientists. However, any such certification program requires a specific exemption in Maine law if hydric soil determinations are part of the certification.

One of MAPSS's goals is to maintain a high standard of professional practice. The standards we have established for use by our membership and for the Departments use in reviewing Site Location of Development projects, reflects our concern for establishing and maintaining high standards in the practice of pedology. Consequently, the subject of this letter is an issue of utmost concern to the membership of MAPSS.

At your convenience, the MAPSS Technical Committee, representing the membership of MAPSS, will meet with you to further discuss this matter.

Sincerely,



Stephen H. Howell  
President-MAPSS