

STATE OF VERMONT
SUPERIOR COURT
ENVIRONMENTAL DIVISION

ANR v Thomson Timber Harvesting & Trucking LLC

24-ENV-00016

AOD ORDER

The Assurance of Discontinuance, signed by the Respondent(s) on the 30th day of January, 2024 and filed with the Superior Court, Environmental Division, on the 8th day of March, 2024, is hereby entered as an order of this Court, pursuant to 10 V.S.A. 8007(c).

Electronically signed May 1, 2024 pursuant to V.R.E.F. 9(D).

A handwritten signature in black ink that reads "Tom Walsh". The signature is stylized and cursive.

Thomas G. Walsh, Judge
Superior Court, Environmental Division

STATE OF VERMONT

SUPERIOR COURT

**ENVIRONMENTAL DIVISION
Docket No.**

**SECRETARY, VERMONT
AGENCY OF NATURAL RESOURCES,
Plaintiff**

v.

**THOMSON TIMBER HARVESTING & TRUCKING LLC,
Respondent**

VIOLATIONS

1. 10 V.S.A. § 913 and Vermont Wetland Rules § 9.1: clearing vegetation, dredging, and placing fill in Class II wetlands and their buffer zones prior to obtaining a permit
2. 10 V.S.A. § 1259(a): failure to follow Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont resulting in a discharge of material to waters of the State

ASSURANCE OF DISCONTINUANCE

Pursuant to the provisions of 10 V.S.A. § 8007, the Secretary (“Secretary”) of the Agency of Natural Resources (“ANR”) and Thomson Timber Harvesting & Trucking LLC (“Respondent”), hereby enter into this Assurance of Discontinuance (“Assurance”), and stipulate and agree as follows:

STATEMENT OF FACTS AND DESCRIPTION OF VIOLATION

1. Respondent operates a timber business that performs logging activities in Vermont, including timber harvesting, view cuts, selective cutting, and lot clearing, as well as excavation activities associated with pond sites, retaining walls, driveways, and manure pits.
2. Under 10 V.S.A. § 1259(a), “no person shall discharge any waste, substance, or material into waters of the State ... without first obtaining a permit for that discharge.” Silt, sediment, slash and logging debris constitute waste, substance, or material as defined in 10 V.S.A. § 1251. Under Section 1259(f), however, logging activities performed in compliance with *Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont* (the “AMP”) are exempt from permitting requirements.

3. The AMPs provide measures for loggers to utilize before, during, and after logging operations to comply with the Vermont Water Quality Standards and minimize the potential for a discharge from logging operations. AMP §§ 6.3.2 and 6.5.7 require the installation of waterbars on skid trails and approaches to stream crossings during logging. AMP § 6.5.1 requires that streams be kept free of logging slash and debris. AMP §§ 6.5.4, 6.5.6, and 6.7.3 require the use of appropriate stream crossings and prohibit the use of logging equipment within stream channels and within 25 feet of streams. After logging is completed, AMP §§ 6.4.1, 6.4.2, 6.6.1, and 6.6.2 require that temporary structures be removed, stream channels be restored, waterbars be installed on skid trails, ruts be smoothed, and seed and mulch be applied.
4. Vermont Wetland Rule § 9.1 and 10 V.S.A. § 913 prohibit clearing vegetation, dredging, and placing fill in Class II wetlands and their buffer zones without a permit.

The Bridgewater Property

5. Between late 2017 and December 2019, Respondent was engaged in logging activities on a +900-acre parcel belonging to Bessie Robinson located off Goldcoast Road in Bridgewater, Vermont, identified by SPAN No. 084-026-10034 (the “Bridgewater Property”).¹
6. The Bridgewater Property contains mapped unnamed tributary streams to the North Branch of the Ottauquechee River that are waters of the State. There are at least 4 main tributary streams that originate on and flow through the Bridgewater Property, each flowing in a general west-southwest direction. Each has small upstream segments of intermittent branches. The Bridgewater Property also contains at least three Class II wetlands including one vernal pool.
7. The Bridgewater Property is bisected by Kellog Road, which runs south to north through most of the parcel. Respondent’s logging activities have occurred in three general areas of the Bridgewater Property, each utilizing a different log landing.
 - a. Log Landing 1 (L1) is in the northwesterly portion of the Bridgewater Property. To the north and south of L1 are two of the tributary streams that flow westerly off-site to the North Branch of the Ottauquechee River.

¹ The Bridgewater Property and all relevant reference points are depicted on Attachment A.

- b. Log Landing 2 (L2) is located on Kellog Road near the center of the parcel. To its west is a Class II wetlands (Wetland 1) and to its north is another Class II wetlands (Wetland 2) and multiple stream branches that form the headwaters of one of the main tributary streams on the parcel.
 - c. Log Landing 3 (L3) is on Kellog Road approximately one-quarter mile to the south of L2. Both the vernal pool and the southernmost stream on the Bridgewater Property are located to the east of L3.
- 8. On December 12, 2019, Agency staff visited the area of the Bridgewater Property around L2. Logging operations had just been completed. Agency staff observed evidence of alleged discharges at three stream crossings that did not meet the AMP standards.
 - a. Logging slash remained in the stream at three separate crossings (SC4, SC5, and SC6), in violation of AMP § 6.5.1. At each of these crossings, discharges also resulted from Respondent's failure to smooth ruts on approaches, in violation of AMP § 6.4.1, to install waterbars and seed and mulch exposed soil, in violation of AMP § 6.6.2, and to restore the stream channel to a stable condition, in violation of AMP § 6.6.1.
- 9. On April 16 and 23, 2020, Agency staff visited areas of the Bridgewater Property surrounding L2 and L3. Snow had melted, logging was completed, and equipment had been moved off-site. Agency staff observed that some remedial and corrective measures had been taken place, but multiple stream crossings remained out of compliance with the AMP standards. In the southern area of the parcel, to the east of L3, discharges were observed in two stream crossings.
 - a. At one of the crossings (SC1), the crossing structure had been removed but exposed soil was not seeded and mulched and waterbars were not correctly installed, in violation of AMP § 6.6.2, which resulted in discharges of sediment to the stream.
 - b. At another stream crossing (SC2), there was evidence that Respondent's failure to follow AMPs during logging had resulted in sediment discharges. There was significant rutting on the skid trail approaches where waterbars were not installed, in violation of AMP § 6.3.2, and evidence of skidding across the stream without a crossing structure in place, in violation of AMP § 6.5.4. Respondent's noncompliance with AMPs after logging was completed caused additional stream discharges. Respondent's failure to smooth ruts in violation of AMP § 6.4.1, failure

to restore the channel in violation of AMP § 6.6.1, failure to install waterbars in violation of AMP §§ 6.4.2 and 6.6.2, and failure to seed and mulch exposed soils in violation of AMP § 6.6.2, continued to cause sediment discharges to the stream.

10. On May 29, 2020, Agency staff returned to the areas surrounding L2 near the center of the Bridgewater Property and observed evidence of alleged discharges below multiple stream crossings that did not meet the AMP standards.
 - a. At three separate crossings to the east of Kellog Road (SC4, SC5, and SC6), sediment discharges resulted from the absence of waterbars on the approaches, in violation of AMP §§ 6.4.2 and 6.6.2, and the presence of exposed soil that was not seeded and mulched, in violation of AMP § 6.6.2.
 - b. At two other stream crossings to the northwest (SC7 and SC9), there were discharges of sediment due to the lack of waterbars and exposed soil that was not seeded and mulched, in violation of AMP § 6.6.2. Logging debris also remained in the crossing, in violation of AMP § 6.5.1.
11. Agency staff also confirmed on May 29, 2020, that Wetland 1, Wetland 2, and the vernal pool had been impacted by Respondent's logging activities on the Bridgewater Property.
 - a. In Wetland 1 (located to the north of L2 and northwest of Kellog Road), Agency staff observed excessive rutting (RW1) and a non-AMP-compliant stream crossing structure in the wetland (FW1), and related grading, stumping, and sediment discharge into the stream flowing through the wetland.
 - b. In Wetland 2 (located to the west of L2 and southeast of Kellog Road), Agency staff observed excessive rutting (RW2) and related draining (DW1), dredging, and fill (FW1).
 - c. In the vernal pool (located to the west of L3), Agency staff observed excessive rutting (RW3) that altered the hydrology of the wetland, draining it, and filled parts of the wetland.
12. On June 15, 2020, Agency staff met with Respondent's forester at the Bridgewater Property near Kellog Road to discuss the requirements of the AMPs and remediation activities at the site.
13. On June 22, 2020, Agency staff visited areas of the Bridgewater Property surrounding L1 in the northwesterly area of the parcel. Respondent had ceased logging this area in 2018. Agency

staff observed evidence of discharges at multiple stream crossings that did not meet the AMP standards.

- a. At two crossings of the northernmost stream on the site (SC16 and SC15), there was evidence that no crossing structures were used during Respondent's logging operations, in violation of AMP § 6.5.4, resulting in sediment discharges to the stream. Following completion, Respondent's failure to restore the channel in violation of AMP § 6.6.1, and failure to install waterbars and seed and mulch exposed soils in violation of AMP § 6.6.2, all resulted in the continued discharge of sediment to the stream. Logging slash also remained in the crossing, in violation of AMP § 6.5.1.
 - b. At a crossing of the stream to the south of L1 (SC13), Respondent failed to remove the temporary crossing structure consisting of skidder bridge panels and logging slash and dirt, in violation of AMP 6.6.1, resulting in a discharge of logging slash and dirt to the stream. No waterbars were installed on the approaches, in violation of AMP § 6.4.2 and 6.6.2, causing erosion and sediment discharge to the stream.
14. Between June 29, 2020, and August 3, 2021, Agency staff met with either Respondent or Respondent's forester multiple times at the Bridgewater Property to evaluate the status of Respondent's required remediation activities. Respondent completed the required remediation to the areas surrounding L2 and L3 on November 5, 2020, and to the area surrounding L1 on August 3, 2021.
15. The Agency alleges that the above conduct constitutes violations of 10 V.S.A. § 913, VWR § 9.1, and 10 V.S.A. § 1259(a).
16. Respondent admits the factual findings described above solely for purposes of resolving this case.

The Thetford Property

17. Between November 2019 and September 2020, Respondent was engaged in logging activities on an approximately 365.5-acre parcel it owns located off Norford Lake Road in Thetford, Vermont, identified by SPAN No. 642-202-10762 (the "Thetford Property").²

² The Thetford Property and all relevant reference points are depicted on Attachment B.

18. The Thetford Property contains mapped tributary streams to Avery Brook and the Ompompanoosuc River that are waters of the State. It also contains nine Class II wetlands. Three of the main tributary streams originate in the center of the parcel, which is a high point on the landscape. In the north-central area, there are multiple stream branches that converge and form the headwaters of a stream that flows east toward the Ompompanoosuc River through three separate wetlands (Wetlands G, H, and F) before flowing off-site. The two other tributary streams originating in the center of the parcel each flow south through separate wetlands (Wetlands B, C, and D) before they converge with a different stream flowing from the southwestern corner of the parcel. This tributary stream originates in Norford Lake and passes through one of the wetlands (Wetland A) before all three tributary streams converge off-site and flow east toward Avery Brook. Yet another stream and its associated tributaries crosses the northwestern corner of the parcel as it flows northeasterly through another wetland (Wetland I) on its way to the Ompompanoosuc River.
19. On August 13, 2020, Agency staff visited the north-central area of the Thetford Property containing the tributary streams that converge and flow east toward the Ompompanoosuc River near Wetlands G, H, and F. Logging operations were ongoing. Agency staff observed evidence of alleged discharges at multiple stream crossings that did not meet the AMP standards.
- a. At two crossings (SC9 and SC10), temporary crossing structures were not used appropriately and were not compliant with AMP § 6.5.4, resulting in the discharge of sediment into the State waters. The crossings also had discharges of sediment due to ruts that were not smoothed, waterbars that were not installed, and exposed soil that was not seeded and mulched, in violation of AMP §§ 6.4.1, 6.5.7, and 6.6.2.
 - b. At two crossings (SC11 and SC16), temporary structures were not used appropriately and were not compliant with AMP § 6.5.4, resulting in the discharge of sediment into State waters. Crossing SC11 had discharges of excessive logging debris, in violation of AMP § 6.5.1. Upstream of SC16, logging equipment had been driven directly up and down the stream (STS2), in violation of AMP §§ 6.5.6 and 6.7.3, resulting in discharges of sediment into waters of the State.
 - c. Two downstream crossings further east (SC12 and SC13) had discharges of excessive logging debris, in violation of AMP § 6.5.1, while another downstream

stream crossing (SC22) was actively discharging sediment into the stream due to deep ruts, no waterbars, and no temporary crossing structure, in violation of AMP §§ 6.3.2, 6.5.4, and 6.5.7.

20. Agency staff also visited the south-central area of the Thetford Property where the two south-flowing streams flow through Wetlands B, C, and D before merging off-site with the east-flowing stream from Norford Lake. Logging had already been completed in the area.
 - a. At stream crossings near Wetlands C (SC18) and Wetlands D (SC17), Agency staff observed evidence of sediment discharges resulting from temporary crossing structures that were not used appropriately and were not compliant with AMP § 6.5.4. Upstream of each crossing, logging equipment had been driven directly up and down the stream (STS1 and STS3), in violation of AMP §§ 6.5.6 and 6.7.3, resulting in discharges of sediment into waters of the State.
 - b. At two stream crossings between Wetlands A (SC21) and Wetlands B (SC20), there were discharges of excessive logging debris in violation of AMP § 6.5.1.
21. The same day, Agency staff also visited the northwestern corner of the Thetford Property where a stream and its associated tributaries flow northeasterly through Wetland I toward the Ompompanoosuc River. Logging had already been completed.
 - a. Agency staff observed erosion and discharge at four separate stream crossings of the tributary streams (SC2, SC3, SC4, and SC6) where Respondent failed to smooth ruts on approaches, did not install waterbars, failed to restore the stream channel to a stable condition, and did not seed and mulch exposed soil, in violation of AMP §§ 6.4.1, 6.6.1, and 6.6.2. Immediately upstream of SC6, logging equipment had driven directly up and down a tributary stream (STS 4), in violation of AMP §§ 6.5.6 and 6.7.3, resulting in discharges of sediment into waters of the State.
 - b. At one stream crossing (SC 1), the temporary crossing structure was still in place with excessive amounts of logging debris discharged into the stream channel in violation of AMP §§ 6.5.1 and 6.6.1.
22. Agency staff also observed during the August 13, 2020 site visit that numerous wetlands and buffer areas had been impacted by Respondent's logging activities. Cutting occurred within the wetlands and their buffer areas, slash and logging debris had been deposited within the

wetlands and their buffer areas, and deep ruts (2-4 feet) had been created by equipment traveling into and through the wetlands.

23. On August 18, 2020, Agency staff visited the Thetford Property to evaluate the impact of Respondent's logging activities on wetlands and buffer areas. In the north-central areas of the parcel, where the tributary streams converge and flow east toward the Ompompanoosuc River through three separate wetlands (Wetlands G, H, and F), Agency staff observed dredging and filling in multiple Class II wetlands and their buffer areas.
 - a. In Wetlands H, Agency staff observed dredging caused by excessive rutting in three locations (RW3, RW 4, and RW5) that altered the hydrology of the wetlands. In Wetlands G, Agency staff also observed filling and dredging caused by excessive rutting (RW2) and logging debris (LD4) that altered the hydrology of the wetlands.
 - b. To the south of Wetlands G and F, where there is an isolated vernal pool with fingernail clams—Wetlands E—Agency staff observed draining and dredging caused by excessive rutting (RW1).
24. Agency staff also observed dredging and filling in Class II wetlands and buffer areas in the south-central area of the Thetford Property where the two south-flowing streams flow through Wetlands B, C, and D before flowing off-site toward Avery Brook.
 - a. In Wetlands B, Agency staff observed filling with logging debris (LD1) that altered the hydrology of the wetland.
 - b. In the northern extent of Wetlands D, Agency staff observed filling with logging debris (LD2) and dredging caused by excessive rutting from a skid trail (STS1).
25. That same day, Agency staff met with Respondent at the Thetford Property to discuss the required remediation activities at the site, requesting that the violations be corrected by September 30, 2020. They also visited the east-central area of the parcel, near Wetland F, where logging operations were ongoing. Agency staff observed an active stream crossing (SC 15) with a discharge of excessive logging debris, in violation of AMP § 6.5.1.
26. On September 14, 2020, Agency staff visited the Thetford Property and observed that Respondent had not completed the remediation activities required to comply with the AMP standards. Respondent's logging activities were nearly completed by now, except for Respondent's collection of windthrown trees scattered about the parcel.

27. On September 16, 2020, Agency staff returned to the Thetford Property to continue evaluating the Class II wetlands and buffer areas that had been impacted by Respondent's logging activities. Agency staff confirmed the prior observations regarding fill and logging debris in Wetlands B, D, and G, and the extensive rutting in Wetlands H and E. Agency staff also visited Wetland F and observed filling with logging debris in three locations (LD5, LD6, and LD7).
28. While in the north-central area of the parcel, near Wetland H in the headwaters of the easterly flowing stream, Agency staff also observed a newly installed stream crossing (SC 7) where sediment had been discharged into the stream due to deep ruts, no waterbars, and no temporary crossing structure, in violation of AMP §§ 6.3.2, 6.5.4, and 6.5.7.
29. Between September 23, 2020, and May 17, 2021, Agency staff met with either Respondent or Respondent's forester multiple times at the Thetford Property to evaluate the status of Respondent's required remediation activities. Respondent completed the required remediation on May 17, 2021.
30. The Agency alleges that the above conduct constitutes violations of 10 V.S.A. § 913, VWR § 9.1, and 10 V.S.A. § 1259(a).
31. Respondent admits the factual findings described above solely for purposes of resolving this case.

AGREEMENT

Based on the foregoing Statement of Facts and Description of Violation, the parties agree as follows:

- A. For the violations described above, Respondents shall pay a total penalty of \$ 32,550.00.

Payment shall be made by either:

1. Check made payable to the "Treasurer, State of Vermont" and forwarded to:

Administrative Assistant
Agency of Natural Resources
Environmental Compliance Division
1 National Life Drive, Davis 3
Montpelier, VT 05620-3803

Or

2. Credit card or electronic check payment through the ANR's online system at:
https://anronline.vermont.gov/?formtag=ANR_EnforcementPenaltyPayment

Payment shall be received no later than thirty (30) consecutive calendar days following the Effective Date of this Assurance.

- B. Without formally admitting or denying wrongdoing or liability, Respondent agrees to this settlement of the violations alleged above in order to resolve all outstanding disputes.
- C. Respondent agrees that the violations alleged are deemed proved and established as a "prior violation" in any future state proceeding that requires consideration of Respondent's past record of compliance, such as permit review proceedings and calculating civil penalties under 10 V.S.A. § 8010.
- D. The State of Vermont and the Agency reserve continuing jurisdiction to ensure future compliance with all statutes, rules, and regulations applicable to the facts and violations set forth herein above.
- E. Nothing in this Assurance shall be construed as having relieved, modified, or in any manner affected the Respondent's on-going obligation to comply with all other federal, state, or local statutes, regulations or directives applicable to the Respondent in the operation of its business.
- F. This Assurance shall become effective only after it is signed by all parties and entered as an order of the Environmental Division (the "Effective Date"). When so entered by the Environmental Division, this Assurance shall become a judicial order. In the event that such order is vacated, this Assurance shall be null and void.
- G. Respondent shall not be liable for additional civil or criminal penalties with respect to the specific facts described herein occurring before the Effective Date of the Assurance, provided that Respondent fully complies with the agreements set forth above.

- H. This Assurance sets forth the complete agreement of the parties, and it may be altered, amended, or otherwise modified only by subsequent written agreements signed by the parties hereto or their legal representatives and incorporated in an order issued by the Environmental Division. Alleged representations not set forth in this Assurance, whether written or oral, shall not be binding upon any party hereto, and such alleged representations shall be of no legal force or effect.

- I. Any violation of any agreement set forth herein will be deemed to be a violation of a judicial order, and may result in the imposition of injunctive relief and/or penalties, including penalties set forth in 10 V.S.A. Chapters 201 and/or 211.

- J. This Assurance is subject to the provisions of 10 V.S.A. §§ 8007 and 8020.

[Signature pages follow.]

SIGNATURES

The provisions set forth in this Assurance of Discontinuance are hereby agreed to and accepted. Further, I, Stacey Thomson, the undersigned, hereby state under oath that I am a Member of Thomson Timber Harvesting & Trucking LLC, that I have the power to contract on behalf of Thomson Timber Harvesting & Trucking LLC, and that I have been duly authorized to enter into the foregoing Assurance of Discontinuance on behalf of that entity.

Dated at Labanon, ^{New Hampshire} Vermont, this 30 day of January, ²⁰²⁴ 2023.

THOMSON TIMBER HARVESTING & TRUCKING LLC

By [Signature]
Stacey Thomson, Member

STATE OF ^{NEW HAMPSHIRE} VERMONT

COUNTY OF Crotch, ss.

At Labanon, NH, Vermont, this 30 day of January, ²⁰²⁴ 2023, the above signatory personally appeared, signed, and swore to the truth of the foregoing. Before me,

[Signature]
Notary Public State of Vermont ^{New Hampshire}

Printed Name **Brad W Wilder**
My Commission Expires August 18, 2026

Commission No. _____

My Commission Expires _____

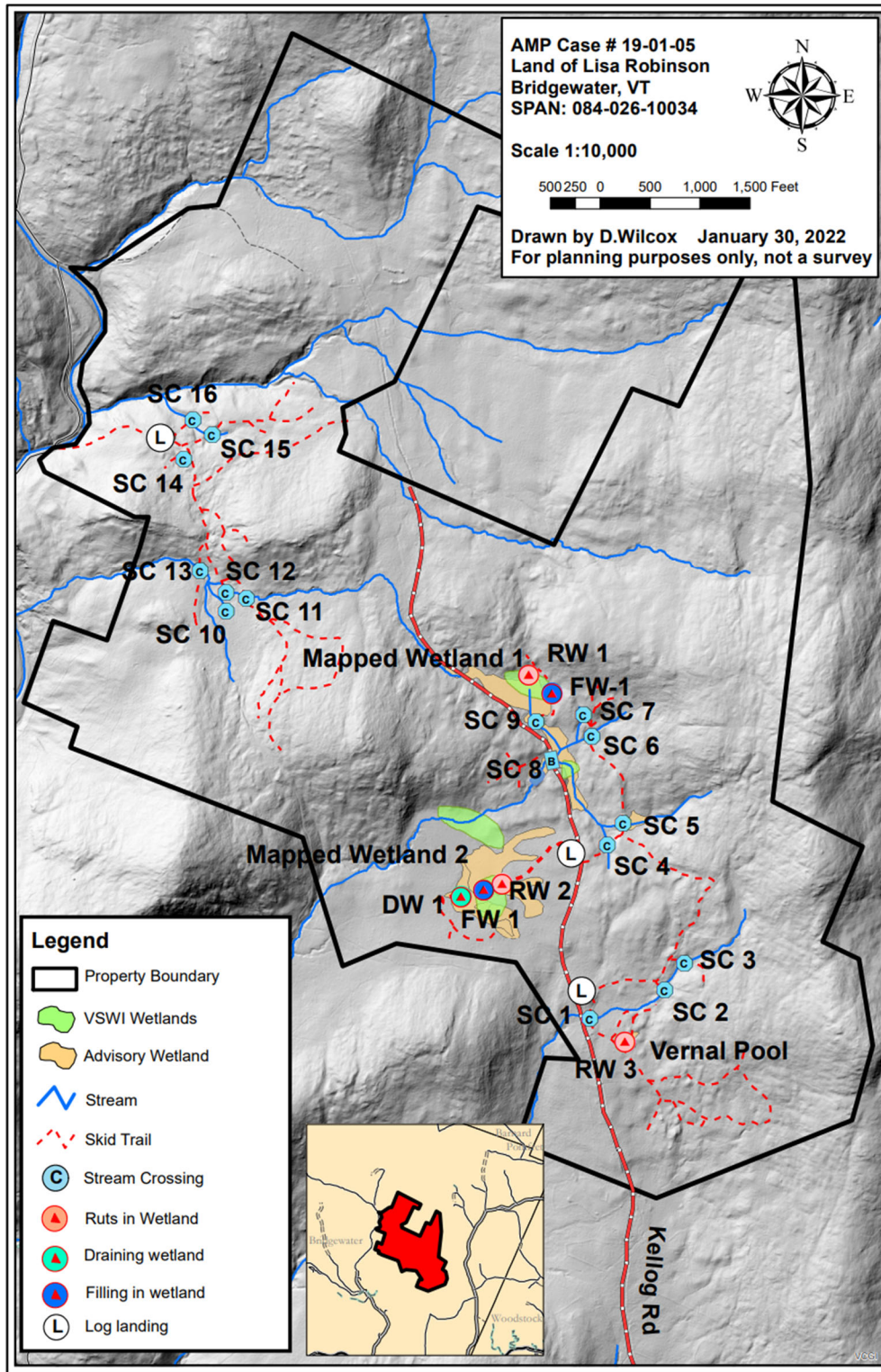
The provisions set forth in this Assurance of Discontinuance are hereby agreed to and accepted.

Dated at Montpelier, Vermont, this 5th day of February, 2024.

SECRETARY, AGENCY OF NATURAL RESOURCES

BY: Jason M. Batchelder
Jason Batchelder, Commissioner
Department of Environmental Conservation

Attachment A: Bridgewater Property



Attachment B: Thetford Property

