NEW YORK STATE | Department of Environmental Conservation

KATHY HOCHUL
Governor

AMANDA LEFTON
Commissioner

November 14, 2025

Town of Alexandria
Attn: Town Supervisor, Brent Sweet
46372 Co Rte 1
Alexandria Bay, NY 13607

Sent Electronically to: brentsweet@gmail.com

Re: Notice of Denial Consideration
Swan Bay Culvert Replacement
St. Lawrence Park Road
DEC ID: 6-2222-00935/00001

Dear Supervisor Sweet:

On August 22, 2025, Fourth Coast, Inc. submitted an application to the New York State Department of Environmental Conservation (DEC) on your behalf requesting an Article 24 Freshwater Wetlands Permit; Protection of Waters, Excavation and Fill in Navigable Waterways Permit; Protection of Waters, Disturbance of the Bed or Banks of a Protected Stream Permit; and a 401 Water Quality Certification. The town proposes to install a culvert under St. Lawrence Park Road and dig an approximately 748-foot-long ditch to allow water to flow between Swan Bay and Point Vivian. The proposed culvert and ditch would be entirely within a regulated Class 1 New York State regulated freshwater wetland and its 100-foot regulated adjacent area. Excavation for the ditch would also occur within the St. Lawrence River, which is a Class A waterway. The ditch would cross two privately owned tax parcels (6.19-1-59 and 6.19-1-50) and would be located immediately adjacent to the property line between tax parcels 6.19-1-50 and 6.19-1-86.2. Tax parcel 6.19-1-86.2 is owned by the Thousand Island Land Trust (TILT) and consists of a high-quality, deep-water wetland dominated by native shrubs, such as button bush (*Cephalanthus occidentalis*).

Application Purpose and History:
You stated in your application that the purpose of the project was to address water quality concerns in Swan Bay expressed by residents of St. Lawrence Park Road. Your application further explained that residents feel perceived water quality issues in Swan Bay are caused by the lack of water flow between Swan Bay and Point Vivian. During our pre-application meeting in November of 2024, you reported that a culvert had been installed under St. Lawrence Park Road when the road was initially constructed in the 1930's. Based on your research into the history of St. Lawrence Park Road, it appears the culvert was buried or removed when the road was widened and elevated in the 1960's. From our discussions with you and Fourth Coast, we understand that you have been unable to locate physical evidence of the culvert, but you do have a survey map

from 1938 that includes the culvert and anecdotal evidence from residents whose families have lived on St. Lawrence Park Road for generations that a culvert once existed under the road.

The application that was submitted to our office on August 22, 2025, contained completed Joint Application and Federal Coastal Consistency forms, a topographic location map, a rough overhead plan drawing, National Wetland Inventory maps, an IPAC and soils report, a SHPO no-effect determination letter, a DEC Water Quality Certification Supplemental form, Part 1 of the Full Environmental Assessment Form (FEAF), Lead Agency Request letters, and documentation that you submitted a request for a wetland jurisdictional determination.

I sent you and your consultant a Notice of Incomplete Application on August 26, 2025, because there was critical information missing from your application. The Notice of Incomplete Application requested the following:

1. You cannot apply for a permit with descriptions for multiple alternatives. The application must identify a single, clearly described project design plan that includes dimensions, fill and excavation volumes, and a description of temporary and permanent wetland impacts.
2. Complete overhead and cross-sectional plan drawings.
3. The proposed ditch is not on land owned by the town. The impacted property owners must either sign the Joint Application or submit letters stating that they authorize this project on their property and that they understand their legal responsibility for work completed on their property, including any violations on their property that may have been created by another party.
4. Part 2 and 3 of the Full EAF and documentation from the town that the town board made and accepted a SEQR determination.
5. If dredging is proposed, the plan drawings must include the square footage of the dredge area and the cubic yards of fill to be removed. A spoils deposition location map is also required.
6. A completed hydrologic study that demonstrates that the structure would be effective for improving water quality and would not negatively impact or otherwise disturb the current wetland conditions found within the project footprint.

We met on site on September 23, 2025, for a multi-agency site visit. The site visit included DEC Fish and Wildlife staff, staff from the US Army Corps of Engineers and NYS Department of State, Rob Company and Nicole Jobson from Fourth Coast, and yourself. We discussed a variety of concerns that the project could alter water levels in surrounding wetlands, negatively impacting existing high-quality habitats. The DEC is concerned about increasing the risk of introducing invasive plant species from Swan Bay (such *Phragmites australis*) into the wetland. We also discussed long-term maintenance needs for the project and expressed concerns that the culvert and ditch would cause significant environmental impacts. During the on-site meeting we discussed whether the current proposal could convey a sufficient volume of water to result in water quality improvements.

Wetland Functions and Benefits:
Wetlands are zones of transition between dry land and open water, where the movement of water, cycling of nutrients, and solar energy come together to produce unique ecosystems characterized by hydric soils, hydrology, and vegetation. They serve as sources, sinks, and transformers of materials. Freshwater wetland conservation is a matter of state concern because wetlands are hydrologically connected to rivers and streams. Any loss of or a negative impact to freshwater wetlands can affect other areas of an ecosystem and deprive the people of the state of some, or all of the important benefits and services provided by wetlands.

Wetlands serve as natural stormwater retention basins and water purification systems by providing stormwater storage capacity and slowing surface runoff. This natural function helps stormwater, and the pollutants carried in that water, to infiltrate into the soil slowly, instead of rapidly entering surface water. The vegetation in the wetland uptakes the stormwater via transpiration, thus reducing the risk of flooding, and the established roots help prevent soil erosion. As climate change alters weather patterns, leading to higher intensity storms and less predictability, it is of utmost importance to maintain high functioning natural riparian buffers and wetlands and protect them from continued encroachment.

A high-quality wetland is readily evident next to St. Lawrence Park Road, adjacent to the proposed project. The wetland is dominated by native shrubs, such as button bush (*Cephalanthus occidentalis*). That particular wetland complex was purchased by TILT using DEC Water Quality Improvement Project (WQIP) funding to help protect water quality, enhance flood and climate resiliency, and preserve valuable habitat.

The WQIP funding that TILT received from the DEC to purchase the wetland on St. Lawrence Park Road mandates that funded projects or programs involving wetlands meet certain requirements. These requirements are as follows:

1. [The] project work plan must describe how the work in and near wetlands will protect drinking water and improve wetland function.
2. Work within or immediately adjacent to existing wetlands must be limited to activities that will improve wetland function. Disturbances that compromise ecological functions are ineligible for funding.
3. Projects cannot mitigate for impacts to regulated wetlands. Wetland mitigation projects are ineligible for funding.
4. The contractor must develop and implement a maintenance plan for any wetland creation or enhancement. The maintenance plan must include protocols for addressing problems for a minimum of three years following creation or enhancement.

TILT purchased the nearby wetland to ensure that it stayed in a natural vegetated state in perpetuity. DEC is concerned that installing a trench immediately adjacent to the deep-water wetland could disrupt the hydrology in the wetland, significantly impacting the habitat value.

Freshwater Wetland Regulations (6 NYCRR 663)

A May 2025 jurisdictional determination indicated the wetlands surrounding the proposed project are Class 1 wetlands, due to connectivity to a Significant Coastal Fish and Wildlife habitat. There have been two site visits to discuss the project. The first was held at the town office on November 12, 2024, and the second was held at the project site on September 23, 2025. The presence of wetlands at the site is readily apparent, even if the exact boundary line of those wetlands has not yet been delineated. New York State Environmental Conservation Law (ECL) Article 24 and 6 NYCRR Part 663 requires a freshwater wetland permit for construction within a wetland and the regulated adjacent area. To receive a freshwater wetland permit, an applicant is required to demonstrate that their proposed project is compatible with the policy of the Freshwater Wetlands Act to preserve, protect, and conserve freshwater wetlands and prevent their despoliation and destruction (see ECL 24-0103).

The permitting standards for an Article 24 Freshwater Wetlands permit can be found in 6 NYCRR Part 663.5(e). 6 NYCRR Part 663.5(e) states that Class I wetlands provide the most critical ecological benefits, the reduction of which is acceptable only in the most unusual circumstances. A permit shall be issued only if it is determined that the proposed activity satisfied a compelling economic or social need that clearly and substantially outweighs the loss of or detriment to the ecological benefit(s) of the Class I wetland. Any proposed disturbance of a regulated Class 1 wetland and its adjacent area within your proposed project design would need to satisfy these standards. To meet the permitting standards in 6 NYCRR Part 663 and receive a freshwater wetland permit, an applicant must clearly demonstrate each of the following:

1. The impacts to the wetland and adjacent area cannot be avoided entirely

   AND

2. Unavoidable losses or impacts to the functions or benefits of the wetland have been minimized as much as possible

   AND

3. Once a lack of avoidance and minimization has been adequately justified, the applicant would have to replace any remaining loss of wetland acreage and function through mitigation. Mitigation would be required unless it can be demonstrated that the losses are inconsequential or that, on balance, economic or social need for the project outweighs the losses.

Additional information about regulated activities in NYS wetlands can be found at: https://dec.ny.gov/nature/waterbodies/wetlands/freshwater-wetlands-program and additional information about the permitting standards for Article 24 permits can be found at: www.dec.ny.gov/permits/6273.html.

Protection of Waters Regulations (6 NYCRR 608)

The waters of New York State are provided a class and standard designation based on existing or expected usages of that waterbody. The classification given to a waterbody also determines the protection status of a particular water or waterway segment. Streams with a classification of AA, A, B, or C with a standard of (T) or (TS) are protected streams and are subject to the stream protection provisions of the Protection of Waters regulations. The St. Lawrence River is a Class A stream as it is a source of drinking water for local populations.

In accordance with 6 NYCRR 608.2, Disturbance of Protected Streams, no person may change, modify, or disturb any protected stream, its bed or banks, nor remove from its bed and banks sand, gravel, or other material without a permit.

6 NYCRR 608.7 (b) specifies that while reviewing the application, plans and other supporting information, DEC will consider issues such as: the environmental impacts of a proposal, including effects on aquatic, wetland, and terrestrial habitats – including unique and significant habitats, water quality, and waterbody integrity and hydrology. Other considerations include operational and maintenance characteristics and natural resource management objectives and values.

6 NYCRR 608.8 states that the standards for the basis for the issuance or modification of a permit will be a determination that the proposal is in the public interest, in that:

1. The proposal is reasonable and necessary.
2. The proposal will not endanger the health, safety, or welfare of the people of the State of New York.
3. The proposal will not cause unreasonable, uncontrolled, or unnecessary damage to the natural resources of the state, including soil, forests, water, fish, shellfish, crustaceans, and aquatic and land-related environments.

Additional information about the Protections of Waters Program and permitting standards can be found at: https://dec.ny.gov/regulatory/permits-licenses/waterways-coastlines-wetlands/protection-of-waters-program.

Existing Water Quality Concerns in Swan Bay

The stated purpose of the project is to improve water quality in Swan Bay. The application materials do not include hydraulic information or other data to show the project would materially change water quality in Swan Bay, nor does it evaluate alternative design options that would achieve the project goal without negatively impacting the wetland. A sanitary survey of Swan Bay was conducted by St. Lawrence Engineering DPC in July of 2025 and the data collected was compiled into a report. The purpose of the report was to assess the existing sewage disposal systems within the Route 12 Sewer District within the Town of Alexandria, with a particular focus on Swan Bay. The report had two primary focuses:

1. Proximity of existing septic systems to the St. Lawrence River and drinking wells, and
2. Water quality in Swan Bay.

DEC has not approved this survey nor confirmed its findings with independent data. This report did not include dye testing of existing septic systems as part of the water quality assessment. The discussion that follows is relative to the water quality report for Swan Bay that was independently published by St. Lawrence Engineering.

The geographic area analyzed in the report includes over 200 homes that rely on septic tanks and leach fields to treat and dispose of wastewater. An additional 80 homes are planned for construction along Swan Bay. The proximity of these homes to Swan Bay has raised significant concerns for local water quality. Existing subsurface wastewater systems that do not meet current standards or have failed, could be significantly contributing to poor water quality within Swan Bay and the St. Lawrence River as a whole. A substandard sewage system could also lead to negative environmental conditions such as nitrogen and phosphorus loading and bacteria growth in surface water, leading to the growth of algae and E. coli or other pathogens.

Summary of Water Quality Data:
St Lawrence Engineering DPC reported that the conditions of existing septic systems are significantly contributing to poor surface water quality in Swan Bay. The proximity of wastewater disposal systems to surface waters and within floodplains could potentially contribute to the continued contamination of Swan Bay. Furthermore, the location of wastewater disposal systems near drinking water wells is a significant health concern. Extending the municipal sewer line along the Route 12 corridor to the Swan Bay area would assist with mitigating potential health and safety concerns and may improve water quality within Swan Bay by reducing nutrient loading. These existing sub-standard sanitary systems that remain unaddressed, will continue to contribute high nutrient loads to the bay regardless of whether there is direct hydrologic connectivity between Swan Bay and Point Vivian. Also, if there are proven water quality concerns in Swan Bay, creating direct connectivity between Swan Bay and Point Vivian would risk introducing harmful bacteria into Point Vivian that would negatively impact water quality within that bay. For these reasons, it appears that the town's application will require additional hydrologic study and analysis, or the proposed project will likely fail to meet the permitting standards required by 6 NYCRR 608.8.

Steps Forward
You have a right to pursue your application as you have currently proposed. If you decide to proceed with your application, please submit the additional information I requested in the Notice of Incomplete Application I sent you in August. In addition, include an explanation of how your project will comply with the freshwater wetland standards listed above (unavoidable impacts, minimized impacts and mitigation measures). Below are a few additional points you may want to consider when deciding how to proceed:

1. We can process your current application with no changes to the design. If you decide to proceed with your current application, you will need to submit the information requested in the Notice of Incomplete Application. You will also need to pay a wetland permit application fee and, if we are able to call your application complete, publish a Notice of Complete Application in the Watertown Daily Times.

2. If you no longer want to proceed with your application, you can request in writing that we withdraw your application from consideration.

3. The town could consider commissioning a comprehensive study of the hydrology and water quality in Swan Bay that presents alternative proposals for improving the water and habitat surrounding the bay. Based on such a report, DEC would be willing to consider the feasibility of alternative design options. The DEC would also be willing to schedule another site visit to discuss alternative project designs in the future, with or without the completion of a comprehensive water quality survey, including dye testing for septic systems.

4. Based on the current submittals, your proposed design may not meet our permitting standards. If you choose to proceed with your current proposal and we deny your permit application, you will have the right to request a hearing in front of an Administrative Law Judge.

Please let me know how you would like to proceed at your earliest convenience. Again, your options are to pursue the project as currently designed by providing the requested additional information, modify your proposal, or withdraw your application. Feel free to contact me if you have any questions. I can be reached via phone at: 518-485-2408 or via email at: molly.farrell@dec.ny.gov.

Sincerely,

Molly L Farrell

Molly L. Farrell
Environmental Analyst II

Ecc:
Rob Company, Fourth Coast
Nicole Jobson, Fourth Coast
Jessica Hart
Steve Heerkens
Jana Lantry
Matt Duffany
Jennifer Dougherty
Randall Young