

February 12, 2015

I. Call to Order: The special meeting of the Sterling Inland Wetland and Watercourses Commission (IW&WC) was called to order at 6:08 p.m. by Roger Gibson, Chairman. Other member's present-Jen Mossner, Brad Herman, Kimberly Gunn, Robert McLevy, Alternate James Hawkins, Jr., Alternate Dori Cote, and Rich McGarry (6:10 p.m.)

Member's absent-Maggie Camplin.

Alternate D. Cote was seated for M. Camplin and Alternate J. Hawkins was seated for R. McGarry.

Staff present-Joe Theroux, Russell Gray, and Joyce Gustavson.

Also present-Rick LaFleche.

II. Application #IW-15-01V Notice of Violation Issued to Richard LaFleche for Filling Wetlands at Property Located at 0 Sterling Road (Route 14): R. Gibson asked J. Theroux to review the modifications that were addressed at the January meeting. J. Theroux stated that the six (6) points addressed in his letter to the applicant, dated 1/23/2015 is that the applicant needed to submit a wetlands permit application concerning the activities he wants to do on the property, including an accurately drafted site plan drawn to scale and a narrative describing/showing the following: 1) Accurate locations of all inland wetlands and watercourses within 100 feet of any proposed logging activities or currently disturbed areas. This should be done by a Certified Soil Scientist; 2) Locations of existing/proposed skid trails, stream/wetland crossing sites and the future driveway; 3) Description/diagram of stream and wetlands crossings construction (portable bridges or log corduroy) and erosion and sedimentation control measures (staked hay bales and/or silt fencing; 4) Description of how crossing sites and disturbed areas will be remediated; 5) Current size and extent of disturbance within the wetlands and watercourses; and 6) Description of impacts to wetlands and watercourses as a result of current logging activity within wetlands and watercourses and proposed remediation/restoration of the wetlands (this can be done by a qualified soil scientist). Submitted into record is a Limited Property/Boundary Survey Boundary Line Reconfiguration Plan, submitted by the applicant, prepared by Archer Surveying, LLC, dated June 2010. R. LaFleche drew on the plan what he thought was the items that the Commission wanted to see and he also provided a narrative addressing the six (6) items, realizing this does not meet the requirements that were outlined in J. Theroux's letter to dated, 1/23/2015 (copy on file). J. Theroux stated the R. LaFleche is not looking to submit a full blown complete wetlands application to do a proposed driveway; he is asking the Commission for permission, while ground conditions are prudent, to finish the logging operation according to the parameters that was submitted tonight.

To bring Commission members update, J. Theroux stated that R. LaFleche submitted a Timber Harvest Notification Form and a required cutting plan showing that he was proposing to cross two temporary corduroy stream crossings to access the timber on the property. Upon doing a site inspection, it was discovered that the applicant had crossed a pretty significant stretch of wetlands to the south of where the crossings were which was not shown on his cutting plan,

resulting in the issuance of a Notice of Violation/Cease and Desist Order because the significant disturbance caused in the wetlands constitutes a regulated activity.

R. Gibson asked for clarification regarding the application, stating that timber harvesting is the Permitted Use As of Right activity except for those practices regulated under State Statutes, which stipulate no significant disturbance in wetlands, filling, or major disturbance, so where is the border.

J. Theroux stated that the way Section 4 works is that certain activities according to the Inland Wetland Regulations and State Statute are allowed Permitted Use As of Right. The main provision for this is under the definition of agriculture. In Connecticut farmers are allowed to do temporary crossings of streams to get to cornfields; they are also allowed to convert wetlands into pasture for agriculture purposes and in this case under the definition of agriculture, soil culture and forestry apply. Basically, every town in Connecticut reviews any potential forestry operation and they make a determination whether it falls under a Permitted Use As of Right because the definition of agricultural or the potential activity that is going to be undergone; such as, stream crossing or cutting trees in a wetland or they can make the decision that this is a significant impact and therefore a regulated activity requiring a permit.

J. Mossner asked if erosion and sedimentation control measures were put in place.

J. Theroux stated that E&S measures have not been done because he made a judgment call prior to the monster snow storm and the entire site was frozen rock solid, no water moving, and putting staked hay bales out there would have been a waste of time. Once the ground is thawed, staked hay bales could be put in place before further disturbance occurs. The site is completely stable and there are no issues with sedimentation or erosion happening at this point.

J. Mossner stated that the issue is that there is a motion in place to keep the stop work order because of the significant impact on the site; we asked for specific things to be done, but to date we still do not have a map, we are analyzing a map that is not drawn to scale (the locations), and no soil scientist has delineated the wetlands. The original map showed that the path did not go through the wetlands, this time it did. J. Mossner also stated that she is still unclear to date, how big the disturbance actually is, going off of what J. Theroux said, who is qualified, but the Commission stated from the January meeting that they needed to go out and observe the disturbance.

R. Gibson stated it was important enough that the Commission wanted to do a site walk, but we had that big snow storm.

J. Mossner stated that you are coming before the Board asking to have the cease work order lifted and to give you a permit for the driveway where you will cross over through the disturbed wetlands and this Commission should have readily available information to make an accurate and good decision.

R. LaFleche stated that he is not asking for the driveway at this time; he just wants to finish the logging.

J. Mossner stated that you are asking for access to get to the other area.

J. Theroux stated that R. LaFleche is being required to apply for a permit because he breached the threshold of from what would normally be Permitted Use As of Right and now we have a significant area, which is 200 feet long by 12 feet wide, which is raw, open disturbed wetland soil and that kind of activity poses a significant impact to wetlands. If the original plan had shown a properly constructed wetland crossing there for temporary disturbance, it would have been approved.

The main issue is that the application submitted is for two crossings and R. LaFleche went beyond the stream crossings, to another section that was not originally proposed, where now he needs a permit from the Commission, due to the significant disturbance.

R. Gibson asked J. Mossner to state her concerns again.

J. Mossner stated that she felt the Commission was here to lift the work order and it was discussed at the last meeting that there was enough of a significant impact that the Commission needed to get out for a site walk, that an accurately drawn map to scale was needed identifying wetlands and the amount of disturbance along with the other stipulations that were stated in the letter to R. LaFleche (1/23/2015) and she feels that those items have not been met.

R. McLevy stated that if this an appropriate time to complete the logging prior to going and repairing everything and then going and logging again, what type of consideration would the Commission have for security so that when this is done everything will be restored to a condition that the Commission deems satisfactory; we do not have a plan stating what the site will be restored to.

The Commission discussed bonding and site monitoring. J. Theroux can act as the enforcement officer agent and give the Commission recommendations while the logging is being done. According to the Inland Wetland and Watercourses Regulations, under Fee Schedule for site monitoring/compliance, inspections are listed as \$50/site inspection, so twice a week would be \$100 a week which would cover J. Theroux's expenses to the Town.

J. Theroux stated that the applicant did mess up and he is telling the Commission that he eventually wants to put a driveway in which is going to be significantly more disturbance than the mess that he has already made; it will be approximately 3, 000 feet of disturbance that you will have to permit at some point, or not. If that is going to be proposed and considered, now is the time to finish cutting the timber, while the ground is frozen, provided he puts in log corduroy the right way and it is maintained correctly and erosion and sedimentation measures are put in place and maintained correctly, if this can be done for two or three weeks during frozen time of the year, then certainly this is an avenue to consider.

J. Theroux stated that the Commission has two (2) choices; continue with the cease and desist order and move on with the six (6) points that were set forth at the 1/22/2015 or look at the plan in front of us tonight and approve with modifications so the applicant can move forward with the logging portion of his application.

R. McLevy made a motion, seconded by B. Herman to lift the cease and desist order Application #IW-1501V by Richard LaFleche for the logging activities on the property located at 0 Sterling Road (Assessor's map 03828/024/ 0013) to finish the timber harvest while the

ground frozen conditions exist to help minimize impacts to wetlands with the following modifications: 1) Prior to commencement of the timber harvest, the applicant shall submit an erosion and sedimentation control bond in the form of cash, certified or cashier's check or surety in the amount of \$6,000 to cover erosion and sedimentation measures or remediation if necessary. 2) Prior to commencement of the timber harvest, the applicant shall submit a check in the amount of \$400 to cover the Wetlands Agent time for site meetings and erosion and sedimentation inspections for one month; (two (2) inspections per week at \$50 per inspection for four (4) weeks). If the harvest timeframe continues beyond one month, additional inspections fees will be required. 3) If the Wetlands Agent determines at any time during the timber harvest operation that additional impacts to wetlands and watercourses occur exceeding the bond amount, the logging operation will be stopped and the cease and desist order will be reinstated.

The motion was discussed at length.

Alternate Jim Hawkins-approved; Alternate Dori Cote-approved; J. Mossner-opposed; B. Herman-opposed; R. Gibson-opposed; R. McLevy-approved; and K. Gunn-approved.

Motion carried (4-3).

III. Adjournment: J. Mossner made a motion, seconded by D. Cote to adjourn at 7:42 p.m. All voted in favor of the motion.

Attest: _____
Joyce A. Gustavson, Secretary

Attest: _____
Richard McGarry, Secretary