



Town of Sterling

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Economic Development: 860-564-4752
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**TOWN OF STERLING
STERLING INLAND WETLAND & WATERCOURSES COMMISSION
NOTICE OF PUBLIC HEARING**

The Sterling Inland Wetland & Watercourses Commission will hold a Public Hearing on Thursday, February 27, 2020 in Room #15 of the Sterling Town Hall, 1183 Plainfield Pike, Oneco, CT beginning at 7:00 p.m. to hear written and/or verbal comments on the following:

Inland Wetland & Watercourses Application #IW&WC-20-01 by American Industries, Inc. for property located at 609 Sterling Road (Route 14) (Owner: Grace Harriot Roberts) Map 03830, Block 022, Lot 0102 for a gravel removal operation and to upgrade existing crossing of wetlands adjacent southwesterly of former rail bed, with an area of 2,400 square feet +/- of wetland disturbance.

A copy of this application is available for review at the Sterling Town Hall, Office of the Selectman, during normal business hours.

Dated this 12th day of February 2020 at Sterling Town Hall, 1183 Plainfield Pike, Oneco, CT.

SIW&WC
Roger Gibson, Chairman
Richard McGarry, Secretary

February 27, 2020

The Sterling Inland Wetland and Watercourses Commission (IW&WC) public hearing was called to order at 7:00 p.m. by chairman Roger Gibson. Other members present – Kimberly Gunn, Brad Herman, Richard McGarry, Jen Mossner, and Alternate James Hawkins Jr.

Members absent – Robert McLevy and Maggie Camplin.

Staff present – Joseph Theroux, Russell Gray, and Patricia Ball.

Also present – Harry Heller, John Brisson, David McKay, Jacob Faulise, Susan Doyle, and Barry Goldberg.

The legal notice was read by R. Gibson. The purpose of the hearing is to accept written and/or verbal comments on #IW&WC 20-01 by American Industries, Inc. for property located at 609 Sterling Road (Route 14).

The following was submitted into record: Email dated 2/25/2020 from Jamie Sydoriak, Connecticut Department of Energy and Environmental Protection, letter dated 2/24/2020 from Nicole Lugli, Office Director Planning & Program Development, Connecticut Department of Energy and Environmental Protection, letter dated 5/23/2019 from Graham Stevens, Office Director, Constituent Affairs and Land Management, Connecticut Department of Energy and Environmental Protection, and letter dated 2/21/2020 from Joseph Boucher M.S., L.S. and Matthew Maynard, P.E. of Towne Engineering, Inc. (copies on file).

Attorney Harry Heller of Heller, Heller and McCoy presented the application on behalf of American Industries, Inc. for property located at 609 Sterling Road (Route 14) (Owner: Grace Harriot Roberts) Map 03830, Block 022, Lot 0102 for a gravel removal operation and to upgrade existing crossing of wetlands adjacent southwesterly of former rail bed, with an area of 2,400 square feet +/- of wetland disturbance. Heller stated that David McKay and Jacob Faulise of Boundaries, LLC are here tonight to answer any technical questions that the Commission or public may have. H. Heller reminded the commission that about one year ago an application was submitted to the commission for a permit to conduct regulated activity to access the westerly property for the purpose of removing gravel and in that application we were proposing to access the property by virtue of an existing drive that comes down from Route 14. The access drive was coming down into the state property and we were proposing a longitudinal access of the property by way of an existing gravel drive. At the time of that application, Mrs. Roberts was the recipient of a revocable license which granted access to cross the rail bed. After we received your permit to conduct regulated activities in the upland areas the Department of Energy and Environmental Protection (DEEP) instructed the Department of Transportation to revoke that license. We no longer had the right to a longitudinal use of the rail line to the property. As a result of that we had a meeting with the DEEP. H. Heller stated when this strip of land was conveyed to the railroad by Albert and Nancy Perkins in 1852 two crossings were reserved to access their property on the other west side of the rail line which was otherwise landlocked. H. Heller entered into the record 1) a copy of that deed which is from volume 5, page 384 of the Sterling Land Records, 2) a copy of Heller's correspondence with the State of Connecticut dated 4/18/2019 which provides information the state had requested in order for the company to memorialize the fact that they had a legal right to cross that rail bed, 3) copy of the right of way track map prepared in 1950 by the New York and Hartford Railroad Company which was the custodian of the rail line at that time with the two access crossings at grade highlighted by H. Heller, and also entered into the record 4) copy of the Aerial map from 1934 which shows pretty clearly the existing wetland crossing which is the earliest evidence we have regarding the crossing being in existence in 1934

(copies on file). As a result of the revocation of the license to utilize the rail lines for longitudinal use to access the gravel road which comes in right about the easterly limits of the Roberts property we commissioned our engineers to find an alternative to access the property which would make use of the deeded property rights that the owner has. Because we have a wetland system which parallels not only the state property but the whole easterly peripheral of property subject parcel number 2 and because any access is going to require some disturbance to wetlands we had to find a location that would satisfy the permitting requirements contained in your regulations and the state statute, which among other requirements require us to make the determination that there are no other feasible prudent alternative to the activities we are proposing. We looked at a couple of things in determining where we could cross these wetlands. As I indicated, we only have two locations in which we have a legal right without some kind of permission from the State of CT. One location is an area where we have an existing crossing that bifurcated what was a continuous wetland before that crossing was put in and then we have another deeded area to cross in about 150 feet westerly of that, an area which there is currently no fill. As we move westerly of this crossing, we have very steep slopes, which would require significant disturbance to access the property and the same if we moved easterly, we would have much greater wetland disturbance and steep slopes. After reviewing the whole site, it appears the existing crossing location is the best location to cross the wetland system. Not only is there an existing crossing but there is also an existing gravel road that goes up into the site where the applicant is proposing to excavate. Several photographs (4) were entered into the record detailing the culvert, the outlet of the culvert, and existing gravel drive as it crosses the rail way and enters into the slope (copies on file). Sheet 4 is an overall site plan and shows the overall methodology for dealing with stormwater runoff from the site. Proposing to relocate the access road for a better site line for the trucks entering and exiting the site, proposing swill along the westerly side of that driveway, and a sediment storm basin. R. Gibson asked if the basin will stay for the life of the project. Heller stated yes, the basin will stay for the life of the project and beyond. The basin will be a temporary sediment trap while the roadway is being constructed and as soon as the roadway construction is done that will be turned into a stormwater retention basin on the plan, one of the three (3) basins planned. The existing crossing between the wetland systems is not sufficient to accommodate the vehicle traffic in current condition so we are proposing to upgrade that crossing and that will require a permanent disturbance of 2,400 square feet of regulated area. The narrative submitted describes the methodology. The construction specification is in the narrative. As construction proceeds onto subject parcel #2 we will have two sediment traps, proposed swales on each side, and will bring run off down into the storm water basins. Phase 1 of the project, and this is a 6-phase project, involves the construction of the access road and drainage system to provide access to subject parcel #2. All exaction will be conducted in a bowl. Material will be pulled into the site, so there will never be equipment working in the outside of the site, particular important due to the location of the Moosup River. With the change in methodology in which this will be excavated we will never be excavating on the adjacent slope to the Moosup River. Final elevation will be 358 at the westerly end of the site and 368 at the eastly end of the site. So when this site is seeded and allowed to return to its pre-excitation state, it will have a gradual grade from the east to the west. In order to grant a permit, the agency is governed by the permitting criteria contained in both the state statutes and your regulations, you need to: 1) make a determination as to the environmental impact of the proposed regulated activity on wetland and watercourses, 2) determine that there is no feasible and prudent alternative to the activity for which the regulations is required, 3) consider both the short and

long term impacts of the propose regulated activity, and 4) whether or not the proposed regulated activity will have an impact on resources that are outside of the limits of your regulations on the property and/or regulated resources off of the property. As I indicated, we are proposing to fill 2,400 square feet of wetland in conjunction with the application. We would submit that impact is reasonable in light of the fact that a thorough stabilization plan and measures have been implemented in the project design to endure the environmental impact will be confined to the 2,400 square feet. Grace Harriot Roberts is the owner of 64 acres on the westerly side of this wetland system and there is no other access to this property. The Moosup River is located to the southeast and southwest and there is no other access. A property owner has to be provided with reasonable access to the property, without access you have a regulatory taking. The design team has determined the best access to subject parcel #2, as there is no other feasible or prudent alternative. The short-term impact is erosion and sediment and the design team has incorporated a thorough sediment plan. We also eliminated short term impacts to the Moosup River by changing the methodology of the project by always working towards the interior. With the methodology incorporated into the current design there is no potential for this excavation to have any impact on wetlands and watercourse to outside the location. We believe it complies with the permitting criteria by your agency and would be glad to address any questions. We are going to ask you for a continuation of this public hearing since we have a meeting on 3/10/2020 with the DEEP. Depending on the results of that meeting we may have some modifications to our plans. R. Gibson thanked H. Heller and asked the members if any questions for clarity.

J. Mossner is seeking clarity, on page 14 of the site plan; there are two different numbers proposed for cubic yards of earth products, one is under general notes and it has 897,200 cubic yards and in the next paragraph it is 873,000 cubic yards, a difference of approximately 23,000 cubic yards. David McKay stated this is a clerical error, the correct cubic yards should read 897,200 the higher amount.

R. Gibson entered into record the two letters sent to Attorney H. Heller; one dated 5/23/2019 and the second letter dated 2/24/2020 sent to Attorney Heller in reference to the proposed gravel excavation plan (copies on file).

J. Mossner asked another question, concerning the quote on page 3 from DEEP – did the applicant provide any documentation from DEEP and is this a direct quote? H. Heller stated subsequent to the May 2019 letter there was a meeting with DEEP and we had a permit from your agency to improve our access and that they considered the impact to the rail line and the people more of a hazard and more significant of an impact than the impact to the wetland.

R. Gibson asked if anyone else had any questions or comments.

R. Gibson opened the questions to the public.

Barry Goldberg, 619 Sterling Road, has concerns regarding the project. He is adjacent to the property and has concerns regarding 1) market value of his property 2) the quality of life issue due to the significant activity, and 3) damage to his property from shaking when the vehicles drive the path to the site.

R. Gibson asked if anyone else had any questions or comments. There were none.

The chairman thanked the attendees. As requested, this public hearing will be continued until next month, 3/26/2020 at 7:00 p.m. All materials will be available for review.

R. Gibson stated if no one else has any other questions or comments, we will continue the public hearing until next month, before the regular scheduled meeting.

February 27, 2020

Call to Order: The monthly meeting of the Sterling Inland Wetland and Watercourses Commission (IW&WC) was called to order at 7:53 p.m. by Chairman Roger Gibson. Other members' present-Jen Mossner, Brad Herman, Richard McGarry, Kimberly Gunn, and Alternate James Hawkins Jr.

Members' absent-Maggie Camplin and Robert McLevy.

Alternate J. Hawkins was seated for R. McLevy.

Staff present-Joseph Theroux, Russell Gray, and Patricia Ball.

Also present-John Brisson.

Approval of Minutes: J. Mossner made a motion, seconded by R. McGarry to approve the monthly meeting minutes of 1/23/2020, with the following addition to New Business, Item a. minutes should have stated "Chairman Gibson recommended to Attorney Heller that he request a public hearing at the February 27th scheduled meeting, and Attorney Heller did make that request". All voted in favor of the motion.

Correspondence: None.

Unfinished Business:

a. Application #IW-20-01 by American Industries, Inc. for Property Located at 609 Sterling Road (Route 14) (Owner: Grace Harriot Roberts) Map 03830, Block 022, Lot 0102 – Gravel Removal Operation: R. McGarry made a motion, seconded by J. Mossner, to schedule a site walk for Wednesday, 3/18/20 at 4:30 p.m. and to table the discussion. All voted in favor of the motion.

New Business:

a. Application by John Brisson, III, John Brisson, IV, and Ronald Plympton L/U to Fill in Wetlands for Property Located at 65 Deerfield Drive: J. Theroux stated Mr. Brisson's application is not complete. The site plan does not show the detail needed to correctly review the application. J. Theroux stated the commission has two options; receive the application or for Mr. Brisson to resubmit at next month's meeting. Mr. Brisson was in favor of beginning the process and would like to continue. J. Theroux will provide a letter with guidance on what the commission needs for a complete application. There was a question regarding the possibility of waiving the fee as this is not the first application Mr. Brisson submitted. Commission members felt that since staff has worked and reviewed the prior submittal, a waiver would not be granted. J. Mossner made a motion, seconded by K. Gunn, to accept this as application #IW-20-02. All voted in favor of the motion.

Agents Reports:

1. Violations: No new violations.
2. Other Issues: None
3. Charles W. Corson, Jr., 627 Bailey Road- Disturbance within Wetlands (Assessor's Map 03459-037-0003) – No new activity, continue to monitor.

Adjournment: J. Mossner made a motion, seconded by R. McGarry to adjourn at 8:11 p.m. All voted in favor of the motion.

Attest: _____
Patricia Ball, Recording Secretary

Attest: _____
Richard McGarry, Secretary