

**CHESHIRE INLAND WETLANDS AND WATERCOURSES COMMISSION  
REGULAR MEETING  
TUESDAY, OCTOBER 15, 2019  
TOWN HALL – 84 SOUTH MAIN STREET  
ROOM 207/209 AT 7:30 P. M.**

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**I. CALL TO ORDER**

The meeting was called to order at 7:30 pm.

**II. PLEDGE OF ALLEGIANCE**

The pledge of allegiance was recited.

**III. ROLL CALL**

Ms. Dunne called the roll.

Robert de Jongh, Charles Dimmick, Earl Kurtz, Thom Norback, and Kerrie Dunne were present. Members not present were Dave Brzozowski and Will McPhee.

Staff member Suzanne Simone was present.

**IV. DETERMINATION OF QUORUM**

Chairman de Jongh determined there were enough members present for a quorum.

**V. APPROVAL OF MINUTES – Regular Meeting – October 1, 2019**

Motion: To approve the minutes from the October 1, 2019 meeting with corrections.

Pg. 2 L17 after “with” delete “the”; pg. 3 L25-27 should read “Mr. Barnette could do work and that the cease and desist order still stands and that is more of a legal practice”, L55 after “they” add “think”; pg. 6 L 9 “alternations” to “alterations”, L 11 change “the changed in alternation to the north and east; so with tat the property at 45 Beechwood Court” to “the north and south boundary lines of this lot were altered} the property at 45 Beechwood”, L 26 “access” to “excess.”

Moved by Mr. Kurtz. Seconded by Mr. Norback. Motion approved unanimously by Commission members present.



were satisfactory; staff does plan on going out to the property prior to the next meeting and see how things are going and at that time the Commission can be brought up to speed – maybe the project at that time may be at that point where the Commission can discuss the continued need for reports.

**2. SHOW CAUSE HEARING**

<b>Notice of Violation/Cease and Desist Order</b>	<b>SC</b>	<b>8/06/19</b>
<b>Unauthorized Activities in a Watercourse</b>	<b>SC</b>	<b>9/03/19</b>
<b>Town of Cheshire Public Works/Engineering</b>	<b>SC</b>	<b>9/17/19</b>
<b>Marion Road/Cuff Brook</b>	<b>SC</b>	<b>10/01/19</b>
<b>Assessor’s Map No. 25, Lot No. 16 and ROW</b>	<b>SC</b>	<b>10/15/19</b>

Chairman de Jongh said that staff sent out a correspondence today (regarding findings).

Ms. Simone explained the show cause has been open since August 6, 2019 and in putting the facts together to compile the findings for the Commission – she prepared a draft that Commission members have tonight.

Ms. Simone explained that Commission members may be aware usually for the findings there can be 20-30 findings and it’s just one sentence per finding.

Ms. Simone asked if the Commission wanted to take a look at the draft grouping of findings and discuss it tonight and give her some guidance as to what they want to see for the next meeting.

Chairman de Jongh said just to make the record clear, he thought it was important to read the draft findings into the record:

“Dated: October 15, 2019, Show Cause Hearing Findings:

That on May 21, 2019 the IWWC issued permit #2019-008 to the Engineering Department/George Noewatne to allow the cementitious spray application within the culvert under Marion Road.

The Engineering Department was allowed to monitor and manage the permit, as they had been in good standing with the Commission.

That on July 18, 2019 Commission Staff was notified by the CT DEEP Spill Division of an illicit discharge into Cuff Brook, where cementitious geospray was applied without the bypass (not installed to the standards as approved in the permit), with photos of

**the spray taking place while water was flowing in the culvert taken by Michael Caffrey, Engineering Technician.**

**Michael Caffrey was on site and documented the violation and did not contact Commission Staff. A resident approached the contractor and Michael Caffrey regarding the sighting of dead fish and grey water. This resident complaint was not acted upon, until the resident called the CT DEEP Spill Division.**

**That Don Nolte, Engineering Department Operations Manager, allowed the contractor to begin site work without correct installation of the approved dewatering pit (as noticed by DEEP and admitted to by the contractor), and allowed the contractor to work without the required erosion controls in place (as noticed in two separate emails sent from Don Nolte to the contractor).**

**That Don Nolte stated to the Commission at the August 6, 2019 Show Cause Hearing that he had visited the site for “a total of 15 minutes” throughout the project.**

**That the CT DEEP Fisheries Division counted over 100 dead fish, including native brook trout, and indicate it will take 3-5 years for the population to recover from this illicit discharge.**

**That George Noewatne, Director of Public Works, along with Don Nolte and Michael Caffrey attending only the August 6, 2019 Show Cause Hearing provided a written narrative which was contradicted by the photos attached to his narrative.**

**That the permit was suspended on August 6, 2019.**

**That the IWWC hired a third-party engineer, who reviewed the plans and offered suggestions on the best practice to employ to complete the project.”**

**Chairman de Jongh followed up by saying that is the draft summary of the events that led up to where we are now.**

**Ms. Simone asked the Commission what style they'd like to see staff come up with for the next meeting – either the regular number by number – chronological – facts of each finding or something similar to what they just reviewed.**

**The Commission reviewed what form would be best to present the facts and discussed the best way the facts should be presented.**

**Dr. Dimmick said he wanted to make sure nothing was left out.**

**Mr. Norback commented that he agreed with Dr. Dimmick that he didn't want to see anything left out and its easier to follow when facts are numbered.**

**Ms. Simone said the findings can be numbered – but it's a matter of having one fact per line; staff would prepare a draft for Commission members review making sure all the points/issues/dates are addressed and present for Commission members reviewed.**

**Ms. Simone stated the findings document is needed to close out the show cause hearing because it's still open – there needs to be a final set of findings so the show cause hearing could be close; if the Commission has further questions those can also be asked.**

**Mr. Kurtz said this (the details) make a difference if this issue goes to court; the individual facts are important (and the narrative) and any information that was discovered.**

**Chairman de Jongh said this would have to go to court; what they are doing is to work to restore the relationship we had with public works prior to this event occurring.**

**Chairman de Jongh said prior to this public works almost got a pass from the standpoint that we would take there word for how things were going to be done – every other applicant that's come before this Commission has had to sign off on projects – so for the most part public works has gotten a pass – we haven't held them to the same standards because the work they have done previously has been excellent – we haven't had an issue.**

**Mr. Kurtz stated that is a debatable point.**

**Mr. Kurtz said that our former town manager made it very specific that the town should be subject to the very same regulations and procedures as anyone else applying (for a permit) and he, himself, stated every time something has come before the Commission, he has said “don't forget – the town has to be held to the same standards as everybody else.”**

**Mr. Kurtz said what bothers him with his is that the (town) engineers are the ones that look at the applications – all of the applications and if they can't keep their own closet clean and if I'm a contractor and I submit something and Milone and MacBroom will do it for me – then these guys (the town engineers) say “well that's not right” who are they to tell me (you) it's not right – who are they to tell Milone and MacBroom it's not right, based on what they (the town engineering department) did.**

**Mr. Kurtz said he thought we needed to look at the process – we have to get back to the standing where we were before – we don't have to – they (public works) has to.**

**Chairman de Jongh said you (Mr. Kurtz) are perfectly right on that – what we are trying to do is get back to the point where we have a working relationship with them – he thought the relationship was severely damaged and he thought what has to happen now is that there has to be steps taken to be able to restore that creditability – however long that takes; but he thought the event particularly with the document and evidence we have showing that there was an issue – nothing was done even with professional people on site; so 'a' how to we correct that – how do we make sure it doesn't happen – we've gotten inspection reports signed but not completed – there are a whole series of issues.**

**Mr. Norback said at this point we are just trying to release the cease and desist – and the show cause – that being said we are releasing all that and to proceed on a modified plan – so it seems like we rebooted, and we are just trying to get to the point where we can implement the new plan and we assume there is some oversight here – that it we'd go as a modified plan.**

**Dr. Dimmick said we have two things going on – we have the draft in front of us and there is nothing to prevent them from having an item on a later agenda of a discussion of general wetlands policy – even through normally the agenda are applications in front of us.**

**Commission members talked about how to proceed on this item and the option for follow up discussions.**

**Ms. Simone reported she is working on changing some of the standard stipulations to address things the Commission has discussed before such as the erosion control monitoring, to have inspections wrapped up into that and other items coming down the**

line for Commission members discuss; once that language is put together the town attorney will review.

Chairman de Jongh asked staff for now, to cross reference the bullet points she has and make sure nothing is missed.

Ms. Dunne said they (the Commission) will go through and get back to staff is there's something to be added.

Ms. Simone said there is plenty of information not referenced in the draft like the documents from the state and information contained in official letters.

Ms. Simone said to clarify – did the Commission want to see the draft both ways.

Chairman de Jongh said if all the bulleted items were part of the narrative he thought this (the draft presented tonight) was a much easier way to understand the chronology.

Commission members agreed to the form the draft should be presented in.

Ms. Simone said this is really to encapsulates everything, so the show cause can be closed so the Commission can move forward.

The Commission discussed how to proceed on the cease and desist documentation in order to move this item forward.

Chairman de Jongh stated the show cause hearing would be left open for now.

Ms. Simone stated the item under new business (for a modification) can't be acted on tonight according to the town attorney so that's why she'd have prepared for the next meeting (with Commission's guidance) whether it's a cease and desist with a release or cease and desist modification – that will be prepared for the next time (meeting); the Commission can decide after hearing the modification presentation which can determine that their (the Commission's) next steps will be.

3. **Notice of Violation/Cease and Desist Order  
Violation of IWWC Permit # 2019-008  
Unauthorized Activities in a Watercourse  
Town of Cheshire Public Works/Engineering**

**Marion Road/Cuff Brook  
Assessor's Map No. 25, Lot No. 16 and ROW**

**Chairman de Jongh stated this item will remain on the agenda.**

- 4. Notice of Violation/Cease and Desist Order  
Violation of IWWC Permit #2019-006  
Ricci Construction Group  
Fenn Road  
Assessor's Map No. 91, Lot No. 132**

**Ms. Simone stated this is the project that is at a standstill as of right now so there are no further issues.**

**IX. UNFINISHED BUSINESS**

**There were no unfinished items.**

**X. NEW BUSINESS**

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| <b>1. Permit Application</b>              | <b>APP 2019-025</b> |
| <b>Town of Cheshire Engineering Dept.</b> | <b>DOR 10/15/19</b> |
| <b>West Johnson Avenue</b>                |                     |
| <b>Bridge Replacement</b>                 | <b>MAD 12/19/19</b> |

**Walt Gancarz, town engineer and Kishor Patel, PE from Milone and MacBroom were present.**

**Mr. Gancarz explained he was going to introduce the project and then Kishor Patel from Milone and MacBroom would go into more detail.**

**Mr. Gancarz provided the Commission a little background – this is the bridge that during a state inspection indicated on the south side there was a cracked beam – these are prestressed concrete beams that are all tied together and some of the interior ones could possibly be cracked also so basically the answer is to take one of the pieces – but you can't take just one piece out – you have to have to take all nine or ten pieces out.**

**Mr. Gancarz said the good news is the abutment stay in place so they are really not working near the watercourse per say – what would happen is they could come out and remove the deck and then put new (material) there; they don't have to pour new abutments – they do have some clearing basically to get rid of the vegetation that has grown up around the bridge and for the hydrologic opening; and to clear up any voids in the rip rap.**

**Mr. Gancarz said the long and short of it – that’s kind of what’s going to be done; he showed on the plan where the work is proposed to be done and the mapped wetlands; the work is not within those (wetlands).**

**Mr. Patel addressed the Commission stating he manages the structural group at Milone and MacBroom and has been there for the last 20 years.**

**Mr. Patel reviewed a little bit of history with the bridge – it was constructed in the early 80’s – its about a 60’ span – 42’ curved curb – there is a 5.5’ sidewalk on the downstream side – there are bridge railings on the upstream and downstream sides.**

**Mr. Patel said in 2017, there was a state bridge inspection done and the bridge inspection revealed the south side beam was cracked; further into the bridge inspection report the points that go between beams – there is a joint between the beam and the joints were deteriorating – water was actually seeping through them so we know the were not post tensioned correctly – they started to leak so they started to act as individual beams rather than a whole unit working together so they can deflect individually which is not good for these kind of prestress decking units to the bridge inspection from CT DOT did a load grading on it and they down sized the rating to it – so they posted the bridge for a smaller tonnage.**

**Mr. Patel showed on the plan the location of where the shoulder of the lane was closed off on the road.**

**Mr. Patel said the existing bridge consists of a super structure and a sub structure – the super structure was in poor condition; the sub structure was in good condition so in the end it was determined just to replace the super structure.**

**Mr. Patel explained the town of Cheshire did apply for the local bridge program with bridge funding and they did get approved so it’s a 50/50 split or whatever the construction cost is – the town pays 50% and the state pays 50%.**

**Mr. Patel said a soil scientist from his firm delineated the wetlands shown on the map – there is no water or wetland impacts for this construction – all they are doing is replacing the super structure – they are modifying the existing abutment seats to receive the new super structure – DOT has realized a lot of these bridges built in the 1980s with this kind of prestress deck units – they have been having a lot of issues with the joints deteriorating within 30-40 years so the new thing they are doing now with the prestress deck units they are placing a concrete deck on top of it to avoid future maintenance issues with the joints and all that.**

**Mr. Patel stated this will raise the bridge by 6" therefore they are going to reconstruct the roadway approximately 350'; they are also going to add a couple of catch basins on the east side – there is existing storm drainage on West Johnson right now but there was nothing within these limits and we just don't want all the water to go over the bridge; the two catch basins added on the east side will have 4' sumps to outlet to a manhole and then to a headwall on the existing rip rap slope; he shared a couple of pictures of the existing conditions showing the rip rap – they plan to reconstruct the roadway – the proposed bridge is going to be basically at the same location – they are going to cut down the existing walls and repour them so they can put the new bridge railing in and attached the guard rails to it.**

**Mr. Patel showed the areas on the plan of the proposed clearing – which is mostly shrubs and vegetation – there are no large trees in there – there are a few dead trees in there too; the cross section under the bridge remains the same – it's a 60' span and it will stay as a 60' span – the height is not going to change.**

**Mr. Patel said they have a construction sequence for the contractor to follow – the first thing he'll do is place the erosion controls measures for the plan – there is a schedule on the construction plan indicating the maintenance of the erosion controls and when the inspections should occur; when they remove the super structure, they will install a debris shield underneath it during demolition to catch any mortar (from the concrete joints) that could fall down.**

**Chairman de Jongh asked who is going to be monitoring the work of the contractor.**

**Mr. Patel said typically we go out there (Milone and MacBroom) so we will be inspecting it – for everything – and erosion controls and the bridge construction but we typically go out for major parts of it – they won't be there fulltime because its not a federal local bridge program – on a local bridge program you don't have to be there 24/7 when you get federal funding an inspector has to be on site every time the constructor is there.**

**Chairman de Jongh asked if the plans were designed by his (Mr. Patel's) firm.**

**Mr. Patel stated yes.**

**Chairman de Jongh asked the time frame they expect the structure (would be installed).**

**Mr. Patel said in April (2020) – they will be closing the road and there are easy detours on that road, so it will be easier to close the road – it will probably be about a 6-8-week closure.**

**The Commission and Mr. Patel reviewed the plans and the project location.**

**Dr. Dimmick said he didn't see any problem with this – it just needs to go through (the process).**

**Ms. Dunne asked if there were any issues with neighbors.**

**Mr. Patel said there are neighbors to the south side – it's a rental house.**

**Ms. Simone said there's a question about the name on the application and signature that needs to be taken care of.**

**Ms. Simone reviewed the map and looked to locate the map legion and the wetland location.**

**Chairman de Jongh said this item would be taken up again at the next meeting.**

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| <b>2. Permit Modification</b>             | <b>APP 2019-008A</b> |
| <b>Town of Cheshire Engineering Dept.</b> | <b>DOR 10/15/19</b>  |
| <b>Marion Road</b>                        |                      |
| <b>Dewatering Plan</b>                    | <b>MAD 12/19/19</b>  |

**Walt Gancarz, town engineer was present on behalf of the applicant.**

**Mr. Gancarz apologized this had taken place – he said he thought they had had an excellent relationship in the past – over the last 6 years its been about \$37,000,000 of projects that were done, and he thought they were done well without issues; so, he certainly understands why this issue puts a wrench in that and so what he wants to address down is how to move forward.**

**Mr. Gancarz said as the Commission knows there's engineer from Milone and MacBroom hired to evaluate the existing plan and come up with some recommendations for a dewatering plan that would be acceptable out here.**

**Mr. Gancarz said the modified plan is very similar to the previous one – with two expectations; he explained originally there were sandbags and dewatering pump that pumped via a hose to a catch basin – there was also a set of sandbags placed in a separation location (shown on the plans) that pumped down.**

**Mr. Gancarz explained the revised plan supported by the engineer hired was basically to put a second set of sand bags and dewatering pump upstream instead of having one line – they would have two to move them upstream somewhat – pumping those out to an existing catch basin which goes down on the downstream side; there are existing sandbags on the downstream side and there is a provision for a pump there - there would also be a dirt bag (filter bag) that would pump dirt through if there was any seepage under the culvert.**

**Mr. Gancarz said he thought this was a good plan – it has a second set of dewatering pumps on the upstream side as kind of a safeguard of there was some seepage underneath and to run that through a filter bag on the downstream side.**

**Chairman de Jongh said part of the problem he has with this – is that the dewatering system was never set up for the plans in the first place, so we are talking about setting up a second one – but the first one was never set up the right way so what are we doing here.**

**Mr. Gancarz said he didn't think the first plan was a bad plan – it's one we've used at Creamery Brook – we used it at South Brooksvale and effectively dewatered, so we could put those in – it wasn't installed properly – there's no question about it – and it wasn't monitored and reported – those are breakdowns – there is no question about it – he is not disputing that.**

**Mr. Gancarz said obviously the department – realizes they have to do something extraordinary to restore the Commission's faith in us over time – but in addition to that they have arranged for an independent monitor to be out there – this is probably a two project.**

**Mr. Kurtz said he wanted to get back to his (Mr. Gancarz's) other point – didn't DEEP have a suggestion – they didn't like the plan – they wanted to see if a little different and that's how they came to draw a different plan; there was a discussion as to whether or not it was done or not.**

**Mr. Kurtz said obviously it wasn't done right but the town and the contractor want to go back to the same dewatering plan and DEEP didn't think that was adequate – that is why the extra dewatering was added; when you asked (Mr. Gancarz) why it changed to what was wrong – you said you (Mr. Gancarz) thought it was a good plan – but it was DEEP that had a different idea.**

**Ms. Simone said Milone and MacBroom was the third-party engineer that gave the suggestion.**

**Mr. Norback said he remembered that DEEP didn't think it was a good plan; but as long as we have a new and improved version that**

the DEEP and Milone and MacBroom are comfortable with and is effective then that's what (we want).

Ms. Simone said will share the information will be shared with DEEP, but it is doubtful that they will weigh in to evaluate this and say yes, they like this design or no they do not – because the town has jurisdiction over how this moves forward so she can supply this to them, but they may not weigh in on saying what they think of the design.

Mr. Kurtz said they (DEEP) did say something about the plan before – they didn't think it was adequate and it was a good plan it just didn't get executed.

Dr. Dimmick said he'd like to mention the difference between Cuff Brook and Creamery – there is a higher hydrologic grading at Cuff Brook and higher ground water grading coming down from Cuff Brook and the reason for the second dewatering is because of that higher grading so there's a tendency that only one dewatering point where the water can come up downstream sooner than something like at Creamery which has a higher ground water tendency – there's more vertical component of ground water pressure – so two points – one upstream of the other takes care of that problem but is not meant for the flatter streams.

Chairman de Jongh said he didn't understand (the dewatering plan).

Mr. Norback explained that the dewatering is a temporary mechanism and the other one didn't get done – and there was a fiasco and now the fiasco is in recovery mode and the new plan calls for this kind of dewatering which is a more effective than the first one had it been installed.

Ms. Dunne said what was said was the bypass system was never installed and National Watermain crews did not have an excavator onsite – that would be capable of digging the required sump pump.

Ms. Simone said the first plan had one sump, so instead of one sump the (new) plan proposes two sumps (one upstream of the other).

Chairman de Jongh said so this is significant change from what was originally presented to us - but this is not a mere modification – this is basically a whole new (plan).

Ms. Simone said it is a modification in that it builds off of the original – so it still shows that is has one sump – now the modification is to add a second sump; this is technically seen as a new application and requires that they wait 14 days (to act) and the previous record automatically falls into this so there's no break in it

**– it’s a modification of an application and the law still sees it as a new application and you have wait 14 days – the advantage of a medication is that it takes the existing record and immediately continues into these proceedings – that includes the show cause and cease and desist – and the permit and all of that is folded into this.**

**Chairman de Jongh asked who was going to oversee this.**

**Mr. Gancarz said the town in conjunction with an independent party – Milone and MacBroom.**

**Mr. Gancarz said he is happy just to have the town do it – but he thought it would be a requirement of the Commission to have an independent party.**

**Chairman de Jongh said based on what happened with this project - we would have too – he said he thought it was clearly stated at the August meeting that the faith that we had in the public works department was shattered based on the evidence we had – so something else is going to have to step to the plate to do the work – to be able to allow the work to move forward.**

**Ms. Simone said Mr. Noewatna’s letter offered that his department would hire Milone and MacBroom’s engineer to be there throughout the project.**

**Ms. Simone said the Commission has a contract with Milone and MacBroom to not only review the plans which has been completed but also, they would be onsite with staff and Commission members, if they’d like to join, to ensure before the project starts that the sumps are installed according to the plan and the bypass has to be working before anything starts.**

**Ms. Simone explained that the company that the National Watermain had hired that offered to hire an engineer when they thought they were just going to re – zoom work – but the project never continued, and a different plan was presented so the offer was withdrawn.**

**Ms. Simone said she did hear from Milone and MacBroom and a copy of that was given to Commission members – she did send the modified plan sump plan to the engineering and had asked about the drainage – since the manhole cover was not able to be used to look into the system if there was any other measure that could be in place to ensure that it would work – it was indicated that it was not prudent that further investigation be conducted within the town’s drainage.**

**Ms. Simone said a follow up question she had was – onsite there was discussion that it would take two days to do this work – but when she looked at the applications and signatures for the neighboring properties on Marion Road – it indicated the entire process should take two weeks,**

**Mr. Gancarz said it simply – the time to set up and for inspection and that work is subject to rainfall.**

**Mr. Kurtz said he thought it was a reasonable plan – and Suzanne can review it – and this could be off (the agenda) after the next meeting.**

**XI. ADJOURNMENT**

**The meeting was adjourned at 8:27 pm by consensus of Commission members present.**

**Respectfully submitted:**

**Carla Mills  
Recording Secretary  
Cheshire Inland Wetland and Watercourse Commission**