

**STAFF REPORT**

**SHOW CAUSE HEARING – MAY 25, 2023 IWWA PERMIT  
NOVEMBER 9, 2023 MEETING**

To: Conservation Commission/**Inland Wetlands and Watercourses Agency**

Date: November 2, 2023

**Re: Show Cause Hearing:  
Violation of May 25, 2023 IWWA Permit for Installation of Piping for Pond Outlet  
150 Chatham Hill Road**

**Review Documents:**

**IWWA permit, Dated May 25, 2023**

**Emails (several dates) from Clint Webb**

**November 2, 2023 Cease and Desist/Show Cause Hearing Notice**

**Section 14.5 IWWA regulations**

At the May 25, 2023 meeting the Inland Wetlands and Watercourses Agency (“Agency”) issued a permit to Paul Gondek for installation of piping for pond outlet at 150 Chatham Hill Road.

On June 15, 2023 Clint Webb provided 48-hour notice before the commencement of site work (complying with stipulation #1), weather forecast watch (complying with stipulation #2), material inventory (complying with stipulation #4) and pond level verification (complying with stipulation #5).

On June 30, 2023 Clint Webb provided confirmation the work was complete (complying with stipulation #3) and the pipe was installed (partially satisfying stipulation #6).

On October 30, 2023 Clint Webb was asked to provide the written verification that the work is complete and conducted in accordance of the approved plan (stipulation #6).

On October 31, 2023 Clint Webb replied that he spoke to Paul Gondek and would visit the site the first week of November and requested Staff meet on site to observe the completed project.

On October 31, 2023 Staff was conducting a site inspection on Matson Hill Road (unrelated to 150 Chatham Hill Road) and upon driving past the portion of Matson Hill Road where 150 Chatham Hill Road is viewable, heavy equipment was observed to be in operation near the pond at 150 Chatham Hill Road.

Staff drove to 150 Chatham Hill Road. Paul Gondek exited the house and followed Staff down to the pond. Staff observed soil actively being excavated from the pond outlet at a depth to expose the recently installed pipe. Charly Doocy, from Atlantic Excavating, was operating the heavy equipment. A pump was in process of dewatering the pond directly into the downstream watercourse. Mr. Gondek was asked the purpose of the work. He stated there was an ‘emergency’ and that the newly installed pipe elbow needed a ballast. Staff asked who determined it to be an emergency and on what date. Mr. Gondek did not provide a response. He

was asked why, as the permit holder, he did not contact Staff prior to beginning site work. Mr. Gondek did not provide a response. Mr. Gondek and Mr. Doocy implored Staff to engage in an onsite negotiation to allow them to continue with excavation and dewatering. They were informed that the work was not in compliance with the permit and the site was to be returned to the pre-excavation condition and all further work was to cease. Mr. Gondek was advised that Staff did not have the authority to allow for the conduct of work that exceeds the scope of the Agency issued permit. Mr. Gondek inquired if the Engineering Department could grant him the authority. He was informed that the Agency was the authority over the Agency issued permit.

Chairman Kaputa was notified of the site work observed on October 31, 2023 and a Show Cause Hearing was scheduled for November 9, 2023.

Staff communicated with Mr. Webb who verified that he has been aware and in discussion with Mr. Gondek for several weeks to plan to excavate, dewater and pour concrete. He stated he had not seen the plans for such work. Mr. Webb was asked why he did not inform Staff during numerous conversations during October or notify the Agency during his attendance at their October 26, 2023 meeting that additional work was planned for the pond outlet and why this change from the approved plan was not revealed to Staff in their October 30, 2023 emails. Mr. Webb did not provide a response.

At no time did Mr. Gondek or Mr. Webb indicate that they believed the October 31, 2023 site work to be covered under the May 25, 2023 Agency permit.

Based on review of the May 25, 2023 Agency permit for installation of piping for a pond outlet, October 31, 2023 site observation and October 31, 2023 discussion with Mr. Gondek, Mr. Webb and Mr. Doocy Staff concluded the October 31, 2023 site activities at 150 Chatham Hill Road to be in violation of the May 25, 2023 Agency permit.

## **Summary**

Staff concludes that the May 25, 2023 Agency permit was issued for the express purpose of pond outlet structure installation, which according to their environmental consultant was completed between June 20 and June 30, 2023. The permit stipulations required communication and documentation, which was mostly adhered to, save for the final sign off that was expected next week. The October 31, 2023 site work exceeded the permit limitations as it deviated from the approved plans, as confirmed by Mr. Gondek and Mr. Webb.

In the event the Agency determines the October 31, 2023 site work to be covered under the May 25, 2023 Agency permit, the October 31, 2023 site work did not comply with stipulations 1, 2, 4, 5 and 6.

Photo taken by S. Simone, October 31, 2023: Machine work being conducted near the pond and watercourse as viewed from Matson Hill Rd.



Photo taken by S. Simone, October 31, 2023: Workers at 150 Chatham Hill Rd possibly constructing wood forms for concrete.



Photo taken by S. Simone, October 31, 2023: Excavation at pond, 150 Chatham Hill Rd. Dewatering pump in lower right. Utility lighting (unknown if used to power the pump, or work planned into the night).



## **IWWA Regulations, Section 14.5: Permit Suspension or Revocation**

Section 14.5 of the IWWA regulations allows the Agency to suspend or revoke a permit if the Agency finds the Permittee has not complied with the terms, conditions or limitations of a permit.

**Draft Motion:** The Agency finds that Paul Gondek, Permittee, has not complied with the terms, conditions and limitations of the May 25, 2023 Agency issued wetland permit. The excavation and dewatering of October 31, 2023 was not in conformance of the approved plans and permit stipulations.

The May 25, 2023 wetland permit is hereby revoked, effective November 9, 2023.

**Draft Motion:** The Agency orders that the property owner, Mr. James Jusko, shall submit to the Agency an engineered survey showing the existing conditions of the pond, pond outlet and identification of any inconsistencies with the approved pond permit (2021) and pond outlet permit (2023). The survey shall also include a review and report to identify erosion and sedimentation within the watercourse. This survey shall bear a CT licensed engineer seal and be submitted to the Community Development office by 4:30pm on November 28, 2023.