

**EAST LYME INLAND WETLANDS AGENCY
HEARING
APRIL 11, 2016**

Present: Cheryl Lozanov, Chairlady; Chuck Reluga, Vice Chair; Harry Clarke, Norman Bender, David Pazzaglia and Phyllis Berger

Also Present: Gary Goeschel, Inland Wetlands Agent; William Mulholland, Zoning Enforcement Officer and Marc Salerno, Ex officio Board of Selectman, Mark Nickerson, First Selectman

CALL TO ORDER. Cheryl Lozanov, Chairlady call the Public Hearing on the request for modification of the cease, desist and correct order for 20 Farm Meadow Road, East Lyme Centerplan Construction Company and GRE 314 East Lyme, LLC Owner; Antares Solar Field on property located at 20 Farm Meadow Road, East Lyme, CT, Assessor's Map #52.0, Lot 126, East Lyme, Connecticut. (Issued 4/7/2014; Reissued 6/10/15) to order at 7:01 p.m.

PLEDGE OF ALLEGIANCE. The Pledge of Allegiance was observed.

I. HEARING.

A. Request for Modification of the Cease, Desist and Correct Order for 20 Farm Meadow Road, East Lyme Centerplan Construction Company and GRE 314 East Lyme, LLC Owner; Antares Solar Field on property located at 20 Farm Meadow Road, East Lyme, CT, Assessor's Map #52.0, Lot 126, East Lyme, Connecticut. (Issued 4/7/2014; Reissued 6/10/15) to order at 7:01 p.m.

Theodore Harris, representing Centerplan Construction Company, reported following a major rain event there was storm related run off. He met with staff at that time and received a correct order and continued to adhere to restoring the wetlands. Last spring the Commission walked the site and was satisfied it was corrected. There were two other issues that occurred last spring related to the impacts to the abutting homeowners. We agreed to add restoration work on both of the properties. To date Ms. Bengston's property was complete and she was satisfied.

He stated we have been unable to work with Mr. Bialowans, because he has refused to let us work on his property. We are willing to do the work, but need Mr. Bialowans to sign a document giving us permission. It appears some of the work may not be appropriate now. Our position remains we will do the work that the Commission may want us to do.

Ms. Lozanov asked Mr. Bialowans if he is willing to sign the document giving permission for them to do the work? Mr. Bialowans of 61 Walnut Hill Road, East Lyme, CT stated as of Saturday members of this Commission walked the site. He referred to letter dated September 10, 2015 to him from Todd Bobowick, Resource Conservationist

of the United States Department of Agriculture stating he concurs with the assessment conducted by the Eastern Connecticut Conservation District. Mr. Bialowans showed Commission members photos of erosion on his driveway.

Mr. Bialowans stated where the Solar Farm is it was hay fields. There was no water left in that area. The road was never washed out after hurricanes. He felt the problem started because the retention basins are not large enough.

Mr. Fortunato, who is a certified Soil Scientist, feels the work can still be done. He referred to USDA letter dated September 10, 2015 which discussed the areas that need attention. He would like to come to an agreement with Mr. Bialowans on the cease and desist order. He is not sure why the agreement has not been signed.

Ms. Lozanov stated after a site walk it was noted that in some areas nature has taken its course. Some areas need to have deposits removed. Mr. Fortunato felt that this can be done. Mr. Harris stated we are willing to do what the Commission would like us to do on Mr. Bialowans property. His signature is needed to allow us to do the work.

James Cowan, Wetland and Soil Scientist, reported based on our site walk we identified three areas it was not necessary to take care of because the sediment was shallow. There are other areas that will need to be taken care of and we are willing to do the work with Mr. Bialowans permission. What that work will do is speed up the work nature would do. We noticed how well the stream looked. There was only one area of erosion in work area four and we recommend boulders. We are still willing to do that work. Mr. Kline and Fortunato felt the other areas are stabilized by trees and shrubs. We saw fish. The photos showed what is normal after a rain event. Storms can cause significant flows. We are getting larger events these days. He strongly disagrees with filling in the banks with stone. One of the reasons we want to be careful with sediments is we don't want to disturb vegetation. Check dams are an engineering solution for ditches, and would prevent fish from going downstream.

Ms. Lozanov asked has any inspection of the Solar Farm been done. Ryan McNamara felt after the Site Walk it was fully vegetated and there was no water. Those areas were addressed. Mr. Fortunato stated most of the things Jim Callahan said he agrees with. This particular tributary as shown in the photos was before the Solar Farm was built. The 2014 water created this problem. This sediment is new. It was a small stream. The work can still be done. He felt this happened during a large storm and can be corrected.

Mr. Bialowans reported Mr. Collins felt sedimentation is moving into Latimer Brook and Cranberry Meadow. The Solar Farm check dams are at every end. He asked why can't they put in a tributary? The area of erosion is work area 4. This area was identified by Mr. Fortunato and it was felt it should be addressed. The difference between having a check dam in a Solar Farm in areas with no stream, it is run off. The check dams are used before it goes into a stream.

Mr. Clarke stated based on the Site Walk area 2 was stable, area 1 we saw trout and 6 and 7 have no significant sediment. We would visit all of those sites and remove sediment deposits. Some areas have partially taken care of themselves.

Mr. Goeschel agreed we saw fish in the stream. The health of the stream is good. USDA is consistent with the work being proposed. Mr. Goeschel recommended continuing the order to complete the work. Mr. Harris agreed with permission from Mr. Bialowans.

Mr. Goeschel asked Mr. Bialowans if he is comfortable with signing the agreement? Mr. Bialowans agreed to sign it. Mr. Goeschel recommends that this Commission request counsel to prepare an injunction if the work is not completed by May 2. Mr. Fortunato stated we will agree to what has to be done.

This Hearing was closed at 8:01 p.m.

Respectfully submitted,

Frances Gheri, Substitute Recording Secretary

