



South Norwalk Electric and Water
A Municipal Utility System
Serving the Needs of the Community

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VIA E-MAIL: EnvAffairsDirector@wiltonct.org

November 10, 2020

Ms. Elizabeth Craig, Chair Wilton Inland Wetlands Commission
c/o Mr. Mike Conklin, Director of Environmental Affairs
Town of Wilton, Town Annex
238 Danbury Road
Wilton, CT 06897

RE: SNEW Requests for WET#2654(S)

Dear Chairwoman Craig, Mr. Conklin, and Members of the Commission:

SNEW has had an opportunity to review the Corrective Action Plan submitted by Mr. and Mrs. Behrens. In light of the multiple deficiencies set forth below, SNEW respectfully requests that the Inland Wetlands Commission table the application until the deficiencies are addressed. The application proposes insufficient planting and mitigation activities to restore a large disturbed area, where excessive tree cutting, land use changes, and erosion are impacting SNEW Class I watershed property. SNEW has noted numerous deficiencies to the application, including but not limited to three major concerns to support tabling this matter:

1. The application is incomplete and continues to change.
2. The application is in error on a number of factual points.
3. The planting plan is wholly inadequate to the scale of disturbance in a very sensitive area.

Incomplete Application

Neither the application form, its attached plans nor its narrative include such basic information as the size of the disturbed area, an environmental impact statement (EIS), or a presentation and discussion of alternatives. The Behrens' actions created a large-scale disturbance wholly within a sensitive, regulated area. Wilton's IWC regulations require applicants of larger projects to provide maps and a professional EIS describing other alternatives that were considered. These alternatives should be subject to review and comment as part of the public hearing process.

Where an application warrants a public hearing, the commission cannot approve an application until they make the finding that there is no feasible or prudent alternative with a lesser impact on the wetlands. Clearly, the proposed habitat change to a large meadow with localized, clustered tree and shrub plantings is less protective of slopes than a site fully planted with overstory trees, understory trees and shrubs as is typically required. As a seriously aggrieved party in this matter, SNEW wishes to review and comment on other alternatives.

As late as 11/9/20, the applicants continue to amend the application, and have been ignoring the cease and desist order. Particularly troubling to SNEW is the on-going removal of coarse woody debris piles from the area and further requests to remove more trees and woody debris. The operation of heavy machinery is exposing mineral soil to erosion without the benefit of an effective erosion and sedimentation (E&S) control plan. Grubbing and coarse woody debris (CWD) removals have had well documented detrimental impacts to slope stability. In practice, lack of CWD also disrupts nutrient cycling, invertebrate lifecycles and populations, and trophic interactions. SNEW requests a cessation of all activities until the Commission approves a corrective action plan. SNEW also requests any further activities proposed by the applicant be addressed on the plans and in writing by a professional agent (e.g. licensed arborist, landscape architect, professional ecologist, etc).

Application Errors

From SNEW's point of view, the application is weak due to the homeowners' insufficient familiarity with inland wetland regulations, understanding of ecological principles and processes, and knowledge of the evidence and procedures for boundary location. SNEW requests that the application cover page be filled out correctly and completely. For example, the site is clearly within a "Public Water Supply Watershed Boundary." The application narrative identifies the incorrect public utility as the Third Taxing District of the City of Norwalk (an electric utility) as opposed to the Second Taxing District of the City of Norwalk (an electric and water utility doing business as SNEW). Similarly basic project information, including a) acres of altered upland buffer and b) square feet of disturbed land in regulated area, is missing. Mostly importantly, the disturbed site appears to be within an expanded upland review area, and this information should be included in the public record and on maps so that it is available for review and comment.

In at least two instances, the applicants have asserted that the property boundary was not demarcated, notwithstanding: 1) information submitted with their own application; 2) information submitted with these comments; and 3) physical evidence of the remaining posted "No Trespassing" signs still hanging from trees along the property line. All of this information indicates otherwise. Historic boundary evidence was further confirmed in a SNEW phone call with Doug Faulds, the surveyor of record for this application, who can recall his firm setting the monuments and confirming their presence during re-surveys as recently as a year or two before the Behrens' purchased this property. Finally, Wilton Land Records Map 5713 filed 8/2/2011 clearly shows two monuments and one iron pin demarcating the property line.

Inadequate Planting Plan

The Behrens' unauthorized site work occurred primarily on a hillside with slopes over 40%. Judging from the full silt fence at the bottom of the slope, soil has eroded from the Behrens' property, and moved onto SNEW property. This displaced material has now become a sedimentation threat to a public water supply, and its accumulation is testament to the inability of an herbaceous habitat type to stabilize soils in this setting.

SNEW requests a full-scale woody planting plan at spacing and densities typically required by the Commission. SNEW also notes proposed plantings and meadow establishment activities will constitute further threats to the water supply. The application should include an E&S control plan compliant with DEEP Bulletin 34. For example, the application currently proposes one new line of silt fence along the property line; however, based on the slope length and steepness limitations, the use capacity of silt fencing as an E&S control measure is exceeded as shown.

As the Commission is aware, any planting plan will require post-planting care to establish and thrive. Severe slopes and possibly compacted soils following grading activities will adversely affect soil water availability for new plantings. SNEW requests that plants receive supplemental watering as needed during their first growing season. SNEW also requests a deer management plan and an invasive species control plan to protect planting from deer browse, buck rubbing and competition from non-native trees, shrubs, vines and forbs.

Finally, SNEW notes that this application specifically excludes any site work on the SNEW property for the destruction of the wetland habitat by the applicants due to pending litigation with SNEW. The IWC should note that any resolution of pending litigation with SNEW will most likely result in a second application by the Behrens' to restore the SNEW property. Accordingly, it is imperative that any approvals by the IWC as to this application keep in mind future restoration of the SNEW property.

In conclusion, SNEW respectfully requests that the Commission table this matter until the application deficiencies are fully addressed by the applicant. SNEW thanks the Commission for its consideration of SNEW's concerns. If we can be of any further assistance at this time, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Alan Huth', is written over a light blue rectangular background.

Alan Huth
General Manager

Cc: Ms. Elizabeth Larkin, Administrative Asst., via e-mail: elizabeth.larkin@wiltonct.org