

**INLAND WETLANDS COMMISSION  
REGULAR MEETING  
MINUTES**

February 8, 2023 @ 7:30 p.m.  
Meeting Room #3, Newtown Municipal Center  
3 Primrose Street, Newtown CT

These Minutes are subject to approval by the Inland Wetland Commission

**Present:** Sharon Salling, Mike McCabe, Scott Jackson, Kendall Horch, Suzanne Guidera, Stephanie Kurose, Craig Ferris

**Staff Present:** Steve Maguire, Senior Land Use Enforcement Officer, Kiana Maisonet, Land Use Enforcement Officer, Dawn Fried, Clerk

Ms. Salling opened the meeting at 7:30 p.m.

**PENDING APPLICATION**

**IW Application #22-26 by Pedro Valentin**, property located at 182 Boggs Hill Road, for the removal of fill and mitigation of wetlands.

Mr. Maguire stated the applicant requested an extension until the IWC meeting on March 8, 2023. March 8<sup>th</sup> will be the last meeting for the Commission to vote on the application. Mr. Maguire is waiting on revised plans.

**IW Application #22-26 by Pedro Valentin will be continued to the next IWC meeting on March 8, 2023.**

**IW Application #22-30 by Fiat Islami**, property located at 123 Hanover Road, for the construction of a single family house.

Wayne J. Zirolli, P.E. & L.S., 404 Beach Street, Litchfield, CT, spoke on behalf of the applicant. Mr. Zirolli stated soil testing has been done on the site and the wetlands have been flagged.

At the last IWC meeting the Commission requested the applicant to move the house further away from the wetlands. Mr. Zirolli stated he was able to move the house approximately 40 ft. uphill so the deck is no longer over the wetlands.

The Commission also asked for the wetland areas to be delineated. Mr. Zirolli gave the Commission a list of suitable bushy plantings that will do well in moist conditions. Mr. Zirolli stated the plantings will be along the usable area of the lot past the house to the northwest, which will give a nice looking delineation.

Mr. Jackson asked if deer resistant bushes could be planted. Ms. Kurose asked for native plants to be used. Mr. Zirolli will submit the plant list to Staff for review before planting.

Ms. Salling stated these revisions satisfy the Commission.

Mr. McCabe moved to approve Application IW #22-30 by Fiat Islami, property located at 123 Hanover Road, with standard conditions A, B, C, D, E, F, O and P.

With the following additional condition:

Shrub species shall be submitted to and approved by the Land Use Enforcement Officer.

The approved plans are:

Improvement Location Survey depicting septic system design dated revised January 19, 2023 and all supporting documents. Mr. Ferris seconded. All in favor.

## **OTHER BUSINESS**

**Permit #20-27 by Negreiro & Sons Construction LLC**, property located at 203 & 211 Berkshire Road, for a permit revocation hearing.

Attorney Chris Russo, Russo and Rizio LLC, 10 Sasco Hill Road, Fairfield, CT, spoke on behalf of the property owner. Atty. Russo thanked the Commission for their time and apologized for the situation. Atty. Russo stated that Mr. Edwards was going to present two things:

- A plan to immediately tackle before anything else happens.
- A schedule to anticipate when things will be done.

Ms. Salling asked Mr. Maguire to explain the purpose of this hearing. Mr. Maguire gave an overview of what was expected of the Commission. He stated it wasn't necessary to hear the details at this time. The details will be heard at the next meeting with Newtown Forest Association in attendance. The purpose of this hearing is to give an overview of what will be done to mitigate and move forward. Ms. Salling emphasized the Commission is looking for a high level summary, not the details.

Jason Edwards, Engineer, J. Edwards & Associates LLC, Easton, CT stated he walked the property last week with his team, Joe Negreiro, Developer, Tracy Chalifoux, Landscape Architect and Steven Danzer, Soil Scientist. Mr. Edwards stated the sediment in the wetlands needs to be cleaned up as soon as possible.

Tracy Chalifoux, Landscape Architect, Danbury, CT, created a restoration plan for the eastern side of Lot 12. She stated the sediment runoff is 4 to 6 inches deep and can be removed by hand.

Ms. Chalifoux started to give details regarding the wetland plantings but Ms. Salling interjected.

Ms. Salling stated the details should be discussed along with the mitigation plan, which will be a separate application. Mr. Maguire stated he would like a "rough" overview of what the applicant purposes, not the details.

Mr. Edwards has concerns with prolonging the mitigation of wetlands.

Ms. Chalifoux gave an overview:

- Removal of sediment on Lot 12.
- Removal of sediment in area north of the channel.
- Clean out existing basins.
- Removal of the culvert and restore the stream located on the far side of property.

Mr. Edwards gave an overview:

- Concentration on erosion controls.
- Finish the original design plan.
- Install silt fences where appropriate.
- Rip rap added at the end of the pipes.
- Removal of culvert.
- Clean silt sacks.
- Clean out the sediment in the basins.
- Install a curtain drain where the old farm trench was located.
- Install the main outlet detention basin.
- Contract third party site inspector.

Mr. Edwards read the items on the “Erosion Control Plan” titled “Suggested Remediation Completion Path”. (See attached.)

Mr. Edwards would like to immediately begin the remediation process, rather than wait until spring when everything is muddier. Mr. Maguire stated you can begin installing the silt fencing. That is not part of the stop work order. Ms. Guidera asked whether they can move forward with removing soils. Mr. Maguire stated no, that activity needs a permit.

Atty. Russo recommended not revoking the permit to allow for the issues to be repaired. Ms. Salling stated a mitigation permit will be necessary regardless whether the permit is revoked or not. Mr. Maguire stated he can administratively approve the installation of silt fences and other temporary erosion controls, which will prevent further damage to the wetlands. Ms. Salling stated if these things were done in the first place they wouldn't be at this hearing. We need to focus on the good of the wetlands and focus on the purpose of this hearing.

Steven Danzer, Soil Scientist and Wetland Scientist, Simsbury, CT pointed out the removal of the sediment should be referred to as “restoration”, not mitigation. Mr. Danzer stated we have an emergency situation where sediment has been deposited into a wetland. It will be easy to remove now but will become harder as time goes on. Ms. Salling asked Mr. Maguire whether there was such a thing as an “emergency exception”. Mr. Maguire stated he didn't have an answer, but regardless does not feel comfortable authorizing any permits off of the property.

Ms. Horch asked how long would the restoration take. Ms. Chalifoux stated it depends on the number of workers. If there were three or four men it might take a couple of days.

Ms. Guidera asked whether they needed a separate permit to start mitigation. Mr. Maguire stated yes. Ms. Guidera asked whether they can still move forward with mitigation if the wetlands permit is revoked. Mr. Maguire stated yes. Ms. Guidera asked whether there is a benefit to revoke the permit or whether we can work together to make changes.

Mr. Ferris asked whether the cease and desist allows work to continue on the other houses. Mr. Maguire's concern is the earth-work should be completed in the regulated area before anymore construction is done. Mr. Ferris stated no more work should be done until everything is fixed and the site is stabilized. In the meantime they can submit a mitigation plan. Ms. Guidera concurred with Mr. Ferris.

Atty. Russ recommended to modify the cease and desist by ceasing everything except the measures the Commission wants done. Mr. McCabe stated the Commission is not here to modify the cease and desist. Mr. McCabe would like to start fresh. The Commission and Atty. Russo went back and forth regarding the cease and desist and the new permits. The Commission agreed restoration should be the primary focus.

Ms. Horch ask if any fines have been issued. Ms. Horch stated punishment needs to happen. Ms. Horch recommended Lot 12 have a separate permit. Mr. Maguire stated the application for Lot 12 was submitted today.

Ms. Guidera read the approval letter and asked whether the applicant has followed through with the conditions. Mr. Edwards stated yes, through the spring and summer.

Mr. Jackson asked what would be the next step if the permit is revoked. Mr. Maguire stated the next step would be to submit a wetland application for activity in the regulated areas, which are Lots 2, 3, 4, 5, 11, 12 & 13. Also, there would be a separate permit for the remediation of the wetland areas. In the meantime Mr. Maguire can approve temporary erosion controls. It would be the Commission's purview to approve the permanent work.

Ms. Horch asked if more conditions can be added. Mr. Maguire stated yes, it would be a modification of the existing permit and stipulations can be added.

Ms. Horch asked who issues the fines. Mr. Maguire stated it comes from the Land Use office.

Mr. McCabe made a motion to revoke IW Permit #20-27 by Negreiro & Sons Construction LLC, property located at 203 & 211 Berkshire Road. Ms. Kurose seconded. The motion to revoke permit IW # 20-27 was denied 4 to 3.

Ms. Salling – Aye  
Mr. McCabe – Aye  
Mr. Jackson – Nay  
Ms. Guidera – Nay  
Ms. Horch – Nay

Ms. Kurose – Aye  
Mr. Ferris - Nay

IW Permit #20-27 by Negreiro & Sons Construction LLC shall be maintained.

No new earthwork should be done. Additional conditions to be determined by Land Use.

The next phase needs to be approved with:

- An application for modification be submitted including all proposed revisions.
- A separate application be submitted for Lot 10, 12 and the property owned by Newtown Forest Association to permit or remediate affected wetlands.

The third party review will start on Friday. Mr. Edwards will work with Mr. Maguire regarding the process.

The Commission continued the conversation regarding fines. Mr. Maguire stated the fine is \$1,000 for each incident. The maximum fine for these violations would be \$2,000. The Commission strongly agrees it sends a message.

## **OTHER BUSINESS**

Receipt of DEEP Notice of Tentative Determination for Diversion of Water Permit. Mr. Maguire reviewed the DEEP document to the Commission regarding Planter's Choice. Mr. Maguire explained this permit is for a diversion well that was part of a previous permit.

The CAWS meeting on March 9, 2023 was mentioned.

## **APPROVAL OF MINUTES**

### Regular Meeting of January 11, 2023

The Commission found no substantive errors. Mr. Ferris moved to accept the minutes from January 11, 2023. Mr. McCabe seconded. All in favor. Ms. Kurose abstained. The minutes from January 11, 2023 were approved.

### Special Meeting of February 1, 2023

Change Ms. Guidera's statement on page 5 to read "Ms. Guidera would be in favor of keeping the cease and desist in effect, as well as obtaining an environmental report from an expert." Ms. Horch moved to accept the amended minutes from February 1, 2023. Mr. Jackson seconded. All in favor. Mr. Ferris abstained. The minutes from February 1, 2023 were approved.

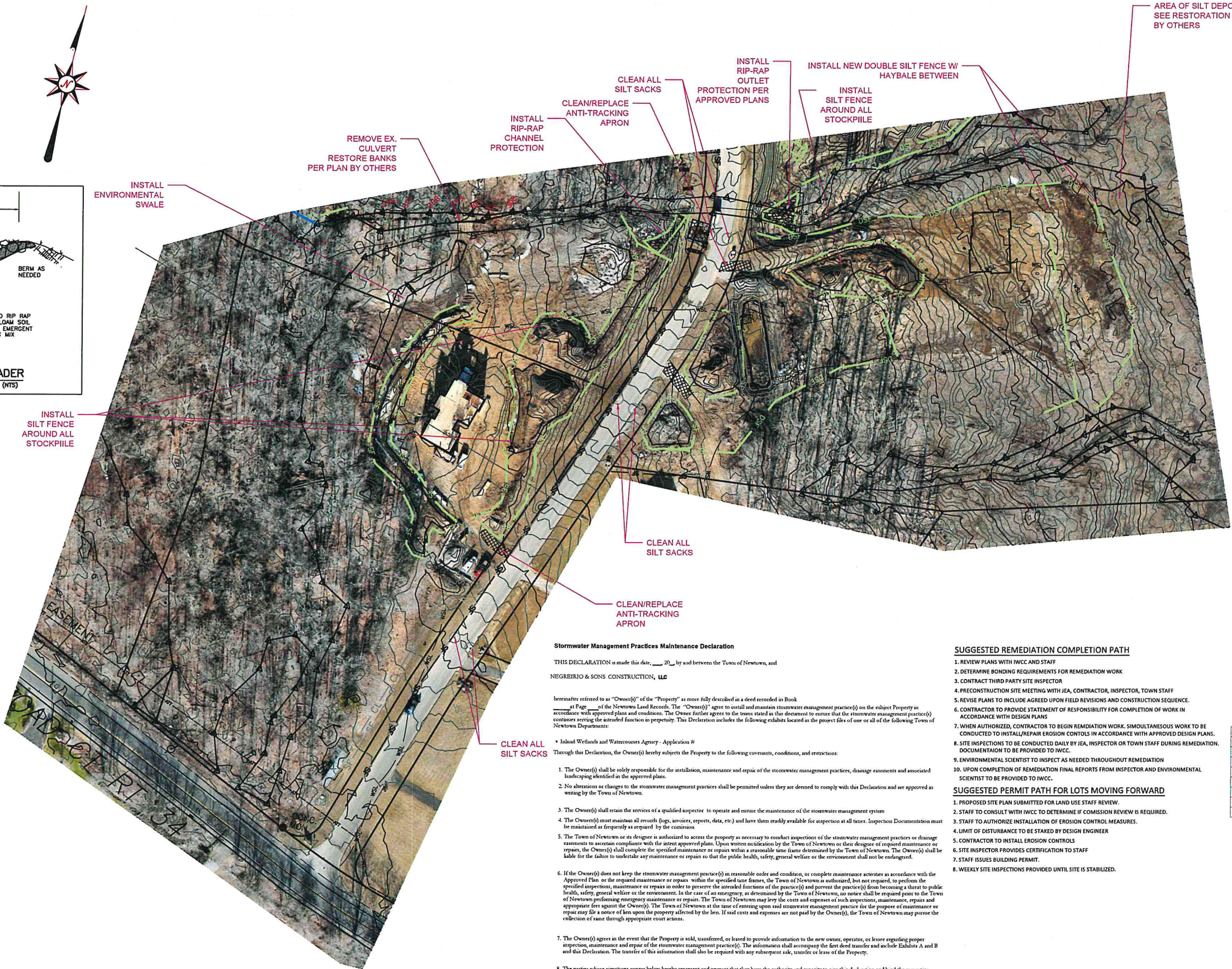
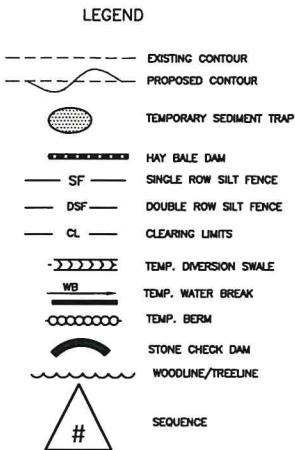
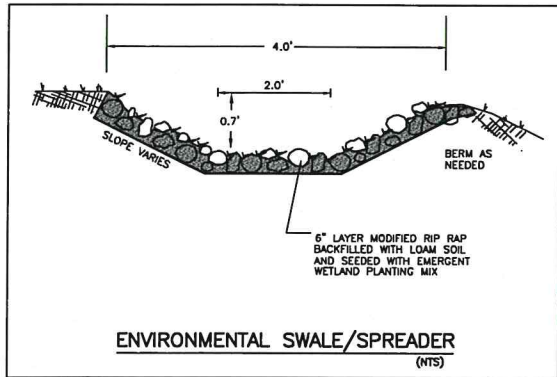
## **ADJOURNMENT**

With no additional business, Ms. Horch moved to adjourn. Ms. Kurose seconded. All in favor. The Regular IWC Meeting of February 8, 2023 was adjourned at 8:58 pm.

*Respectfully Submitted, Dawn Fried*



20' MIN.



#### Stormwater Management Practices Maintenance Declaration

THIS DECLARATION is made this date, \_\_\_\_, 20\_\_, by and between the Town of Newtown, and  
NEGREIRIO & SONS CONSTRUCTION, LLC

hereinafter referred to as "Owner(s)" of the "Property" as more fully described in a deed recorded in Book  
at Page of the Newtown Land Records. The "Owner(s)" agree to install and maintain stormwater management practice(s) on the subject Property in  
accordance with approved plan and conditions. The Owner further agrees to the terms stated in this document to ensure that the stormwater management practice(s)  
continues serving the intended function in perpetuity. This Declaration includes the following exhibits located in the project files of one or all of the following Town of  
Newtown Department:

\* Inland Wetlands and Watercourses Agency - Application #

Through this Declaration, the Owner(s) hereby subjects the Property to the following covenants, conditions, and restrictions:

1. The Owner(s) shall be solely responsible for the installation, maintenance and repair of the stormwater management practices, drainage easements and associated landscaping identified in the approved plans.
2. No alterations or changes to the stormwater management practices shall be permitted unless they are deemed to comply with this Declaration and are approved as written by the Town of Newtown.
3. The Owner(s) shall retain the services of a qualified inspector to operate and ensure the maintenance of the stormwater management system.
4. The Owner(s) must maintain all records (logs, invoices, reports, data, etc.) and have them readily available for inspection at all times. Inspection Documentation must be maintained as frequently as required by the commission.
5. The Town of Newtown or its designer is authorized to access the property as necessary to conduct inspections of the stormwater management practices or drainage easements to ascertain compliance with the intent approved plans. Upon written notification by the Town of Newtown or their designer of required maintenance or repairs, the Owner(s) shall complete the specified maintenance or repairs within a reasonable time frame determined by the Town of Newtown. The Owner(s) shall be liable for the failure to undertake any maintenance or repairs so that the public health, safety, general welfare or the environment shall not be endangered.
6. If the Owner(s) does not keep the stormwater management practice(s) in reasonable order and condition, or complete maintenance activities in accordance with the Approved Plan or the required maintenance or repairs within the specified time frames, the Town of Newtown is authorized, but not required, to perform the specified inspection, maintenance or repairs in order to preserve the intended functions of the practice(s) and prevent the practice(s) from becoming a threat to public health, safety, general welfare or the environment. In the case of an emergency, as determined by the Town of Newtown, no notice shall be required prior to the Town of Newtown performing emergency maintenance or repairs. The Town of Newtown may levy the costs and expenses of such inspections, maintenance, repairs and appropriate fees against the Owner(s). The Town of Newtown at the time of entering upon said stormwater management practice for the purpose of maintenance or repair may file a notice of lien upon the property affected by the lien. If said costs and expenses are not paid by the Owner(s), the Town of Newtown may pursue the collection of same through appropriate court actions.
7. The Owner(s) agrees in the event that the Property is sold, transferred, or leased to provide information to the new owner, operator, or lessee regarding proper inspection, maintenance and repair of the stormwater management practice(s). The information shall accompany the first deed transfer and include Exhibits A and B and this Declaration. The transfer of this information shall also be required with any subsequent sale, transfer or lease of the Property.
8. The parties whose signatures appear below hereby represent and warrant that they have the authority and capacity to sign this declaration and bind the respective parties hereto.

By: \_\_\_\_\_ [Owner(s)]

By: \_\_\_\_\_ [Owner(s)]

#### SUGGESTED REMEDIATION COMPLETION PATH

1. REVIEW PLANS WITH IWCC AND STAFF
2. DETERMINE BONDING REQUIREMENTS FOR REMEDIATION WORK
3. CONTRACT THIRD PARTY SITE INSPECTOR
4. PRECONSTRUCTION SITE MEETING WITH IEA, CONTRACTOR, INSPECTOR, TOWN STAFF
5. REVISE PLANS TO INCLUDE AGREED UPON FIELD REVISIONS AND CONSTRUCTION SEQUENCE.
6. CONTRACTOR TO PROVIDE STATEMENT OF RESPONSIBILITY FOR COMPLETION OF WORK IN ACCORDANCE WITH DESIGN PLANS
7. WHEN AUTHORIZED, CONTRACTOR TO BEGIN REMEDIATION WORK. SIMULTANEOUS WORK TO BE CONDUCTED TO INSTALL/REPAIR EROSION CONTROLS IN ACCORDANCE WITH APPROVED DESIGN PLANS.
8. SITE INSPECTIONS TO BE CONDUCTED DAILY BY IEA, INSPECTOR OR TOWN STAFF DURING REMEDIATION. DOCUMENTATION TO BE PROVIDED TO IWCC.
9. ENVIRONMENTAL SCIENTIST TO INSPECT AS NEEDED THROUGHOUT REMEDIATION
10. UPON COMPLETION OF REMEDIATION FINAL REPORTS FROM INSPECTOR AND ENVIRONMENTAL SCIENTIST TO BE PROVIDED TO IWCC.

#### SUGGESTED PERMIT PATH FOR LOTS MOVING FORWARD

1. PROPOSED SITE PLAN SUBMITTED FOR LAND USE STAFF REVIEW.
2. STAFF TO CONSULT WITH IWCC TO DETERMINE IF COMMISSION REVIEW IS REQUIRED.
3. STAFF TO AUTHORIZE INSTALLATION OF EROSION CONTROL MEASURES.
4. LIMIT OF DISTURBANCE TO BE STAKED BY DESIGN ENGINEER
5. CONTRACTOR TO INSTALL EROSION CONTROLS
6. SITE INSPECTOR PROVIDES CERTIFICATION TO STAFF
7. STAFF ISSUES BUILDING PERMIT.
8. WEEKLY SITE INSPECTIONS PROVIDED UNTIL SITE IS STABILIZED.

#### REVISIONS

#	DATE	DESCRIPTION
1	11/18/20	P&Z SUBMISSION
2	12/16/20	MISC. COMMENTS
3	1/5/21	MISC. COMMENTS
4	1/18/21	MISC. COMMENTS
5	4/8/22	EROSION CONTROLS
6	2/8/23	EROSION CONTROLS

DATE: 09-30-20  
PROJECT #: 2759  
DRAWING FILE: SITE  
DRAWN BY: IE  
SCALE: 1"=50'

TITLE  
EROSION  
CONTROL  
PLAN  
ROAD  
CONSTRUCTION

SHEET NUMBER

EC-1



**J. EDWARDS &  
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