

**MEMORANDUM FOR THE RECORD**  
**SHOW CAUSE HEARING – THURSDAY, JUNE 12, 2025**  
*Prepared by Stacy Radford, Zoning & Wetlands Officer*

**Property Owners:** Jeffrey Phillips & Jennifer Michaels  
**Address:** Noble Hill Road (Parcel ID: 061-002-000)  
**Meeting Date:** June 12, 2025  
**Regarding:** Cease & Correct order for unpermitted activities within the wetlands and 50' upland review area

**UPDATED SUMMARY OF EVENTS:**

- At the last meeting of May 15, 2025, this Commission voted to continue the Show Cause Hearing until the next meeting of June 12, 2025. The Commission advised the Applicant and his Engineer that an Application must be submitted for the next meeting, along with an explanation of remediation; including the culvert which was placed without permits.
- The Commission also inquired about the additionally excavated area, closer to the site entrance, and if wetlands were located in this area.
- The Commission agreed to allow the property owner to continue to mow a pathway to walk his dog along his property.
- On May 21, 2025 review comments were received from Robert Russo, Certified Soil Scientist on behalf of the Town of Montville and listed as Exhibit #21. A copy is attached to this Staff Report.
- On May 23, 2025 Staff met with Mark Reynolds (Professional Engineer on behalf of the property owner). Mr. Reynolds was provided with a copy of the May 21, 2025 review comments received by Robert Russo. Mr. Reynolds provided to Staff a copy of a letter dated April 23, 2025 received by Mr. Phillips from the Army Corps of Engineers, listed as Exhibit #22. A copy is attached to this Staff Report.
- On May 27, 2025 Staff forwarded an email to Mark Reynolds, James Sipperly and Jeffrey Phillips confirming the meeting of May 23, 2025 with Mark Reynolds and including a brief explanation of what should be submitted prior to the June 12, 2025 meeting.
- On May 29, 2025 Mark Reynolds advised Staff that it was his understanding that Attorney McCoy of Heller, Heller & McCoy would be representing Mr. Phillips.
- On June 4, 2025 Staff received a call from Attorney William McCoy indicating that he would be representing Mr. Phillips in this matter and would forward a copy of an Authorization of same. Staff provided to Attorney McCoy a copy of the May 21, 2025 review comments of Robert Russo, as well as a copy of Staff's email of May 27, 2025 to Mark Reynolds, James Sipperly, and Mr. Phillips.
- On June 6, 2025 Staff received "Additional Inland Wetland Soils and Watercourses Investigation and Delineation, Noble Hill Road (Parcel ID: 061-002-000) Owner: Jeffrey Phillips & Jennifer Michaels" from James Sipperly, Certified Soil Scientist on behalf of the property owners, listed as Exhibit #23. A copy is attached to this Staff Report.
- On June 6, 2025 Staff referred a copy of the Wetlands Report dated June 6, 2025 to Robert Russo for his review and comment. Comments were received back from Mr. Russo dated June 9, 2025 and listed as Exhibit #24. A copy is attached to this Staff Report.

- On June 11, 2025 Staff received an Authorization form from the property owners, Jeffrey Phillips and Jennifer Michaels, authorizing the law offices of Heller, Heller & McCoy to act as an agent on their behalf, listed as Exhibit #25. A copy is attached to this Staff Report.

#### **STAFF RECOMMENDATIONS:**

- The Commission continue this matter to the next regularly scheduled meeting on July 17, 2025, to allow Attorney William McCoy time to familiarize himself with the file and prepare/submit an Application and supporting documentation on behalf of the property owners.

If the Commission is inclined to move forward with Staff's recommendations, the following language for a motion is suggested:

#### **M O T I O N #1 (A Motion to Continue)**

- I make a Motion to continue this matter to the next regularly scheduled meeting on July 17, 2025, to allow for the preparation and submission of an Application and all supporting documents, including an Existing Conditions Plan of the wetlands, both east and west of the excavated hole; a formal Remediation Plan, shown on a Survey (showing the proposed plan for remediation, any plantings, etc); a Plan for follow up inspections; an E&S Control and Restoration Bond Estimate to be prepared by the property owner's Engineer for review and approval by the Town Engineer; a timeline for remediation of impacted wetlands and/or wetlands to be affected by the restoration of the Zoning portion of this violation; and a timeline for re-payment of current and/or future expended professional fees; to include Attorney, Soil Scientist, Professional Engineer, etc. in accordance with Section 20 of the Inland Wetland & Watercourses Regulations.

# CLA Engineers, Inc.

Civil • Structural • Survey

317 MAIN STREET

NORWICH, CT 06360

(860) 886-1966

(860) 886-9165 FAX

May 21, 2025

Stacy Radford, WEO  
Town of Montville  
310 Norwich-New London Tpke., Uncasville, CT 06382  
Via Email: [stadford@montville-ct.org](mailto:stadford@montville-ct.org)

RE: Wetland Restoration Review  
Noble Hill Rd  
CLA-7873J

Dear Stacy:

CLA Engineers, Inc. (CLA) has received the materials for the above referenced project located on Noble Hill Rd:

1. A letter from James Sipperly, CSS, dated May 13, 2025
2. A Topographic Survey dated May 12, 2025, prepared by Rob Hellstrom L.S.

CLA previously performed a performed a site walk on 4/6/25 and has conducted a review of the documents and offer the following comments on the materials:

1. CLA generally agrees with the findings and recommendations of Mr. Sipperly's letter. The recommendations from his letter should be added to the topographic plan to create wetland restoration plan. Specifically, the plan should have a planting schedule, appropriate E&S, a planting narrative, and an inspection and reporting schedule.
2. Mr. Sipperly should provide an opinion regarding whether the other excavated area, closer to the site entrance, is an inland wetland. If so, it should be included in the restoration plan.
3. Mr. Sipperly should provide an opinion as to whether the downslope excavation has negatively affected the wetland hydrology.
4. The engineer should provide a bond estimate.

Thank you for the opportunity to provide this review. Please feel free to call me at our office or email [brusso@claengineers.com](mailto:brusso@claengineers.com) with any questions.

Very truly yours,  
**CLA Engineers, Inc.**

*Robert C Russo*

Robert C. Russo  
CSS



DEPARTMENT OF THE ARMY  
US ARMY CORPS OF ENGINEERS  
NEW ENGLAND DISTRICT  
696 VIRGINIA ROAD  
CONCORD MA 01742-2751

RECEIVED

MAY 23 2025  
Hand provided  
BY: by Mark Reynolds, PE  
for Property Owner

April 23, 2025

Regulatory Division  
File No. CENAE-R-2025-00730

VIA FEDEX  
CERTIFIED MAIL, RETURN RECEIPT REQUESTED

LETTER OF INQUIRY

Jeffrey Phillips  
193 Noble Hill Road  
Oakdale, Connecticut 06370

Dear Mr. Phillips

This letter references work that may have been conducted at Noble Hill Road (Parcel ID: 061-002-000) in Oakdale, Connecticut. It appears the work involved the discharge of dredged or fill material in wetlands along Trading Cove Brook under the jurisdiction of the U.S. Army Corps of Engineers (USACE). Information received in this office indicates that you are a party associated with this activity, either as a property owner or as a person performing or causing the performance of this work.

The USACE regulates these waters under Section 404 of the Clean Water Act (CWA). A review of our records indicated USACE has not issued a Department of the Army permit authorizing this activity. A fact sheet that includes a summary of our authority, jurisdiction, definitions, and permit requirements is enclosed.

Section 301 of the CWA, 33 U.S.C. § 1311, prohibits the discharge of dredged or fill material into waters of the United States unless such discharge has been properly authorized by a Department of the Army permit issued under Section 404 of the CWA, 33 U.S.C. § 1344. Pursuant to 33 U.S.C. § 1319, 33 C.F.R. Part 326, and 40 C.F.R. Part 19, violations of the CWA can result in civil penalties up to a maximum of \$66,712 per day of violation, administrative penalties, criminal fines, or imprisonment. Every day unauthorized fill remains in place is a separate day of violation. Restoration of the area to its pre-violation condition may also be required.

An investigation is ongoing to determine the extent of the potential violation, whether there are any mitigating factors, and the appropriate resolution. You are required to submit the following additional information at this time for the District Engineer to determine what course of action he should pursue in resolving any violation. Further information may be requested, as needed, in the future.



1. Inform us whether you intend to voluntarily cease work in the area described above.
2. Explain how you believe the work was authorized by USACE pursuant to Section 404 of the Clean Water Act. If the work was performed without a Department of the Army permit, provide your reason for performing the work and why the work was performed without Department of the Army authorization.
3. Provide the name of all persons or entities that have ownership interest in the parcel(s) identified above and when that ownership was attained.
4. Provide the name, address, and telephone number of any contractor(s) who performed the work and any owners of the property in question. You are also requested to provide the name and address of any consultant or engineer who designed, directed, or oversaw the work.
5. Submit a description of the work that you have undertaken (e.g., land clearing, discharge of fill in wetlands and in named waters and unnamed tributaries) in areas subject to federal jurisdiction (e.g., wetlands, waters below ordinary high water). Include any drawings showing the dimensions and areas where work was conducted and any other site plans for the work.
6. For each one of the activities identified above, identify the footprint (area in square feet or acres) of impact to waters/wetlands. This should include those areas grubbed (removal of stumps), graded or covered with fill material, and/or otherwise altered through modification of drainage patterns.
7. Identify the timeframe (e.g. days, months, years) that the work was undertaken. Be as specific as possible, giving the starting and ending dates for each area or type of activity under USACE jurisdiction.
8. Provide copies of all correspondence including, but not limited to, any permits or applications for permits with any local, state, or federal agency pertaining to the placement, retention, or removal of dredged or fill material and/or work/structures occurring in wetlands or waterways at the site.
9. Identify the types of equipment used to excavate or move soil material within waters or wetlands.
10. Identify, where feasible, pre-construction characteristics and habitat type of wetlands and waters filled or altered and/or provide any environmental or ecological assessment reports or survey of the resources already completed on the parcel(s).

11. Identify any alternatives that would accomplish the project purpose while avoiding impact to wetlands or waters, and why these alternatives were not undertaken.

Except for restoration performed in accordance with a mutually agreed upon plan, no additional regulated work within our jurisdiction may be started or allowed to continue until you receive a permit signed by the District Engineer or his authorized representative. Any such future work without a permit may be considered willful, repeated, or flagrant per 33 CFR Part 326.5(a) warranting legal action.

You must respond to our request for information within **fifteen (15) days** of the date of this letter. If you fail to respond to this notification or to provide the requested information within the specified time frame, we may seek immediate legal action to halt any ongoing activity and take enforcement action as allowed by federal law. Our action may include referral to the U.S. Environmental Protection Agency, the U.S. Attorney's Office, or the Environment and Natural Resources Division of the U.S. Department of Justice. This letter will not foreclose our options to initiate appropriate legal action or to later require a submission of a permit application.

Please contact Andrea Williams of my staff at [Andrea.N.Williams@usace.army.mil](mailto:Andrea.N.Williams@usace.army.mil) or (978) 318-8494 if you have any questions or wish to arrange a meeting to discuss this matter. Refer to the Regulatory file number at the beginning of this letter in any correspondence or inquiries.

Sincerely,

*Kevin R Kotelly*

Kevin R. Kotelly, P.E.  
Chief, CT/RI Section  
Regulatory Division

Enclosure

cc:

Brian Golembiewski, DEEP; [brian.golembiewski@ct.gov](mailto:brian.golembiewski@ct.gov)  
Stacy Radford, Town of Montville; [sradford@montville-ct.org](mailto:sradford@montville-ct.org)  
Ray Putnam, U.S. EPA New England, Region 1, OEP Wetland Enforcement, USEPA  
SUITE 100 (Mail Code OES05-1), 5 Post Office Square - Suite 100, Boston, MA 02109-  
3912; [putnam.ray@epa.gov](mailto:putnam.ray@epa.gov)

JAMES SIPPERLY  
CERTIFIED SOIL SCIENTIST  
CONNECTICUT WETLAND SCIENTIST  
401 SALEM TURNPIKE BOZRAIL, CT 06334  
860-334-7073  
[james.sipperly.js@gmail.com](mailto:james.sipperly.js@gmail.com)

Douglas K. Brush, Chairman  
Town of Montville Inland Wetlands Commission  
310 Norwich-New London Road  
Uncasville, CT 06382

June 6, 2025

RE: ADDITIONAL INLAND WFTT AND SOILS AND WATERCOURSES  
INVESTIGATION AND DELINEATION, NOBLE HILL (PARCEL ID:061-002-000),  
OWNER JEFFRY PHILLIPS & JENNIFER MICHAELS

Dear Mr. Brush:

I understand that at you last meeting there were additional items that the Commission would like addressed.

On June 5, 2025, I visited the site again to delineate any inland wetland soils and/or watercourse that may exist on the upstream and downstream side of the watercourse crossing that has 15"HDPE pipe. Again, there is no erosion and the pipe is functioning well. There is no plans to remove this pipe crossing.

I sampled the soil throughout this area of concern using a soil auger to a depth of two to three feet. Based on my field observations and using the guidelines established by the National Cooperative Soil Survey and as defined by the Connecticut General Statutes, I delineated the wetlands using blue flagging numbered 1-4, 5-9, 10-11, 12-14 respectively.

Mark Reynolds indicated to me that his survey crew would be out there later that day to locate the additional wetland flags and locate the temporary structure

I also investigated and tested an area of concern that was a small, excavated area closer to the entrance to the overall site. There were subsoil physical characteristics that would indicate the presence of an inland wetland soil. The upland soils in this entire area are classified as a well-drained Canton and Charlton fine sandy loam.

Another concern was whether the down-slope excavation has negatively affected the wetland hydrology in the excavation area to the west.

The answer is no, there was and is not any impact on the wetland hydrology in the excavation area. Those very deep deposits of the well drained Canton and Charlton soils have a very high hydraulic drainage capacity, which refers to the maximum volume of flow that a drainage system can transport. Nowhere in the bottom or side slopes of the excavated area has signs of any water seepage.

Again, I am pleased to report that there are no impacts to the Trading Cove Brook riparian corridor. This system is of high value and provides many wetland functions.

#### PROPOSED MITIGATION

The small inland wetlands area disturbed and temporarily stabilized with wood chips, shall be permanently restored and stabilized.

First, Mr. Phillips has agreed to remove the structure that is being used to store two boats. They will be removed to an area of the property that is upland soils.

The wood chips can remain and additional 4 inches of organic topsoil shall be deposited in this area. The area shall then be seeded with a conservation wet-mix that contains native species and promotes and attracts pollinator species. This area will not be mowed.

In addition, along the top of slope to the south of the delineated wetlands 12 native shrub species, such as winterberry, highbush blueberry, silky dogwood, swamp azalea, and sweet pepper bush will be planted to enhance the vegetative diversity of the area. This will provide food and shelter to existing wildlife in the area.

If this work is approved, it can be completed by the end of June. The shrubs and the wet-mix can be watered regularly during this time. I would caution the Commission that performing this work after the end of June, should be delayed to the beginning of September because of the warm temperatures that are not conducive for planting and establishing ground cover.

Once the plantings have been completed, the planting will be inspected by me every two months until the end of fall 2025. Subsequently, they will be inspected in the spring for 3 consecutive years to ensure their survivability.

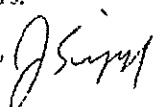
Again, Mr. Phillips has not done any work on the site since the issuance of your order. However, some work needs to be completed as soon as possible.



Based on my professional opinion as a Certified Soil Scientist and years of experience as a City Planner, I feel that this approach will negate the need to move forward with additional enforcement actions and will maintain and improve the existing high quality functions of Trading Cove Brook and the environmental quality of the land.

Very truly yours,

James Sipperly



Certified Soil Scientist, Society of Soil Scientists of Southern New England  
Connecticut Wetland Scientist, Connecticut Association of Wetland Scientists

# CLA Engineers, Inc.

Civil • Structural • Survey

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June 9, 2025

Stacy Radford, WEO  
Town of Montville  
310 Norwich-New London Tpke., Uncasville, CT 06382  
Via Email: [hradford@montville-ct.org](mailto:hradford@montville-ct.org)

RE: Wetland Restoration Review  
Noble Hill Rd  
CLA-7873J

Dear Stacy:

CLA Engineers, Inc. (CLA) has received the materials for the above referenced project located on Noble Hill Rd:

1. A letter from James Sipperly, CSS, dated June 6, 2025.

CLA notes the following:

1. CLA generally agrees with the findings and recommendations of Mr. Sipperly's letter. The recommendations from his 2 letters should be added to the topographic plan to create a wetland restoration plan. Specifically, the plan should have a planting schedule, appropriate E&S, a planting narrative, and an inspection and reporting schedule.
2. The engineer should provide a bond estimate.

Thank you for the opportunity to provide this review. Please feel free to call me at our office or email [brusso@claengineers.com](mailto:brusso@claengineers.com) with any questions.

Very truly yours,  
**CLA Engineers, Inc.**

*Robert C Russo*


Robert C. Russo  
CSS

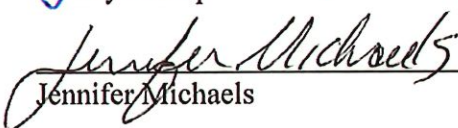
## AUTHORIZATION

We, Jeffrey Phillips and Jennifer Michaels hereby authorize the law firm of Heller, Heller & McCoy to act as agent in all proceedings before the Town of Montville Inland Wetlands and Watercourses Commission with respect to real property located on Noble Hill Road in the Town of Montville, County of New London and State of Connecticut, which property is identified as Parcel 061/003/000 by the Montville Assessor's Office.

We hereby further authorize the law firm of Heller, Heller & McCoy to act as our agent in all proceedings before the Town of Montville Inland Wetlands and Watercourses Commission with respect to said permit application.

Dated at Montville, Connecticut this 6 day of June, 2025.

  
\_\_\_\_\_  
Jeffrey Phillips

  
\_\_\_\_\_  
Jennifer Michaels