



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 1

5 Post Office Square, Suite 100

Boston, MA 02109-3912

Dated by electronic signature

James Balch
Balch Bridge Street Corporation
P.O. Box 678
East Windsor, CT 06088

Warning Letter: 222-232 South Main Street, East Windsor, CT

Dear Mr. Balch:

This letter concerns your property located at 222-232 South Main Street in East Windsor, Connecticut. In July 2021, the U.S. Environmental Protection Agency ("EPA") became aware of violations of the Town of East Windsor's ("Town's") Inland Wetlands and Watercourses Regulations and subsequent Town actions to address the violations. After review of the available aerial photography and information provided by the town, as well as a site visit on July 23, 2021, EPA believes there could also be violations of the federal Clean Water Act ("CWA" or "Act"), 33 U.S.C. § 1251 *et seq.*, on the property.

The purpose of this letter is twofold: (1) to notify you of your obligations under the CWA, including the Corps permitting requirements, and (2) to inform you of EPA's enforcement authority.

Under the CWA, the discharge of pollutants (including soil, rocks, sand, construction debris, and/or other dredged and fill material) into waters of the United States, including most wetlands, is unlawful except as authorized by, among other things, a permit issued by the U.S. Army Corps of Engineers ("Corps") pursuant to Section 404 of the Act, 33 U.S.C. § 1344. Liability for Section 404 violations extends to, among others, individuals, corporations, and partnerships, including the agents or employees thereof, who either conducted the activities giving rise to the violation or had responsibility for or control over those activities (33 U.S.C. § 1362(5); 40 C.F.R. § 232.2).

EPA's analysis indicates that fill material may have been discharged into wetlands adjacent to a tributary to the Connecticut River sometime between 2017 and 2021. EPA has further determined that you did not receive a permit from the Corps for wetland and/or waterway alterations on your property. EPA considers unauthorized discharges into jurisdictional wetlands and other waters of the United States to be a serious matter. Section 309 of the CWA, 33 U.S.C. § 1319, authorizes EPA to pursue administrative and judicial enforcement actions for violations of Section 404 of the Act. EPA may seek civil penalties as well as full restoration of the affected

wetlands and waterways. A copy of EPA's policy on injunctive relief in Section 404 enforcement cases is enclosed with this letter.

As indicated above, EPA is aware that the Town has issued a Cease and Correct Order that requires you to address wetland impacts on your property in accordance with their Inland Wetlands and Watercourses Regulations. It is important to keep in mind that the Town's wetland regulations and the federal CWA are distinct legal authorities with differing regulatory requirements. In determining whether to initiate a separate federal enforcement action, EPA will evaluate the extent to which you cooperate with the Town and whether your proposed resolution is in line with EPA's restoration policy. Accordingly, we strongly urge you to work with the Town to resolve these violations promptly and completely.

In addition, the Section 404 permitting requirements may apply to the work that has already been conducted on your property. A Corps permit may be required for any unpermitted fill that remains in place after you address the Town violations. Please contact Cori M. Rose of the Corps Regulatory Division by email at cori.m.rose@usace.army.mil, or by phone at (978) 318-8306, if you have questions regarding this process, or about Corps permitting requirements generally.

Finally, please be advised that you should not do any further unauthorized work in areas subject to CWA jurisdiction without first consulting with the Corps. A copy of the Corps of Engineers Jurisdiction Fact Sheet, which provides a summary of the Corps' authority, key definitions, and permit requirements, is enclosed. As indicated on the Fact Sheet, before starting any work in jurisdictional wetlands and other waters of the United States, you should be certain that a Corps permit has been obtained or is not needed.

In closing, please know that EPA remains available to discuss the contents of this letter. If you have any additional questions, feel free to contact me by email at tougas.stephanie@epa.gov, or by phone at 617-918-1798.

Sincerely,

Tougas,
Stephanie

Digitally signed by
Tougas, Stephanie
Date: 2021.08.03
12:55:23 -04'00'

Stephanie Tougas, Inspector
EPA Enforcement and Compliance Assurance Division

Encls: Corps Jurisdictional Fact Sheet

Cc: Laura Beveridge, Esq.
U.S. EPA, Region 1 – New England

Ruthanne Calabrese, Zoning and Wetlands Compliance Official
Town of East Windsor, CT

Cori M. Rose, PWS, Senior Project Manager
U.S. Army Corps of Engineers

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