

WETLANDS BOARD

SEPTEMBER 10, 2008

- A. Roll Call**
- B. Minutes -**
 - 1. August 13, 2008– Board Meeting
- C. Public Hearings**
 - 1. W-10-08 - 500 Thompson Lane, Potential Wetlands Violation
- D. Board Considerations**
- E. Matters of Special Privilege**
- F. Adjournment**

MEMORANDUM

DATE: September 10, 2008
TO: James City County's Wetlands Board
FROM: Patrick T. Menichino, Wetlands Board Secretary
SUBJECT: W-10-08 – 500 Thompson Lane, Potential Wetlands Violation

On April 16, 2008 I received a complaint concerning the possible filling of Wetlands located in the upper portion of Gordon's Creek. Environmental Division Staff performed an initial field investigation to determine the location of the potential violation. Staff then reported the approximate violation location to me for investigation. The location was reported to me as, 500 Thompson Lane, Williamsburg Va.

On April 23, 2008 I met with Mr. Lee Mershon owner of 500 Thompson Lane, to review the Wetlands located adjacent to his property. Upon viewing the Wetlands area I found that a significant amount of type XI Wetlands, (Freshwater Mixed Community) had been impacted by Mr. Mershon. During our discussion Mr. Mershon indicated that the impacts to the Wetlands resulted from his attempt to comply with the Commonwealth's Division of Dam Safety's requirements. Mr. Mershon stated that he was being required by Dam Safety to complete improvements to Warburton Pond's dam, which is located on his property and is immediately adjacent to the tidal Wetlands. I discussed the County's Wetlands permit requirements and told Mr. Mershon, that the impacts I observed on his property required a James City County Wetlands Permit. I also told Mr. Mershon that even if the work was being required by the Dam Safety Division, a County Wetlands Permit must be obtained prior to any Wetlands impacts. AT the close of the meeting I told Mr. Mershon that I would contact him again concerning the potential violation.

On April 24, 2008 I contacted the Division of Dam Safety to determine if Mr. Mershon was in fact improving Warburton Pond dam at their direction.

On April 28, 2008 I received an email from Mr. David Connif with Dam Safety indicating that Mr. Mershon "is not doing anything we told him to do".

On May 2, 2008 I sent Mr. Mershon a letter ordering him to submit a restoration plan for the CBPA and Wetlands area located on his property. The order provided a 30 day time frame for the restoration to be completed.

Staff did not receive a restoration plan from Mr. Mershon and after several phone calls to his consultant and his attorney; an onsite meeting was arranged for July 29, 2008.

On July 29, 2008 the meeting was held, in attendance were Mr. Mershon, Paul Londerlee with McKinney & Company and Environmental Staff. Mr. Mershon agreed to initiate specific actions to begin to resolve the violations.

On July 31, 2008 I sent a letter to Mr. Mershon to confirm our discussion at the meeting of July 29, and to identify the actions required of Mr. Mershon.

On August, 28, 2008 I contacted Mr. Mershon's consultant (McKinney & Company) to determine if a restoration plan or JPA was being submitted to the County.

On September 4, 2008, I received an email from McKinney & Company with an attached letter to Mr. Mershon dated July 31, 2008.

This matter remains unresolved as of this date.

Attachments:

Photos taken by Pat Menichino on 4/23/08.

Email from Mr. David Connif to Pat Menichino dated April 28, 2008, with letter attached to Mr. Mershon dated July 16, 2007.

Letter from Pat Menichino to Mr. Mershon dated May 2, 2008.

Letter from Pat Menichino to Mr. Mershon dated July 31, 2008.

Email from McKinney & Company to Pat Menichino dated September 2, 2008 with letter attached to Mr. Mershon, dated July, 31, 2008.