
From: Stephan Marsh
Sent: Monday, December 14, 2020 2:57 AM
To: Delia Kaye
Subject: Keuka Road Follow-up regarding Keuka Road LLC's ISMP Mass DEP file # 137-1419

Dear Members of the NRC / Commission,

Following our last (zoom) meeting on December 2, 2020, it was mentioned that the Invasive Species Management Plan (ISMP) proposed for the Hosmer Meadow subdivision was in part my and the landowner's (Lot 2A Keuka Road) responsibility.

I disagree that the responsibility lies on either me or the owner of Lot 2A specifically for this filing, (Mass DEP file #137-1419). The OOC was issued exclusively to the Developer of Hosmer Meadows (Keuka Road LLC,) (by the NRC and subsequently by way of a SOC by the DEP), and NOT the owner of Lot 2A or me, placing the burden of completion entirely on, (Keuka Road LLC) as the sole responsible party.

The language in the (special conditions portion) of the SOC issued to Keuka Road LLC, (by DEP) is specific and clearly puts them as the responsible party to complete the work, (see form 5 OOC (recorded at) MSRDR book 74237 page 546) and made part in whole and in part of the SOC), The NRC should be in possession of these documents - I viewed them online on the Middlesex South Registry of Deeds website - so I know that they are readily available. The cover page of their ISMP, (submitted to the NRC), states that the plan was prepared for Keuka Road LLC and no one else.

The ISMP was submitted as part of Keuka Road LLC's original NOI and was ultimately approved by the NRC, appealed and then approved by the DEP. The Beckman's hired and paid Goddard Consulting for this ISMP and beyond the NRC DEP and the Beckman's no one - until now, has seen it, at least until this allegation of *responsibility* arose.

There is a recorded easement plan also at the (MSRD). This plan requires the developer of Hosmer to install a stormwater detention basin and other work, (inter alia as asserted in the recorded slope and easement agreement,) on a significant part of lot 2A - (around a half an acre). As part of this recorded easement agreement, (it allows) Keuka Road LLC, (essentially unfettered legal permission) to use the full 23,000+ square feet of land for stormwater management and the ISMP mitigation, for the express purpose of achieving two extra lots and the construction the road.

The easement agreement, (also recorded at MSRDR), including the ISMP, was modified slightly in the SOC; which contains specific language on the plan indicating a meadow mix be applied within this easement, along with the ISMP. This portion of the SOC was amended at the time of review and if there were other responsible parties to be included, then they should have amended, corrected and disclosed them and any other changes at that time - at least on the official documents.

As part of their OOC and SOC it is incumbent upon the landowner / applicant to alert the NRC and DEP as to the recorded easements, (of which I have attached a copy). This should clarify this issue of who is responsible for this legally issued OOC, SOC and the ISMP, (as originally filed with the NRC and as a supplement (with amendments) to the SOC).

The Covenant signed by Keuka Road LLC, (the Beckman's) with the Planning Board also puts the responsibility solely on them to complete all (amongst other things), the work - specifically the ISMP.

For the record, we, (Westchester Homes), nor the landowner were ever notified by anyone as to our role regarding Keuka Road LLC's ISMP, never made aware of or invited to any site meetings for or in the implementation of the Keuka Road LLC's ISMP. Neither the landowner nor I, ever attended any of the original NOI hearings or reviewed any other subsequent filings / appeals / or attended any hearings or site meetings for Hosmer Meadows, for any reason including for or its design or implementation.

We have filed our own ISMP for Lot 2A and plan to undertake that work ourselves.

We respectfully request that;

*"The NRC / Commission not consider the lack of compliance of the
Hosmer Meadow Developer to influence our application - either for or against.
We request that our application stand on its own as it is presented to the NRC."*

It is important to note that the developer of Hosmer Meadows can not receive a COC unless that work is complete, therefore; I am confident - if they want occupancy permits and a COC the work will get done. Keuka Road LLC has a mortgage, so the work will get done by them or their mortgagor (in order to protect their financial interest in the project).

This proposition of the Keuka Road LLC stating they are, "*not responsible*" is ludicrous. The NRC, Planning Board, Building Department and DEP have significant leverage to assure the ISMP's proper completion is done by the responsible party, which is clearly (Keuka Road LLC).

Keuka Road LLC is attempting to underhandedly place their burden of required work upon the NRC or some other agency to do their bidding as enforcer for their burden of completing the ISMP on an unsuspecting third party.

Respectfully,
Steve Marsh
for Westchester Homes Inc.