

SPECIAL MEETING MINUTES
WINDSOR INLAND WETLANDS & WATERCOURSES COMMISSION
TUESDAY MARCH 19TH, 2024 7:00PM
VIRTUAL MEETING VIA ZOOM

Online webinar: <https://us02web.zoom.us/j/85435818689>

Chairman Fraysier called the meeting to order at 7:05 p.m.

1. ROLL CALL

Chairman Fraysier, Secretary Towers, and Commissioners, C. Elkins, B. Stearns and alternate Commissioners J. Adamson and M. Cote.

Also present was Wetland Agent, Chloe Thompson.

2. PUBLIC COMMUNICATIONS (3-minute limit on items other than Public Hearings) – None; communications closed at 7:06pm.

3. Violations

- Violation 24-123: 851 Marshall Phelps Rd, Eric Atanga & Dynamic Distribution LLC. – Cease & Correct Order

W. A. Thompson reviewed the memo distributed to the Commission describing her observations from a site visit and the reason for the issuance of the Cease and Correct Order (memo attached). W.A. Thompson explained the show cause hearing process to the lessee, Eric Atanga.

Eric Atanga addressed the Commission as the lessee for the property, the owner of which was not present. E. Atanga explained that stated that he has an office in the building at 851 Marshall Phelps Road and his business is to rent this space to drivers traveling long-distance. E. Atanga explained that because of the economic status, there have been more trucks parked at this location than originally expected. E. Atanga explained that most of the site is used to store trailers only, rather than the cabs which have engines. E. Atanga stated that he has education in related fields and understands the importance of keeping the environment free of contamination.

E. Atanga explained that there was one trucker that had about 8 containers stored under the truck that were actually empty, and E. Atanga told this trucker to remove the containers. E. Atanga stated that he has “Speedy Dry” in a container, which he uses to clean up any spills that may occur. E. Atanga addressed the comment from W.A. Thompson about the potential dumping of oil in the wetlands, and said that when he looked at this area, he believes it is not oil. E. Atanga stated that it wouldn’t make sense for him to dump oil into the land because you can dispose of it for free at AutoZone. E. Atanga stated that an environmental specialist observed the wetland area in question and stated that it was a natural effect in the wetlands as leaves break down rather than motor oil. This environmental specialist provided Eric with materials to surround the catch basin to absorb oils. E. Atanga stated that

since W.A. Thompson visited the property, the containers under the truck cabs have been removed and he has made an effort to clean up the site; he has always made it a priority to keep the property clean from oils and contaminants.

W.A. Thompson explained that when this type of use for a property is proposed, there are requirements for specific drainage infrastructure to control for oils and contaminants, such as an oil-water separator. W.A. Thompson stated that she appreciates the efforts made to keep the property clean, but spillage is inevitable with maintenance activity especially. This property was not permitted to have this type of use and does not have proper infrastructure to control for contaminants. E. Atanga stated that this parking lot is only used for temporary parking, not “storage”, and the only work being done on the property is what would occur while the trucks are on the road. W.A. Thompson stated that she observed more than one truck being maintained on the property with at least 20 cabs and trailers stored. The most recent use of this area was only for the parking associated with the medical building. During the site visit, there was an open container of antifreeze next to a truck cab undergoing maintenance. E. Atanga stated that this truck was leaking antifreeze, and the bucket was used to collect and store briefly until it could be put back into the engine after a repair taking place that same day.

Commissioner Elkins stated that in some of the site photos, it looks like there may have been spillage of contaminants under one of the trucks, and asked W.A. Thompson if this was just rainwater or if it could have been antifreeze, oils, etc. W.A. Thompson stated that some of it could have been leftover rainwater, but she observed oils on the pavement and in the catch basin directly in front of a truck cab that was being actively maintained. Pictures of this are also in the memo. Commissioner Elkins asked if it was raining that day. W.A. Thompson stated that there was rain on and off, and there was a rainstorm later that evening.

Commissioner Towers asked if there was a permit obtained for this use of the property. W.A. Thompson stated that this activity, the maintenance and storage of commercial vehicles is not permitted by our Zoning Regulations, therefore no permit has been issued. Commissioner Adamson asked if this activity would still be in violation of the regulations if the parking was only for cabs overnight. W.A. Thompson stated that it is, and a permit would still have been a requirement.

Commissioner Towers asked if this property was only to be used as parking for the medical building and offices on the property. W.A. Thompson confirmed this.

Commissioner Towers asked if the property owner was aware of this issue. E. Atanga stated that he is renting the property, and the owner is aware of the activity. Commissioner Towers stated that the property owner should also be held responsible for addressing the enforcement order. W.A. Thompson stated that the Cease and Correct was issued to both Eric Atanga and the property owner, Dynamic Distribution LLC., a company operating out of South Windsor. Commissioner Towers asked if the property owner should have been present for this hearing. W.A. Thompson stated that a copy of the order was sent via certified mail to the property owner, but she does not have an email address or phone number and has not heard a response from them.

Commissioner Elkins noted that E. Atanga stated there was someone on site who determined the sheen on the water was not actually waste oil, but a natural occurrence and asked if this was something that could happen. W.A. Thompson stated that there is some type of oil sheen appearance that can be produced naturally, and asked Commissioner Cote if she could provide further information on this. Commissioner Cote explained that this can occur naturally depending on vegetation or soil types with stagnant water. Commissioner Elkins asked if there was an analysis to be conducted to determine this. W.A. Thompson stated that a sample could be taken to a laboratory to test for the presence of motor oil. Commissioner Cote agreed.

Chairman Fraysier summarized the issues and proposed the next steps to address the violation as outlined in the Cease and Correct Order. W.A. Thompson explained to E. Atanga that given the present use and observations, he now has the burden of providing proof that this activity has not impacted the wetlands so the Commission can appropriately prescribe remedial actions if necessary.

Chairman Fraysier stated that he believes the Commission and E. Atanga should now confirm a date by which the corrective measures are to be addressed. E. Atanga asked for clarification on the removal of commercial vehicles. W.A. Thompson stated that all of the truck cabs and trailers have to be removed from the property. E. Atanga asked if the trailers could remain. W.A. Thompson stated that the truck cabs should be prioritized, but the trailers should also be removed. W.A. Thompson stated that a separate enforcement order from the Zoning Officer will require the removal of all commercial vehicles as well. E. Atanga asked why this was being ordered if contamination has not yet been confirmed. Commissioner Towers stated that this was not a permitted activity, and if it were, the property would have stormwater infrastructure installed to allow for this type of use.

E. Atanga stated that he would be much more understanding of this if the neighboring properties did not also have a similar use; there are commercial vehicles being stored on two or three separate properties directly adjacent. W.A. Thompson explained that some of the issues E. Atanga mentioned regarding the other properties are going to be addressed by the Zoning Enforcement Officer, and the other two properties to have permits to conduct a commercial business.

Chairman Fraysier asked E. Atanga to propose dates by which the items listed in the Cease and Correct would be addressed. E. Atanga stated that in regard to the maintenance, the work that is done is very minor and would be considered road-side maintenance; changing breaks, replacing tires, etc. E. Atanga invited the Commission to the site to observe the conditions.

Commissioner Elkins stated that the issue at hand is that the storage commercial vehicles in addition to the maintenance, is not a permitted use; the trailers also have components that could pose a risk of contamination as they have their own mechanics. Commissioner Elkins proposed giving E. Atanga a week to remove the cabs and trailers. Chairman Fraysier added that any improper storage of contaminants also need to be removed, in addition to implementing any control measures to prevent any discharge of such into the wetlands; removing the vehicles would be one way of controlling this. The catch basins should also be cleaned free of sediments and contaminants. E. Atanga said that a week's time is not long enough for him to move the vehicles as he has to find a place to move them to. W.A. Thompson clarified to the Commission and E. Atanga that while deadlines

to complete the work are necessary, the Commission has the ability to change the dates as long as there is evidence of efforts being made to achieve compliance with the corrective measures. For example, within a week a company can be contacted to schedule the cleaning of the catch basins, water/soil samples can be collected and sent to an environmental testing facility, etc. W.A. Thompson stated that the Commission does need a date of some sort to ensure progress is being made. E. Atanga stated that he will review the Zoning Regulations to get a better understanding of the permitted uses of the property.

Chairman Fraysier asked if E. Atanga would be able to contact the property owner to schedule cleaning of the catch basins, and give this information to W.A. Thompson by March 27th. E. Atanga stated that he has put spill control material into the catch basin to absorb gasoline and oils, and he's not sure what else he is supposed to do to clean the catch basins. E. Atanga stated that he wanted the Commission to come and visit the conditions of the site, so this violation can be considered closed and addressed. Commissioner Adamson stated that as long as the commercial vehicles and associated activity is present on site, there is still an ongoing violation as this poses a risk to the adjacent wetlands. Commissioner Cote explained to E. Atanga that the absorbent material in the catch basin will collect contaminants as they flow into it, but a cleaning company would remove the sediments from the entire basin typically using a vacuum truck. Commissioner Cote added that she recommends removing the vehicles and the stored contaminants prior to having this completed to ensure all of the contaminants have been removed.

Chairman Fraysier stated that all containers of hazardous material should be removed immediately and asked E. Atanga when this could be completed by, if it hasn't already. E. Atanga stated that the containers have been removed and discarded. Chairman Fraysier suggested that by March 27th E. Atanga should contact W.A. Thompson with a plan of how each corrective action (1-4 in Cease and Correct) will be addressed. More specifically Chairman Fraysier stated that this plan shall include, the following: A date by which the catch basins will be cleaned and; a date of when an environmental assessment of wetland impacts and contamination will be completed.

E. Atanga stated that the Commissioner has not yet addressed the fact that W.A. Thompson was only notified of this because of an issue with the Police Department's Code Enforcement Officer, not because he was doing something illegal. W.A. Thompson stated that she was only aware of this because of the Code Enforcement Officer, but the activity on-site is still in violation of the IWWC Regulations and must be addressed.

Chairman Fraysier encouraged E. Atanga to have consistent communication with the wetland agent to remain in compliance. W.A. Thompson added that if E. Atanga could forward the contact information for the property owner, she can then communicate with them directly.

Commissioner Adamson made a motion to **affirm the issuance of the Cease and Correct Order for Violation 24-123: 851 Marshall Phelps Rd, Eric Atanga & Dynamic Distribution LLC., and a status report must be submitted by March 27th, 2024** Commissioner Towers seconded the motion.
Vote 6-0-0

6. Petitions From Commissioners

W.A. Thompson noted that she has modified the template for enforcement orders after having a few conversations with DEEP staff; this recent order included more specific corrective actions rather than waiting for them to be prescribed by the IWWC at the show cause hearing. Previously issued orders only included urgent work to be completed such as silt fence installation or other control measures. However, if further corrective action is outlined, it can be a much more efficient method to have a direct path forward which benefits both the Commission and the receiving party. If the Commission feels as though the corrective actions need to be revised or expanded upon, this can be done in the show cause hearing through a motion to revise the original order.

7. Adjournment

Commissioner Towers made a motion to adjourn at 8:31 p.m. Commissioner Elkins seconded the motion. Vote 6-0-0

I certify that these minutes were approved on

Marlene Towers, Secretary
Inland Wetlands and Watercourses Commission