



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

January 22, 2021

Regulatory Division  
File No. NAE-2020-03177

### NOTICE OF VIOLATION

Thaddeus P. Bysiewicz  
Homes in Westfield, LLC  
15 Meriden Road  
Middlefield, Connecticut 06455

Dear Mr. Bysiewicz:

This letter is in reference to work that is being conducted at Map 07 Lot 0350 Ridgewood Road in Middletown, Connecticut. The work involves the discharge of dredged or fill material in wetlands for construction of residential condominiums and appears to be occurring without a Department of the Army permit. Information received in this office indicates that you are a party associated with this activity, either as a property owner or a person performing or causing the performance of this work.

Aquatic resources are regulated by the U.S. Army Corps of Engineers (Corps) pursuant to Section 404 of the Clean Water Act (CWA). The CWA (33 USC § 1344) prohibits discharges of dredged or fill material into waters of the United States, including wetlands, without the proper authorization. Violations of Section 404 can result in civil fines of up to \$54,833 per day for each violation. Injunctive relief, including restoration, is also available.

Some, or all, of the work undertaken at the property identified above appears to be within Corps jurisdiction and we have no record that you have obtained a Corps permit. A fact sheet that includes a summary of our authority, jurisdiction, definitions and permit requirements is attached to this letter. Violations of the CWA can result in administrative penalties, civil penalties of up to \$54,833 per day of violation, criminal fines or imprisonment. Every day unauthorized fill remains in place is a separate day of violation. In addition, restoration of the area to its pre-violation condition may be required.

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.

Federal Regulation requires that we investigate any unauthorized work that has occurred in areas subject to our jurisdiction. To assist us in this investigation we request that you respond, in writing, to the following questions:

1. Provide the name of all persons or entities that have ownership interest in the parcel(s) identified above and when that ownership was attained.
2. Submit a description of the work that you have undertaken (land clearing, discharge of fill in wetlands and in named waters and unnamed tributaries) in areas subject to Federal jurisdiction (wetlands and waters below ordinary high water).
3. Identify the footprint (area in square feet or acres) of impact to each water and/or wetland. This should include those areas grubbed (removal of stumps), graded or covered with fill material, and otherwise altered through modification of drainage patterns.
4. 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 Corps jurisdiction.
5. 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 or work occurring in wetlands or waterways at the site.
6. Identify the types of equipment used to excavate or move soil material within the wetland or waters. State the names and addresses of the owners/operator of the equipment for this work.
7. 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).

Please 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, conduct our investigation with the information available to us 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.

In summary, we request that you respond to our information request within 15 days of the date of this letter. Also, note that this letter will not foreclose our options to initiate appropriate legal action. If you have any questions or wish to arrange a meeting to discuss this matter, please contact Ms. Cori M. Rose of my staff at (978) 318-8306.

Sincerely,

Michael S. Wierbonics  
Acting Chief Permits & Enforcement  
Regulatory Division

Enclosure

cc:

R. Putnam, US EPA New England, Region I, OEP Wetland Enforcement (via email)  
B. Golembiewski, CT DEEP LWRD (via email)  
N. Williams CT DEEP Water (via email)  
R. Baia, Middletown Enforcement Officer (via email - [Ronald.Baia@middletownct.gov](mailto:Ronald.Baia@middletownct.gov))



# REGULATORY FACT SHEET

**U.S. ARMY CORPS OF ENGINEERS**

**BUILDING STRONG.**

Under **Section 10 of the Rivers and Harbors Act of 1899** (33 U.S.C. 403), a Corps permit is required for all work, including structures, seaward of the mean high water line in navigable waters of the U.S. In New England, for purposes of Section 10, navigable waters of the U.S. are those subject to the ebb and flow of the tide, as well as a few of the major rivers used to transport interstate or foreign commerce.

Under **Section 404 of the Clean Water Act (CWA)** (33 U.S.C. 1344), a Department of the Army (DA) permit from the U.S. Army Corps of Engineers is required for activities which involve the **discharge of dredged or fill material** into waters of the United States (U.S.), including not only navigable waters of the U.S. but also inland rivers, lakes, streams, and **wetlands**. In inland waters, Corps jurisdiction under the CWA extends landward to the **ordinary high water mark** or the **landward limit** of any wetlands, whichever is more extensive.

The term **“wetlands,”** as used above, is defined by Federal regulations as “... those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions...”(33 CFR 328.3(b), November 13, 1986 Federal Register). Wetlands generally include swamps, marshes, and bogs. Forested and meadow areas that lack standing water can also be wetlands. The Corps uses a three-parameter method to define the wetland/upland boundary. Please note that such boundaries might not be the same as wetland boundaries determined by state or local regulations, since those agencies sometimes use different criteria to delineate wetlands.

The term **“discharge”** is defined as the addition of dredged or fill material into waters of the U.S. This may include the redepositing of wetland soils such as occurs during mechanized land clearing activities, including grubbing, grading, and excavation.

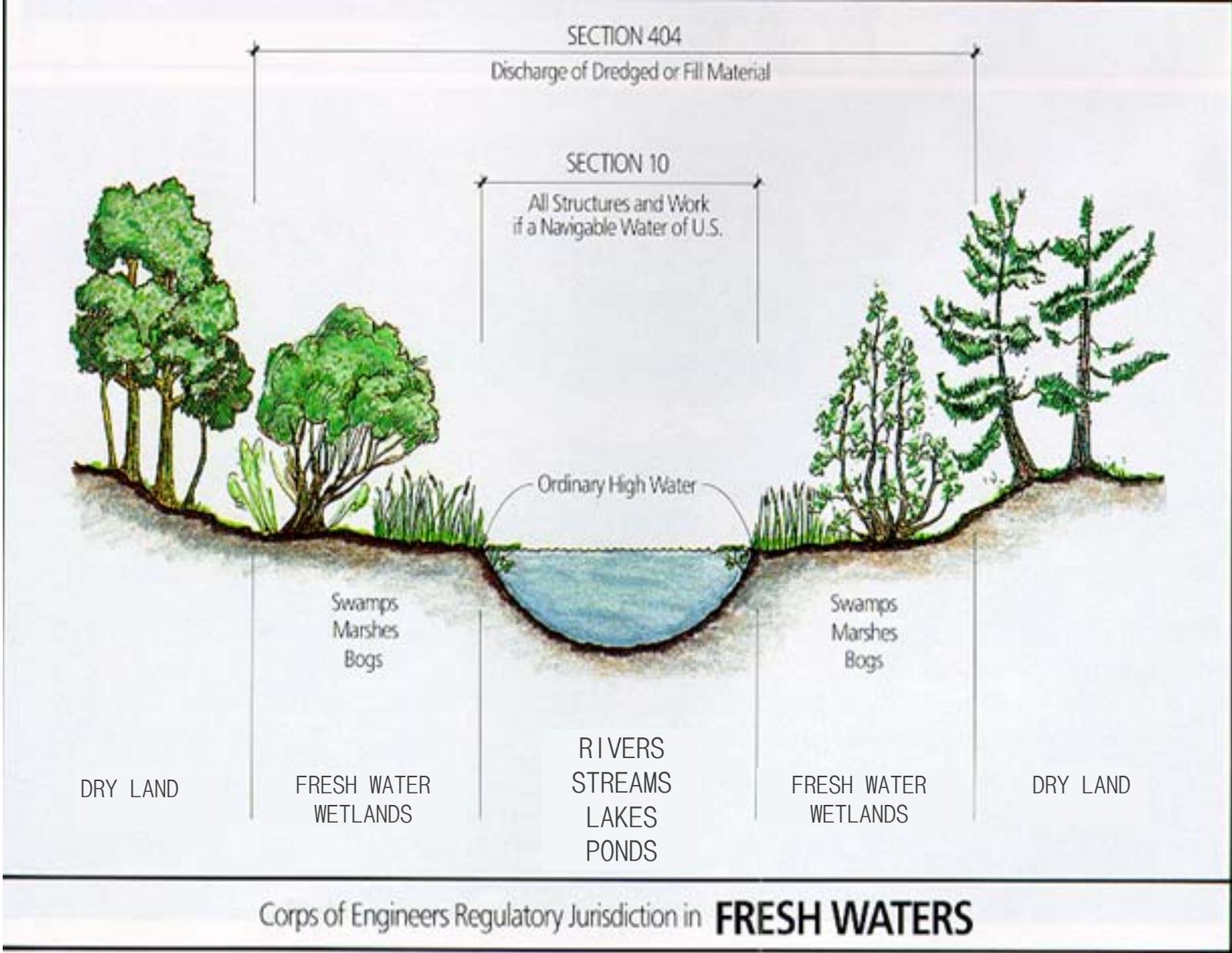
The term **“fill material”** is defined by Federal regulation as “(1)...material placed in waters of the U.S. where the material has the effect of: (i) Replacing any portion of a water of the U.S. with dry land; or (ii) Changing the bottom elevation of any portion of a water of the U.S. (2) Examples of such fill material include, but are not limited to: rock, sand, soil, clay, plastics, construction debris, wood chips, overburden from mining or other excavation activities, and materials used to create any structure or infrastructure in the waters of the U.S. (3) The term fill material does not include trash or garbage.” (33 CFR 323.2 (e), December 30, 2008 Federal Register). The EPA is responsible for regulating discharges of wastes and other pollutants.

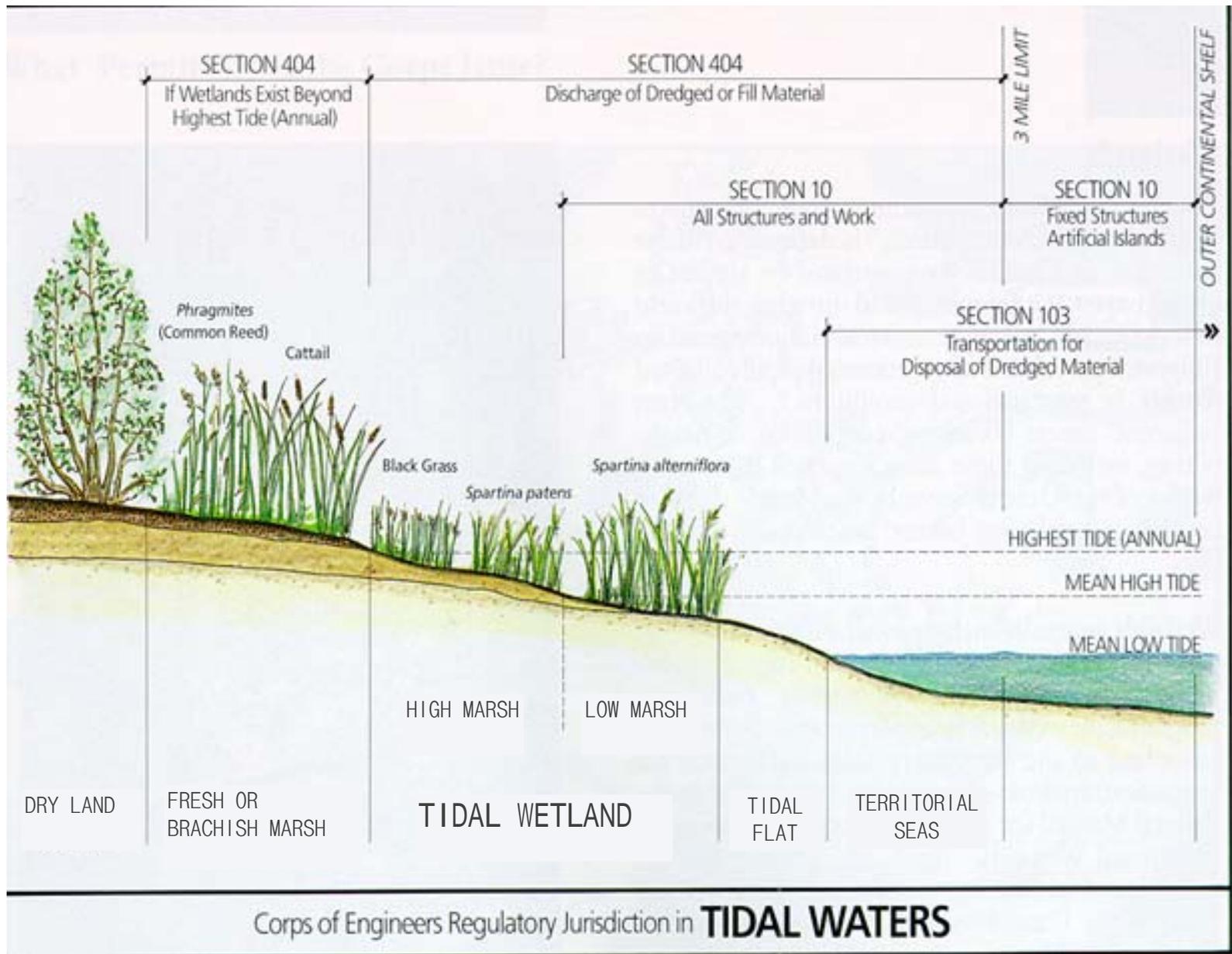
You must obtain authorization for any work within Corps jurisdiction before you can legally undertake such work. Corps permits are a limited form of authorization containing a stated set of terms and conditions which must be complied with. Before starting any work in waters of the U.S., people doing such work or having such work done for them should: (1) be certain that a DA permit has been obtained or is not needed and (2) familiarize themselves and their contractor with the terms and conditions of the permit. Performing any work which requires, but is not authorized by, a Corps permit, or failing to comply with the terms and conditions of a Corps permit, may subject the developer, the landowner or other responsible party, including the contractor, to criminal and/or civil liability.

General Permits (GPs) have been issued for each New England state. The GPs are located at [www.nae.usace.army.mil/missions/regulatory](http://www.nae.usace.army.mil/missions/regulatory) >> State General Permits. Projects in Corps jurisdiction not authorized by a GP require an Individual Permit (IP). See the GPs for each state for more details. Violations of the CWA are punishable by civil and/or criminal fines and possible imprisonment. In addition, an order may be issued for (1) complete removal of the unauthorized work or fill and (2) restoration of the area to pre-construction conditions.

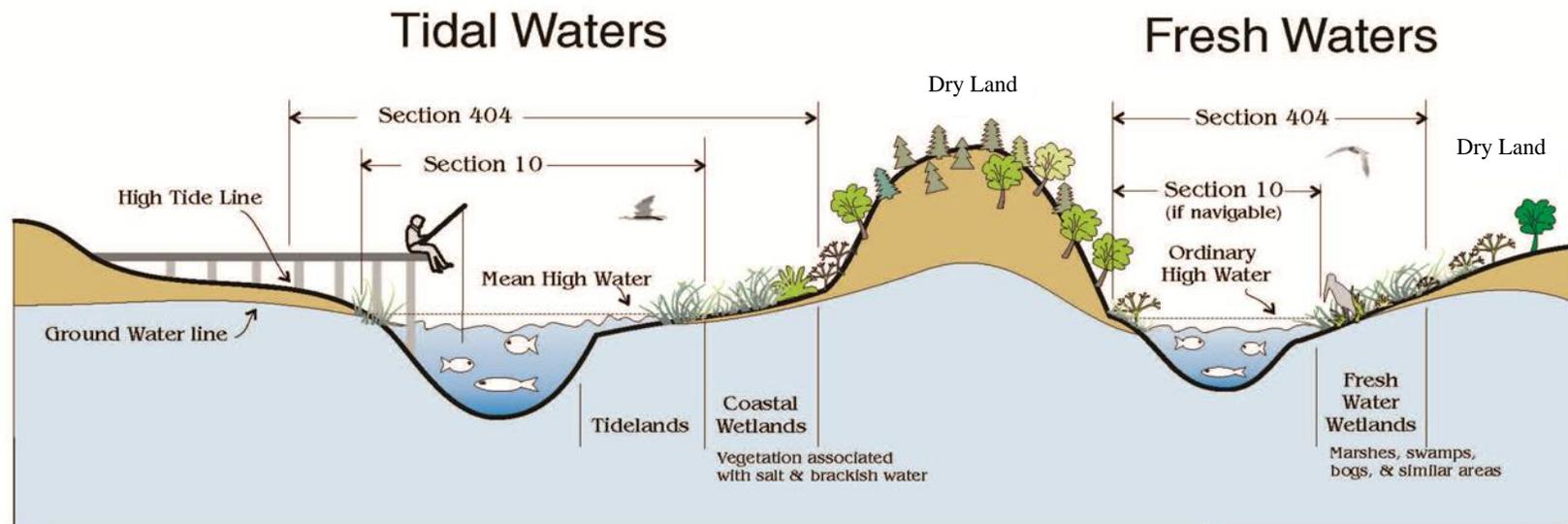
**U.S. ARMY CORPS OF ENGINEERS – NEW ENGLAND DISTRICT**

696 VIRGINIA ROAD, CONCORD, MA 07142-2751  
WWW.NAE.USACE.ARMY.MIL/MISSIONS/REGULATORY





# CORPS OF ENGINEERS REGULATORY JURISDICTION



Typical examples  
of regulated activities

**Section 103**  
Ocean Discharge  
of Dredged Material

Ocean discharges of  
dredged material

**Section 404**

Disposal of Dredged or Fill Material  
(all waters of the U.S.)

All filling activities, utility lines, outfall structures,  
road crossings, beach nourishment, riprap,  
jetties, some excavation activities, etc.

**Section 10**

All Structures and Work  
(navigable waters)

Dredging, marinas, piers, wharves,  
floats, intake / outtake pipes,  
pilings, bulkheads, ramps, fills,  
overhead transmission lines, etc.