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TOWN OF AVON
INLAND WETLANDS

Michael W. Klemens, LLC
POB 432—105 Main Street
Falls Village, CT 06031
October 30th 2020

Attorney Brian Smith
Robinson and Cole, LLP
280 Trumbull Street, Hartford, CT 06103

Dear Attorney Smith

I have reviewed various response documents in the file regarding the second attempt to amend the wetland map for the properties variously termed Blue Fox Run Residences, Blue Fox Residential Development, and Blue Fox Run Golf Course. I understand that a response is requested immediately so as to be included in the packets of the IWWA.

Hesketh: I find comments by David S. Ziaks, PE confusing and unsupported by evidence in the record. We have heard testimony from numerous abutters that the area designated as the 500-year flood on the subject parcel have flooded within recent memory, despite flood control measures upstream. The 500-year flood area that is currently protected on the Avon wetlands map will be removed from the map, and this area that floods made available to development. This is poor public policy to designate an area known to flood for potential development.

CLA/Russo: I have repeatedly stated that I am not a soil scientist. I do have considerable expertise in issues of resiliency planning. The issue for me is not the delineation line *per se*, but the fact that the 500-year flood area is currently protected as “mapped wetlands” and will no longer be protected from development by this amendment to the Avon wetland map. Attempts to disqualify me on this basis ring hollow—the facts are that if the Avon IWWA allows this map amendment to proceed there will be large areas of the site which floods made available for development. That is my concern—while this is technically a wetlands map amendment, it has much larger scale resiliency implications.

Davison/Klein: This response is flat out inaccurate and a blatant attempt to distort my testimony, including asking for a response from the Connecticut Siting Council for a statement I never made. I have never stated that the Connecticut Siting Council uses the 500-year flood line to substitute for a wetlands line. Please read verbatim the following which has been my position consistently throughout both attempts to amend the Avon wetlands map:

“Many State agencies are now considering that the 500-year flood boundary as the appropriate precautionary standard for resiliency planning purposes. There is a constant upward trend (in terms of moving to higher elevations) that is manifested in many recent permitting decisions. The Applicant is relying on the 100-year flood line as sufficiently protective of the public trust in the protection of land and water resources. I respectfully disagree with that position. While many agencies and towns are moving to incorporate more precautionary standards, from what I can discern from this proposal, the Applicant seeks to take the Town of Avon backward by removing regulatory protection from large areas of floodplain, by employing an antiquated standard that has been repeatedly demonstrated as being woefully inadequate to manage the effects of today’s climate (i.e., the “new normal”).”

Where in that statement which has appeared in several letters I have written (most recently October 28, 2020) is there any discussion or implication made that the Connecticut Siting Council uses the 500-year flood line as a wetland line? I served on the Council for more than seven years and our concern for infrastructure was to place it above the 500-year flood, sometimes even higher. The Council relied on wetlands boundaries delineated by soil scientists, as is the practice throughout Connecticut.

Mr. Klein says it is accepted practice to delineate wetlands on a site before development plans are made and that he has four delineation projects in his backlog. It is correct that it is accepted practice to delineate wetland constraints prior to designing a development. But this is something all together different, **there is a current wetland delineation**. Even the Applicant's own consultants, when pressed on this issue during the October 6th 2020 public hearing, conceded that the customary procedure to request a wetland amendment is in tandem with a development application.

If this amendment is allowed to proceed, absent any defined development plans, the end result of this exercise will result in significant acreage now regulated by the Town of Avon as wetlands/floodplain and/or alluvial soils being reclassified as suitable for development. It will allow areas that experience frequent flooding to be potentially developed. These areas are currently protected by the Avon wetlands map. What is the public benefit for allowing flood prone areas that are now considered undevelopable by virtue of being mapped as "wetlands" to be available for development? To the contrary, allowing development on such lands becomes an unnecessary and unjust public burden.

Sincerely,



Michael W. Klemens, PhD