

10 East Drive  
Stanhope, NJ 07874  
Feb 3, 2006

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Subject: Formal Investigative Inquiry testimony Complaint #05-13 Stanhope Borough Engineer

On Feb 2, 2006 I testified under oath at the Office of the Attorney General, Department of Consumer Affairs, Board of Engineers (BOE) in Newark against John Cilo Jr the Stanhope Borough Engineer. I noted numerous areas of gross incompetence, official misconduct, false reports, plans and memorandum. I provided 3 marked-up Maps and other documents that were entered as evidence.

The three Maps were:

- a. Map: Borough of Stanhope Tax Map 109 with adjacent property owners properties and Block 10902 Lot 10 and 12 {provided at investigative inquiry not enclosed) This map showed the locations of all the surrounding adjacent property owners that complained about the illegal development in a petition to the Borough of Stanhope and other letters provided in the attachments and the minor subdivision. My property location was shown directly south of Lot 10 across the street on East Drive and I noted my mailbox was on Lot 10 which was visited daily to pick-up the mail and observed the development daily.
- b. Map: Eleanor Dawalt SESCO entitled as "Lot Line Adjustment and Soil Erosion and Sediment Control Plan Tax Map Sheet 109 Block 10902 Lots 10,11,12 Borough of Stanhope" dated as of September 20, 1999 and approved by Cilo Oct 9, 2001 and Stanhope Nov 7, 2001" Numerous comments were made on the SESCO. The Stanhope SESCO was not certified by Sussex County Soil Conservation District as required by the State Soil Erosion and Sediment Control Act (SESCA) and Stanhope Land Development Code Chapter 100-119 and was not legally sufficient to enable development to start or the issuance of a certificate of occupancy. The conservation area, non-disturbance area were noted as well as the shade trees that were plotted with note #9 to preserve them in the open area. In addition, critical slope variances were noted and the Local municipal code 100-63.1 critical slope areas for areas above 8% slope which required hay bales with silt fences above SESCO standards to protect the inhabitants and private property which is enforced under the authority of the Borough Engineer and the Town Council and Mayor. The trees to be saved were marked with an annotation. It was noted there was no high walls shown on the site plan.

c. Map: Eleanor Dawalt SESCO Plan entitled as "Lot Line Adjustment and Soil Erosion and Sediment Control Plan Tax Map Sheet 109 Block 10902 Lot 10 Borough of Stanhope" dated as of September 20, 1999 and certified by Mr. Lundin on Oct 8, 2002" (SESCP44) {not approved by Stanhope municipality Land Use Board and invalid SESCO per SSCC finding Jun 16, 2003. This is a fictitious plan that was developed to prevent the detection and apprehension that an 8' high wall and another wall was built in the conservation area adversely impacting drainage easements and that 3 of 4 shade trees were destroyed, et al.} I indicated the following time line on the Map:

- (1) Certificate of Occupancy Lot 12, 6 Oak Drive 7/10/02 illegally issued
- (2) Deed signed to Lamicellas 7/12/02
- (3) Petition by all the adjacent property owners to comply with the site plan and site grading profile, restore trees and comply with codes 7/25/02
- (4) Meeting among Mr. Cilo Jr, Mr. and Mrs. Pawar, Mr. Caggiano and Mr. Lamicella at 12 East Drive 7/27/02 wherein the wall was discussed and trees. Mr. Cilo's report noted the wall was not shown on the site plan and that trees would be restored. The minutes falsely stated the details wherein Mr. Cilo admitted a wall existed that did not meet Stanhope's Code 100-58C and that he lied several times.
- (5) Walls 7/28-8/15/02 shows the dates the lower wall was constructed in the drainage easement, non-disturbance and conservation area illegally.
- (6) The Soil Erosion and Sediment Control Plan (SESCP) submitted with the SH#44 application was a false and fictitious submission by Eleanor Dawalt, Franklin Dawalt Jr., Wendell Inhoffer PE and Judith Keith PP. I provided testimony Borough Engineer John Cilo Jr and others that engaged in an apparent criminal conspiracy. Mr. Cilo used a knowingly false certification without Land Use Board approval to sign his approval of another illegally issued certificate of occupancy for 2 Oak Drive Lot 10.

d. Letter, Jul 29, 2002 from Mr. Cilo to Mr. Dawalt (the husband of Eleanor Dawalt. Mr. Dawalt operated the backhoe and directed the construction) that directed the lower wall be emplaced rather than removing the failing wall and comply with the site plan grading profile, ordered the shade trees to be replaced on a 2-1 basis which they were not and correct the design of the half built fence that was erected that was not required or shown on the plan as the walls were not shown or required..

The following record in the Stanhope Town Council minutes of Oct 29, 2002 is provided herein regarding two walls that were illegally constructed on Block 10902 Lots 10 and 12. Neither is shown on the fictitious SESCO with the SH#44 application. A single 8' high wall existed when the certificate of occupancy was issued in violation of the State Soil Erosion and Sediment Control Act (SESCA) and Stanhope Code 100-119 for Stanhope Block 10902 Lot 12 on Jul 10, 2002. During Jul 29, 2002 to Aug 15, 2002 the second lower wall not shown on the fictitious SESCO was built in the non-disturbance, drainage easement, conservation and buffer zone and shows the knowledge and complicity of the Mayor and Town Council.

"Mr. Caggiano stated the deed for 6 Oak Drive was signed on Jul 12, 2002 and he asked how the Borough Engineer could direct the (prior) builder (E.N.F. Development Co. LLC) to put the second (lower) wall in after the deed was signed. Mr. Caggiano contended that two applications were required to put up the second wall which traversed both properties (2 and 6 Oak Drive). The Mayor McNeilly stated he completed his review of this project and the Borough of stands behind its position on how this project is being handled. The Mayor suggested that if Mr. Caggiano disagreed, he needs to take it to another level".

On Feb 2, 2006 the investigation was brought to another level after an initial investigation by the BOE. The Sussex County Soil Conservation District (SCSCD) knows the Block 10902 Lot 10 and 12 minor sub-division development with over 20,000 sq ft disturbed was undertaken in violation of the SESCO, the Lot 12 certificate of occupancy was issued in violation of the SESCO and the SESCO for Lot 10 only submitted with the SH#44 application was determined to be invalid the State Soil Conservation Committee.

On Feb 2, 2006 I filed formal complaints with the BOE against the following Professional Engineers: Wendell Inhoffer PE12292, Peter Schneider PE26056 and SCSCD's consultant Mr. Joseph Sedivy and a corollary complaint with the Board of Professional Planners against Judith Keith PP 3552 for misconduct, gross incompetence or other factors.

I was requested by DAG Michelle Albertson to limit my testimony to Mr. John Cilo Jr.; however, since the misconduct and gross incompetence of others was also contributory to the conspiracy I noted the conduct of the above and their participation in the events on a very limited basis since they all revolve around the fictitious SESCO that was submitted with the SH#44 application to the SCSCD that was improperly certified by SCSCD on Oct 8, 2002 eleven months after the illegal development began and was never submitted to the Land Use Board with a fee to be approved. There exists no approved Stanhope and certified Department of Agriculture SESCO for the minor subdivision. The complete development and issuance of certificates of occupancies for both homes was conducted in violation of State and municipal laws and violated the site plan and its grading profile with the destruction of shade trees plotted and detailed to be protected.

I was requested by the BOE to provide my additional ninety (90) exhibits in a separate letter to the BOE. This attached material including the evidence presented at the Board and that was provided prior to the investigative inquiry meeting provides on a limited basis the evidence as I have additional 3 feet of evidence and 20 audio tapes of Stanhope meetings. The attachment is a 1 inch thick package of supportive documentation. I will support any further investigation by the BOE concerning Mr. Cilo Jr., the other professional engineers and any criminal investigation authority that the BOE may refer the matter.

The documentation attached, excluding maps already entered as evidence, and codes referenced are:

- d. State Soil Erosion and Sediment Control Act N.J.S.A. 4:24-39, et. seq. and N.J.A.C. 2:90-1.1, et. seq.
- e. Stanhope Land Development Code Chapter 100
  - a. Article I – 100-9 B Notice concerning development applications
  - b. Article VI - Subdivision and Site Plan Review 100-33 Review and approval procedures, 100-34 Minor Subdivision, 100-34.1 Purpose of fees, 100-34.4.G.(3)(d) Stop work order by Borough Engineer
  - c. Article VII – Fences, wall and sight triangles 100-58 C Walls; Critical slopes area 100-63.1.B(6) hay bales and silt fences slopes greater then 8%
  - d. Article XVIII - Design Standards 100-119 Soil Erosion and Sediment Control measures (Stanhope approval and SCSCD certification of SESCO required for sub-division}.
  - f. Stanhope Shade Tree Commission Chap 53 Powers 53.5E Infected trees, 53-6.B(2) Prohibited acts designate trees
  - g. Uniform Construction Code Tech Bulletin 88-6(2), Feb 1988, Construction Permit for Retaining Walls
  - h. Letter, Dec 5, 2005 from Board of Engineers (BOE) Arthur Russo to Thomas Caggiano: Re: Complaint 05-13 (Investigatory Inquiry Hearing Feb 2, 2006)

- i. Letter, Nov 15, 2005 from Senator Lautenberg to U.S. Attorney's Office James Nobile: re: criminal conspiracy {Meeting held Nov 30, 2005}
- j. Letter, Dec 15, 2005 from N.J. Inspector General to Thomas Caggiano re: file DEC006 investigation
- k. Letter, Jul 5, 2005, Hoagland, Longo, Moran, Dunst & Doukas to BOE re: Complaint #05-13
- l. Letter, Jul 7, 2005, T. Caggiano to BOE re: Complaint #05-13 {rebuttal and evidence}
- m. Letter, Dec 8, 2005, T. Caggiano to BOE re: Complaint #5-13
- n. Memorandum, Feb 26, 2003 Department of Community Affairs Codes and Standards, From John. Maher to CI-006-03, Thomas Pershouse/Construction Official/ Stanhope {false reports from John Cilo Jr Borough Engineer and Ms. Winifred Straub SCSCD Lot 12 no SESCO required}
- o. Memorandum, Oct 30, 2005 T. Caggiano re: Complaint against Construction Code Official
- p. Letter, Dec 31, 2002 from DEP to T. Caggiano Wetland Permit {beyond the purview and authority of the Department's jurisdiction}
- q. Deeds Oct 10, 2001 D-2581-255 Block 10902 Lot 10 and D-2581-249 Block 10902 Lot 12 from Eleanor Dawalt to E.N.F. Development Co. LLC.
- r. Map: Borough of Stanhope Tax Map 109 with adjacent property owners and Block 10902 Lot 10 and 12 {provided at investigative inquiry not enclosed}
- s. Map: Eleanor Dawalt SESCO entitled as "Lot Line Adjustment and Soil Erosion and Sediment Control Plan Tax Map Sheet 109 Block 10902 Lots 10,11,12 Borough of Stanhope" dated as of September 20, 1999 and approved by Cilo Oct 9, 2001 and Stanhope Nov 7, 2001" {SESCO not approved by Sussex County Soil Conservation District} {provided at investigative inquiry not enclosed}
- t. Map: Eleanor Dawalt SESCO entitled as "Lot Line Adjustment and Soil Erosion and Sediment Control Plan Tax Map Sheet 109 Block 10902 Lot 10 Borough of Stanhope" dated as of September 20, 1999 and certified by Mr. Lundin on Oct 8, 2002" (SESCO44) {not approved by Stanhope municipality Land Use Board and invalid SESCO per SSCC finding Jun 16, 2003} {provided at investigative inquiry not enclosed}
- u. Chart 1: Project definition and maps
- v. Chart 2: Criminal Conspiracy
- w. Chart 3: Stanhope Conspiracy
- x. Chart 4: Professional Engineers and Planners
- y. Chart 5: Timeline
- z. Chart 6: Criminal Codes
- aa. Chart 7: Investigations
- bb. Chart 8: Witnesses
- cc. Chart 9: Recommendation
- dd. Chart 10: Summary
- ee. Newspaper, 1 Aug 2002 New Jersey Herald, Stanhope Residents unhappy with new development
- ff. Petition, 25 Jul 2002, Borough of Stanhope Block 10902 Lot 10 Comply with site plan and codes
- gg. Letter, Aug 22, 2002, Dolan and Dolan Land Use Board to SCSCD, re: Dawalt subdivision
- hh. Letter, Aug 25, 2002, Land Use Mgmt and SCSCD from 9 adjacent property owners,
- ii. Letters of Assignment As agent to T. Caggiano from Fleming, Pawars, Caggiano, Nichols
- jj. Memorandum Oct 22, 2002, Mr. and Mrs. Fleming, 5 Valley Rd adverse impacts
- kk. Memorandum Oct 22, 2002, Ms. Dombroski 3 Valley Road adverse impacts
- ll. Memorandum Oct 22, 2002, Mr. and Mrs. Heimberg 1 Valley Road adverse impacts
- mm. Memorandum Oct 20, 2002, Mr. and Mrs. Pawar 12 East Drive adverse impacts and wall
- nn. Letter Aug 16, 2002, Mr. Caggiano to SCSCD and DEP re: adverse impacts
- oo. Letter, Jul 31, 2002, Mr. Caggiano to DEP, Case No. 0207310037-23 Sinkhole
- pp. Memorandum Oct 29, 2002, Mrs. Caggiano, 12 East Drive, Tree roots and destruction
- qq. Memorandum Nov 4, 2002, Ms. Sharon Leister, 1 Oak Drive adverse impacts

- rr. Memorandum Oct 23, 2002, Mr. and Mrs. Deresky, 3 Oak Drive adverse impacts
- ss. Memorandum Nov 2, 2002, Ms. Nichols, 8 Oak Drive adverse impacts
- tt. Letter, Nov 1, 2002, T. Caggiano to SSCC re: adverse impacts of community
- uu. Letter, Jan 22, 2006, Mr. and Mrs. Pawar, Stanhope minor subdivision Block 10902 Lots 10 and 12, 2 Oak Drive and 6 Oak Drive {Community adverse impacts and violations}
- vv. OPRA requests, Oct 15, 2005, Mary Pawar to Stanhope, Block 10902 Lots 10 and 12
- ww. Letter, Nov 2, 2005, Stanhope to Mary Pawar, refuse to respond to her OPRA request
- xx. Letter, Aug 22, 2002, T. Caggiano, J. Fleming, Mr. and Mrs. Pawar to Planning Board, subject: Rear Retaining Wall, Block 10902, Lot 10 and Lot 12
- yy. Memorandum, Feb 2, 2006, T. Caggiano, Block 10902 Lot 10 Illegal Work
- zz. Photograph, Aug 1, 2002, T. Caggiano witness Kathryn Caggiano, Dawalt installing illegal lower wall in non-disturbance area, conservation area, buffer area, drainage easement
- aaa. Letter, Jul 29, 2002, from Cilo to Dawalt re: add lower wall, fence and restore trees
- bbb. Letter, Aug 15, 2002, from SAC Peter Schneider PE 26056 to Frank Dawalt Jr re: 2 Walls
- ccc. Letter, Jul 23, 2002 R1, from T. Caggiano to Code Enforcement Official, re: Contractor construction and zoning violations, 2 Oak Drive, Block 10902, Lot 10 {shade trees}
- ddd. Letter, Jul 22, 2002 from John Cilo Jr Associates to Stanhope Municipal Clerk re: Dawalt / Caggiano {relentless emails}
- eee. Email, Apr 3, 2003 from T. Caggiano to Cilo, Stanhope wetland, trees, access point {included above reference letter as attachment Jul 23, 2002R1}
- fff. Letter, Aug 6, 2002 Judith Keith to Frank Dawalt re: trees {false letter}
- ggg. Letter, Oct 1, 2002 ENF Dev Co LLC to Teri Massood re: trees (a) in plan (b) infected (c) not in plan {false letter}
- hhh. Letter, Mar 15, 2003 Caggiano to Cilo Analysis of Stop Construction letter Jan 8, 2002.
- iii. Email, Mar 28, 2003 Caggiano to Cilo and Land Use Board See prosecutor for violations
- jjj. Email, Aug 28, 2003 Caggiano to numerous parties No authority to do any work
- kkk. Photograph, Dec 23, 2002, Evidence folders - feet of evidence
- lll. Photograph, Feb 2, 2002, Lot 10 being filled with no protection for trees or site
- mmm. Photograph, Undated, both lots being filled at same time without stabilized access
- nnn. Photograph, Jul 20, 2002 Lot 10 destroyed silt fence no hay bales boulders rolling down slopes
- ooo. Photograph, Jul 25, 2002 Rear of Lot 10 buried silt fence, 8' high single wall
- ppp. Photograph, Jul 26, 2002 Rear of Lot 12 crushed silt fence boulders
- qqq. Photograph, Jul 26, 2002 Cilo photo Lot 12 buried sediment fence, 8' high single wall
- rrr. Photograph, Aug 1, 2002 trees destroyed no stabilized access no sediment fence and hay bales
- sss. Photograph, Cilo Photo, Jul 26, 2002 trees destroyed no access point no protection
- ttt. Photograph, Jul 18, 2002, Lot 10 trees destroyed no protection for street or Lot 12
- uuu. Photograph, Jul 28, 2002 Mary Pawar adjacent to 8' high single wall on Lot 10
- vvv. Photograph, Oct 2002, T. Caggiano photo showing two walls, fence, deck wrong side of Lot 12
- www. Photograph, Stanhope Code Book Chapter 100 Walls
- xxx. Photograph, Oct 28, 2002 Path on East Drive crack from wetland to sinkhole on 12 East Drive
- yyy. Photograph, Oct 5, 2002 Paramount Self Storage 550 ft mud on RT 206 no violations
- zzz. Letter, Dec 28, 2005 T. Caggiano to BOE, re: Complaint #05-13
- aaaa. Letter, Jan 2, 2006 T. Caggiano to SCSCD, Non-compliance with SESCA
- bbbb. Letter, Jan 5, 2006 T. Caggiano to SCSCD, Non-compliance with SESCA
- cccc. Letter, Jan 6, 2006 T. Caggiano to BOE, Criminal Actions of ENF, et al
- dddd. Letter, Jan 16, 2006 T. Caggiano to SCSCD, Request for investigation
- eeee. Letter, Jan 23, 2006 T. Caggiano to BOE et al, Fictitious SESCP, illegal development and illegal certificates of occupancy
- ffff. Letter, May 8, 2000 Scarlett Doyle Board Planner to Stanhope Board of Adjustment re: critical

slopes and % disturbed variances {Critical Slope Variance}

gggg. Memorandum, Nov 1, 2000, Board of Adjustment Resolution Application of Eleanor Dawalt, 2 and 6 Oak Drive

hhhh. Memorandum, Jul 10, 2002 John Cilo to Construction Code Official re; certificate of occupancy

iiii. Letter, Jan 8, 2002 John Cilo to Construction Code Official, cc Town Administrator, Borough Prosecutor/Borough Attorney, re: stop construction immediately

jjjj. Memorandum, July 27, 2002 John Cilo Notes of numerous meetings

kkkk. Photographs, Jul 26, 2002 John Cilo Single 8' high wall not meeting code, deck wrong side of 6 Oak Drive, fence not meeting code

llll. Letter, Apr 27, 2000 DEP Land Use Regulation Program to Resource Services North, General Permit number 6, file no. 1919-99-0001.1 General Conditions

mmmm. Aug 16, 2002 DEP Nystrom to Dawalt, re: Meeting with Dawalt Aug 7, 2002.

nnnn. Memorandum, Oct 8, 2002 SESCO Certification Status Report to Eleanor Dawalt, Single home Lot 10 by SCSCD chairman Clifford Lundin

oooo. Inspection Report, Oct 16, 2002 Application SH-44, Inspector Morris No sediment was leaving site {Ignored letters from adjacent property owners that adverse impacts occurred, non-disturbance area also adversely impacted}

Below is a witnessed dated photograph taken on Jul 25, 2002 taken by me with Kathryn Caggiano as a witness that is irrefutable proof that the 2 ft topography contour lines and site grading profile shown on the SESCO submitted with the SH#44 application are false and fictitious to avoid detection and apprehension, that hay bales with silt fences were never installed and that silt fences were buried for months as sediment flowed from Lot 10 and 12 into 3 and 5 Valley Road. Boulders had rolled down steep slopes into 5 Valley Road threatening the inhabitants and impacting the property. The photograph was taken in the rear of Lot 12 looking south towards the rear of Lot 10. Thereafter Jul 29-Aug 15, 2002 another lower wall was built.



To summarize the above photograph and my testimony: A conspiracy among Mr. John Cilo Jr, the developer, other professional engineers, a professional planner and government officials must be investigated by criminal investigators for numerous offenses to include but not be limited to:

- A. Official Misconduct 2C:30-2b
- B. Maintaining a nuisance (the single wall) 2C:33-12A
- C. Obstruction administration of law 2C:29-1
- D. False reports to enforcement officials fictitious reports 2C:28-4.b

The developer E.N.F. Development Co. LLC had hundreds of unreported offenses of the SESCA and Stanhope Municipal codes without any violations being issued by Mr. John Cilo Jr. The entire development for Block 10902 Lot 10 and 12 was conducted illegally as were the issuance of both certificates of occupancy without conditions. Large shade trees were never protected then destroyed that were plotted on the site plan per the Board of Adjustment hearings to be saved in the open area per note #9 on the site plan and the fictitious SESCO. The site does not agree with site plan contours or SESCO and over 40% of the non-disturbance, drainage easement and buffer zone in areas is continuing to be adversely impacted by a lower wall constructed illegally without any variance request. The gutter downspouts on 6 Oak Drive are illegally directly connected to the storm sewer. The storm sewer is constructed at the wrong elevation. The deck on 6 Oak Drive is built on the wrong side of the house and not per the site plan. Adjacent properties suffered off-site impacts. The topography and site profile slopes do not agree with the site plan or the false SESCO. There are false inspection reports, fraudulent letters and fictitious plans. The general conditions of the DEP Wetland Permit were violated. Do to official government misconduct no offenses were brought to a court nor were NJAC 2:90-1-1 et. seq. administrative procedures followed. Mr. Cilo Jr. lied to an official investigation conducted by the Department of Community Affairs' investigator Mr. Maher by stating a SESCO was not required for Lot 12. Mr. Cilo's letter to the Board of Engineers dated Jul 5, 2002 is replete with specious information and false information to mislead the BOE investigation committee of his actions.

Mr. John Cilo Jr was apparently bribed or threatened not to report continuing violations after his Jan 8, 2002 letter wherein he informed Stanhope of violations and to stop construction immediately. Thereafter he lied.

The fourteen witnesses that should sought by investigators to provide testimony under oath in addition to the members of the Stanhope Land Use Board and Stanhope Environmental Commission are:

- a. Mr. Charles Heimberg – 1 Valley Road – 973-347-3477
- b. Mrs. Kathryn Heimberg – 1 Valley Road – 973-347-3477
- c. Ms. Amy Dombroski – 3 Valley Road – 973-347-6244
- d. Mr. John Fleming – 5 Valley Road – deceased letters on file
- e. Mrs. Margaret Fleming – 5 Valley Road – 973-448-7478
- f. Mrs. Mary Pawar – 12 East Drive – 973-691-0302
- g. Mr. Iqbal Pawar – 12 East Drive – 973-691-0302
- h. Mr. Thomas Caggiano – 10 East Drive – 973-347-4354
- i. Mrs. Kathryn Caggiano – 10 East Drive – 973-347-4354
- j. Mr. Bruce. Leister – 1 Oak Drive – 973-347-3267
- k. Mrs. Sharon Leister – 1 Oak Drive – 973-347-3267
- l. Mr. Randall Deresky – 3 Oak Drive – 973-347-2845
- m. Mrs. Lois Deresky – 3 Oak Drive – 973-347-2845
- n. Mrs. Valorie Nichols – 8 Oak Drive – 973-347-9030