

SUMMONS - CIVIL

JD-CV-1 Rev. 2-20
C.G.S. §§ 51-346, 51-347, 51-349, 51-350, 52-45a, 52-48, 52-259;
P.B. §§ 3-1 through 3-21, 8-1, 10-13

For information on
ADA accommodations,
contact a court clerk or
go to: www.jud.ct.gov/ADA.

STATE OF CONNECTICUT
SUPERIOR COURT
www.jud.ct.gov



Instructions are on page 2.

- Select if amount, legal interest, or property in demand, not including interest and costs, is LESS than \$2,500.
- Select if amount, legal interest, or property in demand, not including interest and costs, is \$2,500 or MORE.
- Select if claiming other relief in addition to, or in place of, money or damages.

TO: Any proper officer

By authority of the State of Connecticut, you are hereby commanded to make due and legal service of this summons and attached complaint.

Address of court clerk (Number, street, town and zip code) 69 Brooklyn Street		Telephone number of clerk (860) 896 - 4920	Return Date (Must be a Tuesday) June 22, 2021
<input checked="" type="checkbox"/> Judicial District <input type="checkbox"/> Housing Session	G.A. Number: _____	At (City/Town) Tolland at Rockville	Case type code (See list on page 2) Major: A Minor: 66

For the plaintiff(s) enter the appearance of:

Name and address of attorney, law firm or plaintiff if self-represented (Number, street, town and zip code) George C. Schober, 352 Billings Road, P.O. Box 597, Somers 06071	Juris number (if attorney or law firm) 409883
Telephone number (860) 749 - 0026	Signature of plaintiff (if self-represented)

The attorney or law firm appearing for the plaintiff, or the plaintiff if self-represented, agrees to accept papers (service) electronically in this case under Section 10-13 of the Connecticut Practice Book. Yes No

E-mail address for delivery of papers under Section 10-13 of the Connecticut Practice Book (if agreed)
gcslaw@cox.net

Parties	Name (Last, First, Middle Initial) and address of each party (Number; street; P.O. Box; town; state; zip; country, if not USA)	
First plaintiff	Name: Hangdog Lane, LLC Address: 54 Hangdog Lane, Somers, CT 06071	P-01
Additional plaintiff	Name: Address:	P-02
First defendant	Name: Town of Somers Conservation Commission, c/o Town Clerk Address: 600 Main Street, Somers, CT 06071	D-01
Additional defendant	Name: Roulier Family Limited Partnership, by its Agent for Service, John Bond Address: 1610 Ellington Road, South Windsor, CT 06074	D-02
Additional defendant	Name: Commissioner of Energy and Environmental Protection Katie Dykes, DEEP Address: 70 Elm Street, Hartford, CT 06106	D-03
Additional defendant	Name: Address:	D-04
Total number of plaintiffs: 1		Total number of defendants: 2 + DEEP
<input type="checkbox"/> Form JD-CV-2 attached for additional parties		

Notice to each defendant

- You are being sued.** This is a summons in a lawsuit. The complaint attached states the claims the plaintiff is making against you.
- To receive further notices, you or your attorney must file an *Appearance* (form JD-CL-12) with the clerk at the address above. Generally, it must be filed on or before the second day after the Return Date. The Return Date is not a hearing date. You do not have to come to court on the Return Date unless you receive a separate notice telling you to appear.
- If you or your attorney do not file an *Appearance* on time, a default judgment may be entered against you. You can get an *Appearance* form at the court address above, or on-line at <https://jud.ct.gov/webforms/>.
- If you believe that you have insurance that may cover the claim being made against you in this lawsuit, you should immediately contact your insurance representative. Other actions you may take are described in the Connecticut Practice Book, which may be found in a superior court law library or on-line at <https://www.jud.ct.gov/pb.htm>.
- If you have questions about the summons and complaint, you should talk to an attorney.

The court staff is not allowed to give advice on legal matters.

Date 5/25/21	Signed (Sign and select proper box) 	<input checked="" type="checkbox"/> Commissioner of Superior Court <input type="checkbox"/> Clerk	Name of person signing George C. Schober
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If this summons is signed by a Clerk:

- The signing has been done so that the plaintiff(s) will not be denied access to the courts.
- It is the responsibility of the plaintiff(s) to ensure that service is made in the manner provided by law.
- The court staff is not permitted to give any legal advice in connection with any lawsuit.
- The Clerk signing this summons at the request of the plaintiff(s) is not responsible in any way for any errors or omissions in the summons, any allegations contained in the complaint, or the service of the summons or complaint.

For Court Use Only	
File Date	
TRUE COPY ATTEST: SHARON UHLMAN STATE MARSHAL TOLLAND COUNTY	

I certify I have read and understand the above:	Signed (Self-represented plaintiff)	Date	Docket Number
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Print Form

Reset Form

Major: A Minor: 66

RETURN DATE: JUNE 22, 2021

SUPERIOR COURT

HANGDOG LANE, LLC

JUDICIAL DISTRICT OF
TOLLAND

V.

AT ROCKVILLE

TOWN OF SOMERS CONSERVATION
COMMISSION, ET AL

MAY 25, 2021

CITATION

TO ANY PROPER OFFICER:

You are hereby commanded by the authority of the State of Connecticut to summon the Town of Somers Conservation Commission, the Roulier Family Limited Partnership, and Katie Dykes, Commissioner of the Department of Energy and Environmental Protection of Hartford, Connecticut to appear before the Superior Court for the Judicial District of Tolland at Rockville on the Return Date of June 22, 2021, the appearance not to be in person but to be made by the parties or their attorney by filing a written statement of appearance with the clerk of the Superior Court whose address is 69 Brooklyn Street, Rockville, Connecticut 06066, on or before the second day following the return date, then and there to answer the attached Appeal/Complaint of Hangdog Lane, LLC, 54 Hangdog Lane, Somers, Connecticut 06071, by leaving **two (2)** true and attested copies of this Citation and attached Appeal/Complaint, at least twelve (12) days before the Return Date, with the Town Clerk of the Town of Somers, 600 Main Street, Somers, Connecticut 06071, in accordance with C.G.S. § 52-57(b), and directing the Town Clerk to retain one copy and forward the second copy to the Town of Somers Conservation Commission; and upon the Roulier Family Limited Partnership, c/o John

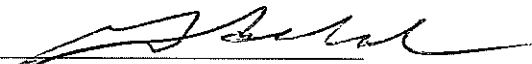
Bond, Agent for Service, whose business address is listed at the office of the Connecticut Secretary of State as 11 South Road, Somers, Connecticut 06071, but upon information and belief whose business address is now 1610 Ellington Road, South Windsor, Connecticut 06074; and by leaving one copy with the Commissioner of the Department of Energy and Environmental Protection Katie Dykes, Connecticut Department of Energy and Environmental Protection, 79 Elm Street, Hartford, Connecticut, 06106.

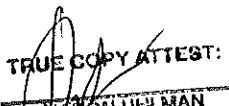
Judith Schober, 98 Rocky Dundee Road, Somers, Connecticut, 06071, is recognized in a sufficient amount of \$500.00 to prosecute the foregoing Appeal/Complaint to effect and comply with the orders and decree of the Court.

Hereof fail not, but of this writ with your actions thereon make due service and return according to law.

Dated this 25th day of May, 2021 at Somers, Connecticut.

By: _____


George C. Schober
352 Billings Road
Somers, CT 06071
Juris No. 409883
Telephone: (860) 749-0026
Facsimile: (860) 749-0453
E-mail: gcslaw@cox.net
Its Attorney


TRUE COPY ATTEST:
SHARON UHLMAN
STATE MARSHAL
TOLLAND COUNTY

RETURN DATE: JUNE 22, 2021

SUPERIOR COURT

HANGDOG LANE, LLC

JUDICIAL DISTRICT OF
TOLLAND

V.

AT ROCKVILLE

TOWN OF SOMERS CONSERVATION
COMMISSION, ET AL

MAY 25, 2021

APPEAL/COMPLAINT

TO THE SUPERIOR COURT FOR THE JUDICIAL DISTRICT OF TOLLAND,
69 Brooklyn Street, Rockville, CT 06066, ON THE FOURTH TUESDAY OF JUNE,
2021 (JUNE 22, 2021), comes HANGDOG LANE, LLC, 54 Hangdog Lane, Somers, CT
appealing from a decision of the defendant TOWN OF SOMERS CONSERVATION
COMMISSION and complains and says:

1. Plaintiff/Appellant, Hangdog Lane, LLC, (“Hangdog”) is, and at all times herein mentioned was, a New York Limited Liability Company with an office in the Town of Somers, County of Tolland and State of Connecticut.

2. Defendant, Conservation Commission of the Town of Somers (the “Commission”), is and at all times herein mentioned was, the duly authorized municipal agency with jurisdiction over inland wetlands and watercourses and the issuance of permits to conduct regulated activities in the Town of Somers, pursuant to Connecticut General Statutes, § 22a-36 et seq., and Section 211-1 et seq., of the Somers Inland Wetlands and Watercourses Regulations (the “Regulations”).

3. Katie Dykes is the Commissioner of the Connecticut Department of Energy and Environmental Protection, with an office located at 79 Elm Street, Hartford,

Connecticut 06106, and is served with this appeal pursuant to Connecticut General Statutes, § 22a-43(a).

4. By Application dated October 30, 2021, Roulier Family Limited Partnership (“RFLP”), a Connecticut Limited Partnership, filed an application (the “Application”) with the Commission to conduct Regulated Activity at 50 Hangdog Lane, Somers, Connecticut (the “Property”) in connection with installation of a drainage pipe and extension of a driveway. The Application stated that there would be no disturbance or alteration to the wetlands.

5. The Applicant proposed to extend a driveway that does not meet the standards of the Town of Somers driveway regulations in that the grade of the driveway exceeds twenty (20%) percent at certain points when the maximum allowable grade for safety reasons is fifteen (15%) percent.

6. The Application was received by the Commission at its meeting on November 4, 2020.

7. On or about November 12, 2020, Plaintiff submitted a petition, signed by more than twenty-five persons who are eighteen years of age or older and reside in Somers requesting that a public hearing be held on the Application in accordance with Connecticut General Statute § 22a-42a(c)(1).

8. Connecticut General Statute § 22a-41(b)(1) provides: “In the case of an application which received a public hearing pursuant to (A) subsection (k) of section 22a-39, ... a permit shall not be issued unless the commissioner finds on the basis of the record that a feasible and prudent alternative does not exist”

9. Section 211-7E of the Regulations states that “All applications **shall** include the following information in writing ... (5) Alternatives considered and subsequently rejected by the applicant and why the alternative as set forth in the application was chosen; all such alternatives **shall** be diagrammed on a site plan or drawing. (emphasis supplied).

10. Section 211-9E of the Regulations states that “The applicant **shall** send by certified mail, return receipt requested, a notice describing the location of the property under application and the date and time of the commencement of the public hearing to all current owners of record of abutting property not less than seven days prior to commencement of the public hearing. The applicant **shall** submit copies of all returned receipts to the Commission. One sign, provided by the Commission per every 200 feet or part thereof of road frontage **will** be clearly posted for the 10 consecutive days prior to the public hearing date.” (emphasis added).

11. On or about December 2, 2020, the Plaintiff filed a Verified Petition to Intervene in the Commission’s proceedings pursuant to the provisions of Connecticut General Statute § 22a-19(a) (“Petition”). The Petition alleged the reasonable likelihood of unreasonable pollution and specific likely adverse impacts to the natural resources on the Property within the jurisdiction of the Commission as a result of and in connection with the proposed regulated activities, namely that the activities would redirect the flows of water from their existing location to a new but not designed underground piping system with no knowledge of where the flows emanated from, no identification of the watershed, and no study of the impacts of the piping system on a pond where the piping would apparently ultimately discharge.

12. On December 26, 2020, the Commission published a legal notice that it would hold a public hearing on the Application in the Journal Inquirer. Said notice stated that the Application was to “Construct Driveway and Repair Drainage in Upland Review Area”.

13. The Public Hearing commenced on January 6, 2021. The Agenda published by the Commission for the Public Hearing stated that the Application was to “Construct Driveway and Repair Drainage in Upland Review Area”.

14. On or about January 26, 2021 the Applicant filed an amended Application (the “Amended Application”). The Amended Application disclosed that the Applicant sought to disturb or alter 280 square feet of wetlands.

15. The Public Hearing continued on February 3, 2021. The Agenda published by the Commission for the Public Hearing stated that the Application was to “Construct Driveway and Repair Drainage in Upland Review Area”.

16. The Public Hearing continued on March 3, 2021 and April 7, 2021.

17. Over the course of the Public Hearing, the Commission heard credible evidence from the Plaintiff and its qualified experts.

18. Plaintiff’s expert Richard Meehan, a licensed surveyor, testified and presented uncontroverted evidence that the slope of the driveway which the Applicant proposed to extend exceeded twenty (20%) percent at certain points of the driveway.

19. Plaintiff’s expert Joseph Versteeg, a safety consultant, testified and presented uncontroverted evidence that the existing driveway which the Applicant proposed to extend was dangerous and would be made more so by increasing the use of

the driveway to bring livestock to the Applicant's upper field (which field could be accessed directly from Hangdog Lane without using the unsafe driveway.)

20. Plaintiff's expert Ozzie Torres, a licensed Professional Engineer, presented plans and testimony which depicted and described a feasible and prudent alternative to the Amended Application. The feasible and prudent alternative described by Mr. Torres was a driveway from the road frontage of Hangdog Lane with a slope of no more than 11% which would have no impact on the wetlands, unlike the Applicant's proposal which would result in a change in the flow of water due to construction of the extension to the driveway.

21. At no time did the Applicant provide or propose any feasible and prudent alternatives. The Amended Application stated that "[a] driveway from the frontage would be very steep, (+ - 15%). The Applicant did not provide a site plan or drawing as required by Section 211-7E of the Regulations.

22. On April 7, 2021, the Commission closed the Public Hearing.

23. Members of the Commission approved the Amended Application on May 3, 2021.

24. Notice of the Commission's decision was published on the Somers, Connecticut website on May 11, 2021.

25. Plaintiff/Appellant is aggrieved by the decision of the Commission because it was a party to the Commission's proceedings and its consideration of the Application having filed with the Commission a Verified Petition to Intervene pursuant to the provisions of Connecticut General Statute § 22a-19(a) on December 2, 2020, alleging the reasonable likelihood of unreasonable pollution to natural resources within the

jurisdiction of the Commission as a result of the Applicant's Application, all as more specifically set forth in the Verified Petition in the Record.

26. Plaintiff/Appellant is statutorily aggrieved by the decision of the Commission because it is the owner of property that abuts the Property that is the subject of the Application and the Commission's decision, and because the action of the Commission in approving the Defendant's Amended Application was illegal, arbitrary, unreasonable, capricious and in abuse of its discretion and in violation of state law and the Regulations in the following ways:

a. The Commission failed or refused to follow its own Regulations and the mandates of the Connecticut General Statutes;

b. The Commission reached conclusions that were inconsistent and contrary to the evidence and testimony presented to it;

c. The substantial evidence in the record does not reasonably support the Commission's decision;

d. The Commission's procedures and its treatment of the Intervenor deprived the Intervenor of due process and the fundamental fairness in administrative proceedings to which it was entitled;

e. The Commission failed to require the Applicant to propose feasible and prudent alternatives to the proposed activity that involved less or no impact to wetlands and watercourses, as specifically required by the Regulations and Connecticut General Statutes, § 22a-41(b)(1);

f. The Commission failed to consider the purpose for, and any feasible and prudent alternatives to the proposed regulated activity as specifically required by Section 211-10B(2) of its Regulations.

g. The Commission failed to consider the interference with safety that the proposed regulated activity would cause, as specifically required by Section 211-10B(5) of its Regulations

h. The Commission's decision is the product of bias and predetermination;

i. Evidence outside the record was used by the Commission;

j. The Commission's decision is based on such other errors of law, procedure and fact as may be revealed by the return of record.

k. The Notice for the public hearing was insufficient and defective given the fact that the Amended Application added direct wetlands disturbance and/or alteration within the Application and the published legal Notice in the Journal Inquirer, and the Agenda for the February 3, 2021 public hearing did not inform the public of this direct wetland disturbance and/or alteration. As a result of the failure to give proper notice of this wetlands disturbance and/or alteration, interested and affected parties were not fairly and sufficiently apprised of the nature and character of the action proposed so that such parties could properly prepare to participate in the hearing;

l. The Notice for the public hearing was insufficient and defective given the fact that the Applicant failed to post signs per every 200 feet or part thereof of road frontage of the Property, as required by Regulation Section 211-9E. In fact the Applicant failed to post a single sign.

n. The Commission failed to state upon the record the reasons and bases for its decision as required by Section 211-11.

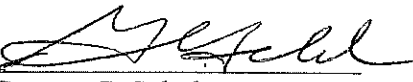
27. This appeal is brought pursuant to Connecticut General Statutes, § 22a-43 and Connecticut General Statutes, § 8-8.

WHEREFORE, the Plaintiff/Appellant appeals from the decision of the Commission and prays for a judgment of the Court:

1. Sustaining the appeal in this matter and directing that the action of the Conservation Commission of the Town of Somers approving the Application was illegal, arbitrary, and in abuse of its discretion for all of the aforesaid reasons;
2. Overturning the action of the Commission;
3. Sustaining the appeal and pursuant to Connecticut General Statute § 22a-43a(a); setting aside the Commission's decision; and
4. Granting any other legal or equitable relief that the Court deems proper.

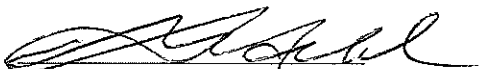
Dated at Somers, Connecticut this 25th day of May, 2021.

THE PLAINTIFF
HANGDOG LANE, LLC

By: 
George C. Schober
352 Billings Road
Somers, CT 06071
Juris No. 409883
Telephone: (860) 749-0026
Facsimile: (860) 749-0453
E-mail: geslaw@cox.net
Its Attorney

Please enter the appearance of
George C. Schober for Plaintiff.
I agree to accept papers (service)
Electronically in this case under
§ 10-13 of the Practice Book.
Email address for delivery of papers
under § 10-13: geslaw@cox.net


TRUE COPY ATTEST:
SHARON UHLMAN
STATE MARSHAL
TOLLAND COUNTY


George C. Schober

RETURN DATE: JUNE 22, 2021

SUPERIOR COURT

HANGDOG LANE, LLC

JUDICIAL DISTRICT OF
TOLLAND

V.

AT ROCKVILLE

TOWN OF SOMERS CONSERVATION
COMMISSION, ET AL

MAY 25, 2021

RECOGNIZANCE WITH SURETY

Hangdog Lane, LLC, 129 Bay Avenue, Greenport, New York 11944 as principal, and Judith M. Schober, 98 Rocky Dundee Road, Somers, Connecticut, 06071 as surety, acknowledge that they are jointly and severally bound unto the Somers Conservation Commission, et al, in a recognizance of \$500.00, that the principal shall prosecute to effect the appeal which it has taken against the Somers Conservation Commission, et al, brought to the Superior Court at Rockville, in and for the J.D. of Tolland, on the Fourth Tuesday of June, 2021, and that said principal shall comply with the orders and decree of said Court, and that the principal shall pay any costs for which judgment may be rendered against it thereon.

Dated at Somers, Connecticut, this 25th day of May, 2021.



George C. Schober
Commissioner of the Superior Court

TRUE COPY ATTEST:
SHARON UHLMAN
STATE MARSHAL
TOLLAND COUNTY