NEW YORK STATE | Department of Environmental Conservation

KATHY HOCHUL
Governor

AMANDA LEFTON
Commissioner

April 10, 2026

VIA ELECTRONIC MAIL ONLY
Thetown@hancock.net

Jerry Vernold
Town Supervisor
Town of Hancock
661 West Main Street
Hancock, NY 13783

RE: **Action Required: Development in a Floodway**
East Branch Hamlet, Town of Hancock, Delaware County, New York

Dear Supervisor Vernold,

New York State Department of Environmental Conservation (Department) staff met with Josh Morgan, Town of Hancock Code Officer, on April 1, 2026. As part of this meeting, we discussed the ongoing issue of the development that has occurred at the Johnson and Rhodes property located at 34 Bridge Street, East Branch, NY 13756, Tax Parcel 420.2-1-8. The Department received the town's response to this development at the property on February 27, 2026. In that email, Josh Morgan included the response from Johnson and Rhodes, dated December 16, 2025, indicating that they do not intend to remove material that was compacted and graded within the floodway due to an agreement that Johnson and Rhodes had with the Department according to the State Maintained Flood Control Land permit, permit number 78-26.

At the time that permit was issued, the effective Flood Insurance Rate Map (FIRM) for that area was Map Number 06, Community number 360201A, with an effective date of August 20, 1976. On this map, the area in question was classified as an unnumbered A zone. There was no detailed information and no floodway identified in this area at that time. Due to there being no study for this area, there was no requirement that a Hydraulic and Hydrologic or no-rise analysis be performed for development in that area.

This area was subsequently re-studied and a new FIRM was issued and became effective on September 28, 1990. With this FIRM, the area went from an unstudied A zone to a detailed study area, and a portion of the Johnson and Rhodes property was deemed to be in the floodway with this update. Any material that was stored there at the time when the study was done should have been incorporated into that study and its effects on the

floodplain, if any, would have been incorporated into the new map. Approximately half of the area, which was between the levee and the Beaver Kill, was determined to be a floodway at the time that map was issued.

The current effective map, map panel 36025C0907D, was issued and became effective on June 19, 2012. This area was restudied for this map and showed that the entire area where fill has been placed is within the floodway, as well as a large portion of the rest of the parcel. A map is attached to this letter showing the change in the floodplain and floodway over the years. The material that was stored in this area at that time was accounted for in the updated map from 2012.

As explained in the previous letter to the town dated November 24, 2025, enforcement of the floodway regulations, found in 44 CFR Part 60.3(d)(3) and 44 CFR 60.3(d)(4), is the responsibility of the town as the participating member of the National Flood Insurance Program. In exchange for regulating the flood prone areas, as shown on the FIRMs, the town remains a participating member of the NFIP, making federally backed flood insurance and certain types of disaster assistance available to residents of the community.

There are several options, available to the community (town) and property owner, to demonstrate the development at the site is in compliance with the FEMA minimum standards.

- The town may require the owners of the property to remove the fill within the floodway and restore the property to the condition it was prior to the placement of the fill.

- If the owners wish to have the fill remain, they may hire an engineer to perform the required no-rise analysis needed to demonstrate that the addition of the fill does not cause a rise of any measurable amount in the flood elevation, which means a rise of less than 0.01 feet. A floodplain development permit could then be issued by the town for the fill.

- If the fill creates a rise of 0.01 feet or greater, then that rise must be either mitigated, or the property owner may revise the FIRM through the Letter of Map Revision (LOMR) process.

This site has historically been used to store material and product for Johnson and Rhodes, dating back to the 1970s. Even though the company has an older permit from the Department stating that they can continue to use the property to store materials, the federal requirements must still be met. Due to the historical FIRM changes and the floodway, the requirements for utilizing the area have changed and have become more restrictive. Prior to the raising and grading of the property, this area had random piles of material, with some areas remaining below the flood elevation. With the additional fill that was added, and since the entire area is now filled in, when historically it was not, the no-rise analysis must be

performed if the material is to remain. Please note that a determination, by Division of Material's Management staff, may also affect material being allowed to remain at the site.

Again, enforcement of the floodway regulations found in 44 CFR Part 60.3(d)(3) and 44 CFR 60.3(d)(4) is the responsibility of the town as the participating member of the National Flood Insurance Program. In exchange for regulating the flood prone areas, as shown on the FIRMs, the town remains a participating member of the NFIP, making federally backed flood insurance and certain types of disaster assistance available to residents of the community.

If you have any questions, please contact me by phone at 518-357-2379 or by E-mail at david.sherman@dec.ny.gov. Thank you for your attention to this matter.

Best Regards,

David R Sherman

David Sherman
Environmental Program Specialist
NYSDEC Region 4, Division of Water

cc. Leonard E. Sienko, Jr., Town of Hancock - Town Attorney
Cindy Whiting, Town of Hancock – Clerk
Josh Morgan, Town of Hancock – Code Enforcement Officer / Floodplain Manager
Blaise Constantakes – Region 4 Acting Regional Attorney
John Weidman, NYSDEC – Region 4 Regional Engineer
Bonnie Starr, NYSDEC – Region 4 Regional Water Engineer

Attachments:

1. Johnson and Rhodes Floodplain Map