

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

OFFICE OF COMPLIANCE & INSPECTION

IN RE: LAKE WASHINGTON ASSOCIATION

**FILE NOs.: Dam State I.D. 401
and OCI-DAMS-16-23**

NOTICE OF VIOLATION

A. Introduction

Pursuant to Sections 42-17.1-2(21) and 42-17.6-3 of the Rhode Island General Laws, as amended, (“R.I. Gen. Laws”) you are hereby notified that the Director of the Department of Environmental Management (the “Director” of “DEM”) has reasonable grounds to believe that the above-named party (“Respondent”) has violated certain statutes and/or administrative regulations under the DEM's jurisdiction.

B. Facts

- (1) The property is a dam identified as Lake Washington Dam, State Identification Number 401, located approximately 2,000 feet south of the intersection of Route 44 (Putnam Pike) and Lake Washington Drive, approximately 50 feet east of Lake Washington Drive in the town of Glocester (“Dam 401”).
- (2) Respondent owns the spillway and low level outlet of Dam 401.
- (3) Dam 401 is classified by the DEM as High Hazard.
- (4) On 20 April 2009, the DEM issued a certified letter to Respondent (the “April Letter”), which forwarded a registration form for Dam 401. Respondent was required to complete and return the form to the DEM by 7 May 2009.
- (5) On 9 July 2009, Respondent sent a letter to the DEM in response to the April Letter. Respondent admitted ownership of the spillway and low level outlet.
- (6) On 6 July 2016, Dam 401 was inspected. The inspection revealed that the spillway was overgrown with saplings and brush that impacted the discharge capacity.
- (7) The DEM considers Dam 401 unsafe because of the vegetation in the spillway.
- (8) As of the date of this Notice of Violation (“NOV”), Respondent has not provided the registration form to the DEM.

C. Violation

Based on the foregoing facts, the Director has reasonable grounds to believe that you have violated the following statutes and/or regulations:

- (1) **DEM's Rules and Regulations for Dam Safety (the "Dam Safety Regulations"), Rule 4A** – requiring the owner of a high hazard dam to maintain the dam in a safe condition.
- (2) **DEM's Dam Safety Regulations, Rule 8** – requiring the owner of a dam to provide a fully completed registration form to the DEM.

D. Order

Based upon the violations alleged above and pursuant to R.I. Gen. Laws Section 42-17.1-2(21), you are hereby ORDERED to:

- (1) **Within 14 days of receipt of the NOV**, complete and submit to the DEM the enclosed registration form for the spillway and low level outlet.
- (2) **Within 90 days of receipt of the NOV**, cut or remove all vegetation from the spillway that is affecting the discharge capacity. The DEM shall be notified upon completion of this work.

E. Right to Administrative Hearing

- (1) Pursuant to R.I. Gen. Laws Chapters 42-17.1, 42-17.6, 42-17.7 and 42-35, each named respondent is entitled to request a hearing before the DEM's Administrative Adjudication Division regarding the allegations, orders and/or penalties set forth in Sections B through D above. All requests for hearing MUST:
 - (a) Be in writing. See R.I. Gen. Laws Sections 42-17.1-2(21)(i) and 42-17.6-4(b);
 - (b) Be **RECEIVED** by the DEM's Administrative Adjudication Division, at the following address, within 20 days of your receipt of this NOV. See R.I. Gen. Laws Sections 42-17.1-2(21)(i) and 42-17.7-9:

Administrative Clerk
DEM - Administrative Adjudication Division
One Capitol Hill, 4TH Floor
Providence, RI 02903

- (c) Indicate whether you deny the alleged violations and/or whether you believe that the administrative penalty is excessive. See R.I. Gen. Laws Section 42-17.6-4(b); **AND**

- (d) State clearly and concisely the specific issues which are in dispute, the facts in support thereof and the relief sought or involved, if any. See Rule 7.00(b) of the DEM's *Administrative Rules of Practice and Procedure for the Administrative Adjudication Division for Environmental Matters*.
- (2) A copy of each request for hearing must also be forwarded to:
- Joseph J. LoBianco, Esquire
DEM - Office of Legal Services
235 Promenade Street, 4TH Floor
Providence, RI 02908-5767
- (3) Each named respondent has the right to be represented by legal counsel at all administrative proceedings relating to this matter.
- (4) Each respondent must file a separate and timely request for an administrative hearing before the DEM's Administrative Adjudication Division as to each violation alleged in the written NOV. If any respondent fails to request a hearing in the above-described time or manner with regard to any violation set forth herein, then this NOV shall automatically become a Final Compliance Order enforceable in Superior Court as to that respondent and/or violation and any associated administrative penalty proposed in the NOV shall be final as to that respondent. See R.I. Gen. Laws Sections 42-17.1-2(21)(i) and (vi) and 42-17.6-4(b) and (c).
- (5) Failure to comply with the NOV may subject each respondent to additional civil and/or criminal penalties.
- (6) The NOV does not preclude the Director from taking any additional enforcement action nor does it preclude any other local, state, or federal governmental entities from initiating enforcement actions based on the acts or omissions described herein.

If you have any legal questions, please have your attorney contact Joseph J. LoBianco at the DEM's Office of Legal Services at (401) 222-6607. All other inquiries should be directed to Paul Guglielmino of the DEM's Office of Compliance and Inspection at (401) 222-1360 ext. 7122.

Please be advised that any such inquiries do not postpone, eliminate, or otherwise extend the need for a timely submittal of a written request for a hearing, as described in Section E above.

FOR THE DIRECTOR

By: _____
David E. Chopy, Chief
DEM Office of Compliance and Inspection

Dated: _____

CERTIFICATION

I hereby certify that on the _____ day of _____
the within Notice of Violation was forwarded to:

LAKE WASHINGTON ASSOCIATION
c/o Paul M. Ricard, Registered Agent
1 Larry Bird Drive
Chepachet, RI 02814

by Certified Mail.
