

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT  
OFFICE OF COMPLIANCE & INSPECTION**

**IN RE: Town of Coventry**

**FILE NO.: Dam State I.D. 186**

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 DEM’s jurisdiction.

B. Facts

- (1) The subject property is a dam identified as Upper Pond Dam, State Identification Number 186, located approximately 4,600 feet north of the intersection of Washington Street (Route 33) and Knotty Oak Road (Route 116) and approximately 925 feet east of Knotty Oak Road (Route 116) in the town of Coventry, Rhode Island (“Dam 186”).
- (2) The Respondent owns Dam 186.
- (3) Dam 186 is classified by DEM as Significant Hazard.
- (4) On November 17, 2011, Dam 186 was inspected. The inspection revealed the following:
  - (a) Water from the spillway discharges into a poorly defined downstream channel and flows along the downstream side of the dam at the base of the wall;
  - (b) Seepage with apparent sediment transport was observed on the downstream side of the embankment left of the spillway channel; and
  - (c) The embankment crest near the left end of the dam is about two (2) feet lower than the crest along the rest of the dam.
- (5) DEM considers Dam 186 unsafe for the following reasons:

- (a) Improper downstream flow of water from spillway;
- (b) Seepage and apparent sediment transport through the embankment; and
- (c) A section of the embankment crest that is lower than the crest along the rest of the dam.

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) **Rules and Regulations for Dam Safety (the “Dam Safety Regulations”), Rule 4A** – requiring the owner of a significant hazard dam to maintain the dam in a safe condition.

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 ninety (90) days of receipt of the NOV**, retain a professional engineer fully registered in the State of Rhode Island, who is experienced with dam inspections, design, construction and repair (the “Dam Engineer”).
- (2) **Within one hundred and eighty (180) days of receipt of the NOV**, the Dam Engineer must complete an inspection of Dam 186 in accordance with the DEM’s Dam Safety Regulations, Rule 11C to assess the seepage and apparent sediment transport through the embankment and to assess the lowered section of the embankment crest and submit a report of the inspection findings to DEM. The report must specify the actions (in addition to the actions ordered in the NOV) necessary to return the dam to a safe condition and include a schedule to complete the work. For any proposed repairs to Dam 186, the report must include an application prepared in accordance with the DEM’s Dam Safety Regulations, Rule 10B.
- (3) **Within one hundred eighty (180) days of receipt of this NOV**, the Dam Engineer must submit an application to DEM in accordance with the DEM’s Dam Safety Regulations, Rule 10B to repair the discharge spillway channel to remove flow away from the base of the downstream embankment of Dam 186. The application must include a schedule to complete the work.
- (4) **Within thirty (30) days of completion of the work required in Section D.3 above**, the Dam Engineer must complete an inspection of base of the downstream embankment of Dam 186 and submit a report of the inspection findings to DEM. The report must specify the actions necessary to return the dam to a safe condition and include a schedule to complete the work. For any proposed repairs to Dam

186, the report must include an application prepared in accordance with the DEM's Dam Safety Regulations, Rule 10B

- (5) The reports and applications required in Sections D.2, D.3 and D.4 above shall be subject to DEM's review and approval. Upon review, the DEM shall provide written notification to the Respondent either granting formal approval or stating the deficiencies therein. **Within fourteen (14) days (unless a longer time is specified) of receiving a notification of deficiencies**, the Respondent shall submit to the DEM a modified report, application, and/or schedule or additional information necessary to correct the deficiencies.
- (6) Commence work specified in the schedule approved by the DEM within twenty (20) days of approval (unless otherwise expressly authorized by the DEM in writing to commence work at a later time), and complete such work in accordance with the approved schedule.

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 Administrative Adjudication Division regarding the allegations and/or orders 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 DEM's Administrative Adjudication Division, at the following address, within twenty (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, 2<sup>ND</sup> Floor  
Providence, RI 02903
  - (c) Indicate whether you deny the alleged violations. 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 Administrative Rules of Practice and Procedure for the Administrative Adjudication Division of Environmental Matters.

- (2) A copy of each request for hearing must also be forwarded to:

Richard M. Bianculli Jr., Esquire  
DEM - Office of Legal Services  
235 Promenade Street, 4<sup>TH</sup> 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 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. See R.I. Gen. Laws Sections 42-17.1-2(21)(i) and (v) and 42-17.6-4(b) and (c).
- (5) This NOV does not preclude the DEM 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, you may contact (or if you are represented by an attorney, please have your attorney contact) Richard M. Bianculli Jr. at the DEM Office of Legal Services at (401) 222-6607. All other inquiries should be directed to Paul Guglielmino of the DEM 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

\_\_\_\_\_  
David E. Chopy, Chief  
DEM Office of Compliance and Inspection

Date: \_\_\_\_\_

**CERTIFICATION**

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

Town of Coventry  
c/o Thomas R. Hoover, Town Manager  
1670 Flat River Road  
Coventry, RI 02816-8911

by Certified Mail.

\_\_\_\_\_