

**STATE OF RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

OFFICE OF COMPLIANCE AND INSPECTION

**In Re: Bradley Jillett
Jessica Jillett**

File No.: OCI-FW-18-36

AAD No.: 22-005/FWE

CONSENT AGREEMENT

A. INTENT & PURPOSE

This Agreement is entered by and between the Rhode Island Department of Environmental Management (“RIDEM”) and Bradley Jillett and Jessica Jillett (collectively, “Respondents”). This Agreement is entered in accordance with Section 42-17.1-2 et seq. of the Rhode Island General Laws (“R.I. Gen. Laws”) for the purpose of resolving the alleged violations set forth in a Notice of Violation (“NOV”) issued to Respondents by RIDEM on 12 October 2022.

B. STIPULATED FACTS

- (1) WHEREAS the property is located between 160 feet and 260 feet east of Willard Avenue, at 283 Willard Avenue, approximately 250 feet south of the intersection of Willard Avenue and Whitford Street, Assessor’s Plat 56-2, Lot 163 in South Kingstown, Rhode Island (“Property”).
- (2) WHEREAS the Property includes a single-family residence (“Residence”).
- (3) WHEREAS Respondents own the Property.
- (4) WHEREAS on 12 October 2022, RIDEM issued a NOV to Respondents alleging certain violations of Rhode Island's *Freshwater Wetlands Act* (“FWW Act”) and *Rules and Regulations Governing the Administration and Enforcement of the Freshwater Wetlands Act* (formerly 250-RICR-150-15-1) (currently 250-RICR-150-15-3) (“FWW Rules”).
- (5) WHEREAS Respondents requested an administrative hearing with the Administrative Adjudication Division (“AAD”) to contest the NOV.
- (6) WHEREAS AAD is a division of RIDEM.

- (7) WHEREAS Jessica Jillett provided documents to RIDEM that include the following statements:
- (a) She has not resided at the Residence beginning in June 2017.
 - (b) Bradley Jillett acquired exclusive use and possession of the Property on 5 April 2018.
 - (c) She was not responsible for any of the violations alleged in the NOV.
- (8) WHEREAS on 22 February 2018 RIDEM received the first complaint regarding the violations alleged in the NOV and a review of aerial photographs revealed that the violations alleged in the NOV were first observed in Spring 2018.
- (9) WHEREAS RIDEM cannot determine that Jessica Jillett had any involvement in causing the violations alleged in the NOV.
- (10) WHEREAS Bradley Jillett has accepted full responsibility for the violations alleged in the NOV.
- (11) WHEREAS RIDEM has reviewed the tax returns filed by Bradley Jillett for 2020, 2021 and 2022 and has determined that his income is below the minimum identified in a report titled *2022 Rhode Island Standard of Need* prepared by the Economic Progress Institute.
- (12) WHEREAS in lieu of proceeding to an administrative adjudicatory hearing on the NOV and to effect a timely and amicable resolution of the NOV, RIDEM and Respondents hereby agree that it is in the best interest of the parties and in the public interest to resolve the issues raised in the NOV.
- (13) WHEREAS RIDEM finds that this Agreement is a reasonable and fair settlement and adequately protects the public interest in accordance with the FWW Act and FWW Rules.
- (14) WHEREAS Respondents acknowledge that they had an opportunity to consult with and be represented by counsel of their choosing and that they find that this Agreement is reasonable and fair and enter into this Agreement with full knowledge and understanding of its terms.

C. AGREEMENT

- (1) RIDEM has jurisdiction over the subject matter of this Agreement and has personal jurisdiction over Respondents.
- (2) This Agreement shall have the full force and effect of a final compliance order issued after a full hearing on the merits pursuant to the Administrative Procedures Act, R.I. Gen. Laws Section 42-35-1 et seq. and R.I. Gen. Laws Section 42-17.7-1 et seq. from which no timely appeal was taken, and which is enforceable in Superior Court in accordance with R.I. Gen. Laws Section 42-17.1-2(21)(vi).
- (3) The provisions of this Agreement shall apply to and be binding upon RIDEM, Respondents and their agents, servants, employees, successors, assigns and all persons, firms and corporations acting under, through and for Respondents in the performance of work relating to or impacting the requirements of this Agreement.
- (4) **Within 10 days of the receipt of the fully executed Agreement from RIDEM**, Bradley Jillett shall record this Agreement in the land evidence records for the Town of South Kingstown, Rhode Island and shall provide a copy of the recorded Agreement to RIDEM. The recording shall be at the sole expense of Bradley Jillett.
- (5) Bradley Jillett shall complete the following actions to comply with the Order section of the NOV:
 - (a) Cease and desist from any further alterations of the freshwater wetlands on the Property.
 - (b) **By 31 October 2023**, restore the freshwater wetlands on the Property as follows:
 - (i) If not already completed, **IMMEDIATELY** install (in a proper manner) appropriate biodegradable soil erosion/sediment (“SES”) controls (e.g., staked haybales and/or staked-in straw wattles/coir logs/coconut fiber logs), between all disturbed surfaces and any adjacent undisturbed wetland areas, particularly along the limits of disturbance at the northern and southern boundaries of the Property. The SES controls must be regularly inspected and properly and continually maintained (and replaced, if necessary) prior to, during, and following the completion of the required wetland restoration, and until such time that all surrounding areas are properly stabilized. At the discretion and direction of RIDEM, additional SES controls must be installed on-site, as deemed necessary, to protect all freshwater wetlands.

- (ii) Remove all unauthorized fill material from the altered Forested Wetland, including all sod/established lawn, underlying deposited soil material, landscaping improvements, and residential amenities (i.e., swing-sets, landscaped islands, etc.). Fill material must be removed down to the original wetland grade (i.e., to the elevation of the original hydric organic surface soils). Following establishment of proper grades, all disturbed surface areas must be seeded with a proper wetland seed mixture, and covered with a mat of loose straw mulch, which is free of any contaminants that could promote the spread of invasive plant species, to provide immediate stabilization. All fill material that is removed must be deposited in an appropriate upland location, outside of all freshwater wetlands. In addition, if necessary and deemed appropriate by RIDEM, remove all non-native sediment deposits from the Area Subject to Storm Flowage (“ASSF”) which have resulted from unauthorized alterations and activities described above.
- (iii) Remove all components of the installed French drain system that lie within regulated freshwater wetlands (e.g., Forested Wetland and/or ASSF), which has resulted in the unauthorized discharge of surface/groundwater into said wetlands, and otherwise prevent any future discharges to the wetlands.
- (iv) Re-grade the slope resulting from fill removal (extending from the edge of the Forested Wetland landward) to create a 3:1 or shallower slope. An adequate plantable soil (loam) material must be applied to the finished slope (as needed), and the affected areas stabilized by seeding with a wildlife conservation seed mixture and covering all disturbed surface areas with a dense mat of loose straw mulch, which is free of any contaminants that could promote the spread of invasive plant species.
- (v) Plant all surface areas within the altered Forested Wetland with trees and shrubs, as follows:
 1. Balled and burlapped or transplanted shrub species must be planted in an interspersed fashion, 8 feet on center (apart), 3 feet tall after planting. Shrub species must include an equal distribution of at least 4 of the following selections:
 - Buttonbush, *Cephalanthus occidentalis*
 - Elderberry, *Sambucus canadensis*
 - Spicebush, *Lindera benzoin*
 - Northern arrowwood, *Viburnum recognitum*
 - Winterberry, *Ilex verticillata*
 - Highbush blueberry, *Vaccinium corymbosum*
 - Swamp azalea, *Rhododendron viscosum*
 - Purple osier (basket) willow, *Salix purpurea*
 - Speckled alder, *Alnus incana (formerly rugosa)*
 - Red-osier dogwood, *Cornus sericea*
 - Red chokeberry, *Aronia arbutifolia*
 - Swamp rose, *Rosa palustris*
 - Sweet pepperbush, *Clethra alnifolia*

2. Balled and burlapped or transplanted evergreen screening tree/shrub species must be planted in a straight line, 8 feet on center (apart), at least 5 feet tall after planting, along the outer (landward/western) edge of the Forested Wetland, as directed by RIDEM. The tree species must include at least 2 of the following selections:

Northern white cedar, *Thuja occidentalis*
Eastern hemlock (disease-resistant variety), *Tsuga canadensis*
White pine, *Pinus strobus*
Great rhododendron, *Rhododendron maximum*

- (c) If any of the required plantings fail to survive at least 2 full growing seasons from the time they have been planted, replant and maintain the same plant species until such time that survival is maintained over 2 full growing seasons.
 - (d) Allow the Forested Wetland and ASSF to revegetate naturally and revert to a natural wild state. No future clearing, mowing, cutting, trimming, or other alterations are allowed in the restored freshwater wetland areas, or within other freshwater wetlands, buffer zones, buffers, or other contiguous jurisdictional areas on the Property, without first obtaining a permit from RIDEM, unless the activity is exempt under the *Rules and Regulations Governing the Administration and Enforcement of the Freshwater Wetlands Act (250-RICR-150-15-3.6)*.
 - (e) Upon stabilization of all disturbed areas, remove all non-biodegradable erosion and sedimentation controls from the Forested Wetland and ASSF. Prior to the removal of the controls and/or prior to the contractor vacating the Property, all accumulated sediment must be removed to a suitable upland area, outside of all freshwater wetlands.
- (6) Penalty – The administrative penalty assessed in the NOV against Respondents is hereby waived.
 - (7) Bradley Jillett provides to RIDEM, its authorized officers, employees, and representatives an irrevocable right of access to the Property at all reasonable times to monitor compliance with this Agreement. Bradley Jillett shall ensure that assignees, successors in interest, lessees, sublessees, tenants in possession and/or occupants of the Property shall provide the same access and cooperation if they control the Property. Bradley Jillett shall provide a copy of this Agreement to any current lessee, sublessee, tenant in possession and/or occupant of the Property as of the effective date of this Agreement. Any subsequent leases, subleases, assignments or transfers of the Property or an interest in the Property shall include this right of access provision and shall otherwise be consistent with the terms of this Agreement.

D. COMPLIANCE

- (1) Compliance with and fulfillment of this Agreement shall be deemed to resolve all issues raised in the NOV. Upon successful completion of the requirements set forth in the Agreement, RIDEM shall issue a Release and Discharge of the NOV and Agreement to Bradley Jillett for recording. The recordings shall be at the sole expense of Bradley Jillett.
- (2) If Bradley Jillett fails to comply with the items specified in section C (5) of the Agreement, he shall pay a stipulated penalty of \$500 per month for each month during which the noncompliance continues, except that RIDEM may, for good cause shown, defer or reduce such penalty. The payment of a penalty in accordance with this section shall not preclude RIDEM from seeking any other appropriate remedy (e.g., injunctive relief in Superior Court).
- (3) Compliance with the terms of this Agreement does not relieve Respondents of any obligation to comply with any other applicable laws or regulations administered by, through or for RIDEM or any other governmental entity.
- (4) Upon a determination by the Director that there is a threat to the public health or the environment, or upon discovery of any new information, RIDEM reserves the right to take additional enforcement actions as provided by statute or regulation, including, but not limited to, the issuance of “Immediate Compliance Orders” as authorized by R.I. Gen. Laws Section 42-17.1-2(21). This Agreement shall not restrict any right to hearing or other right available by statute or regulation that Respondents may have regarding any new enforcement action commenced by RIDEM after the execution of this Agreement.
- (5) This Agreement shall not operate to shield Respondents or their assignees, successors in interest, lessees, sublessees, tenants in possession and/or occupants of the Property from liability arising from future activities, as of the date of execution of this Agreement.
- (6) The scope of the Agreement is limited to violations alleged in the NOV.
- (7) Communications regarding this Agreement shall be directed to:

Bruce Ahern, Principal Environmental Scientist

RIDEM Office of Compliance and Inspection

235 Promenade Street

Providence, RI 02908-5767

(401) 222-1360 ext. 2777703

bruce.ahern@dem.ri.gov

Jenna Giguere, Esquire
RIDEM Office of Legal Services
235 Promenade Street
Providence, RI 02908-5767
(401) 222-6607 ext. 2772306

jenna.giguere@dem.ri.gov

Bradley Jillett
283 Willard Avenue
South Kingstown, RI 02879
(401) 499-8805

bradjillett@yahoo.com

- (a) At any time prior to full compliance with the terms of this Agreement, Bradley Jillett agrees to notify RIDEM in writing of any change in ownership of the Property and provide the name and address of the new owner(s). Notice of any change in address/telephone/fax of either party shall be sent to all other parties by certified mail.
- (b) All communications regarding compliance with this Agreement shall be forwarded to the above-referenced addressees by certified mail.
- (8) The Director may, for good cause shown, defer any of the compliance dates prescribed herein. Good cause for deferral of any compliance date shall be forwarded to RIDEM in writing at least 15 days prior to the prescribed deadline.
- (9) The Agreement may be amended by agreement of the parties in writing.
- (10) This Agreement shall be deemed entered as of the date of execution by all parties.

IN WITNESS WHEREOF, the undersigned consent to this Agreement in substance and in form.

Bradley Jillett

Dated: _____

Jessica Jillett

Dated: _____

State of Rhode Island, Department of Environmental
Management

By: _____

David E. Chopy, Administrator
Office of Compliance and Inspection

Dated: _____