

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

IN RE: Jeremy Votolato, d/b/a Island Green Golf, LLC FILE NO.: Dam State I.D. 498

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 Hopkins Farm Pond Dam, State Identification Number 498, located approximately 400 feet northeast of the intersection of Flat River Road and Abbotts Crossing Road, approximately 360 feet southeast of Abbotts Crossing Road, in the town of Coventry, Rhode Island (“Dam 498”).
- (2) According to the Assessor’s database for the town of Coventry, Island Green Golf, LLC owns Dam 498 as a portion of town of Coventry Assessor’s Map 53, Lot 32.001.
- (3) The Rhode Island Secretary of State’s corporations database (the “Corporations Database”) lists a fictitious name of Washington Village Golf Course for Island Green Golf, LLC. Island Green Golf, LLC filed the fictitious name with the Rhode Island Secretary of State on July 13, 2005.
- (4) The Corporations Database lists Island Green Golf, LLC as an inactive corporation, having its principal place of business at 2 Fairway Drive in the town of Coventry, Rhode Island. The date of the Revocation Certificate was August 1, 2012. The record lists Jeremy Votolato as the Manager of the corporation.
- (5) Dam 498 is classified by DEM as Significant Hazard.
- (6) In a certified letter from the DEM to Washington Village Golf Course dated January 20, 2009, which was delivered on January 26, 2009, the DEM forwarded a registration form for Dam 498 (the “Registration”). Washington Village Golf Course was required to complete and return the Registration to DEM by February 9, 2009.

- (7) On July 13, 2012, Dam 498 was inspected (the "Inspection"). The Inspection revealed the following conditions:
 - (a) The elevation of the primary spillway was raised through the installation of concrete masonry unit blocks (the "Masonry Blocks"); and
 - (b) The emergency spillway channel below Dam 498 was about forty (40) feet wide (the "Current Spillway Width").
- (8) Plans of file with the DEM for Dam 498 that were submitted to the Division of Harbors & Rivers and received on May 25, 1962 show that the emergency spillway channel below Dam 498 was about fifty seven (57) feet wide (the "Former Spillway Width").
- (9) The installation of the Masonry Blocks represents a substantial alteration to Dam 498 (the "Substantial Alteration").
- (10) The reduction of the width of the emergency spillway channel below Dam 498 to the Current Spillway Width represents a repair to Dam 498 (the "Spillway Channel Repair").
- (11) No approval was issued by DEM for the Substantial Alteration.
- (12) No approval was issued by DEM for the Spillway Channel Repair.
- (13) As of the date of this Notice of Violation ("NOV"), the Respondent has not provided the Registration to 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 Dam Safety Regulations, Rule 7A** – prohibiting repair of a significant hazard dam without first obtaining DEM's approval.
- (2) **DEM's Dam Safety Regulations, Rule 7E** – prohibiting substantial alteration of a dam without DEM's approval.
- (3) **DEM's Dam Safety Regulations, Rule 8** – requiring the owner of a dam to provide a fully completed registration form to 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 fourteen (14) days of receipt of the NOV**, complete and submit to DEM the enclosed registration form.
- (2) **Within sixty (60) days of receipt of the NOV**, remove the Masonry Blocks.
- (3) **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 repair, and have the engineer complete and submit to DEM an application to remove the fill from the emergency spillway channel to restore the channel to its Former Spillway Width. The application must be prepared in accordance with the DEM's Dam Safety Regulations, Rule 10B (the "Application") and include a schedule to complete the work.
- (4) The application required in Section D.3 above shall be subject to DEM 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 application and/or schedule or additional information necessary to correct the deficiencies.
- (5) 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, 2ND 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, 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 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) An original signed copy of this NOV is being forwarded to the town of Coventry wherein the Property is located to be recorded in the Office of Land Evidence Records pursuant to R.I. Gen. Laws Chapter 34-13 and Section 46-19-4(c), as amended.
 - (6) This 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, you may contact (or if you are represented by an attorney, please have your attorney contact) Richard Bianculli 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:

Jeremy Votolato
d/b/a Island Green Golf, LLC
2 Fairway Drive
Coventry, RI 02816

by Certified Mail.
