



Affirmative Action/Equal Opportunity Employer

ACME POND DAM (#6910)
BEAR HILL ROAD, KILLINGLY

1. Wright Investors' Service Holdings, Inc. ("WISH" or the "Respondent") owns and/or has control of the Acme Pond Dam #6910 ("Dam") located at 53 Bear Hill Road, Killingly, Connecticut by virtue of a quit claim deed dated July 3, 2018 recorded on the land records of Killingly, CT at Vol 1338, Page 507.
2. The Dam is subject to the Commissioner's jurisdiction pursuant to Conn. Gen. Stat. §§ 22a-401 and 22a-402. Pursuant to § 22a-409-2(a)(1)(E) of the Regulations of Connecticut State Agencies ("RCSA"), the structure has been classified as a Class C, high hazard potential dam.
3. On September 26, 2014, the Commissioner issued Order No. DSO-2014-1002-V because Department of Energy & Environmental Protection ("DEEP") staff made observations which caused the Commissioner to question the condition, integrity and safety of the Dam.
4. On October 6, 2014, the Respondent filed with the DEEP's Office of Adjudications a Request for Hearing (the "Request for Hearing"). Respondent contested the Order on numerous grounds as enumerated in the Amended Request for Hearing.
5. Upon entry of this Consent Order, as a final order by the Commissioner, this Consent Order supersedes Order DSO-2014-1002-V, and Order DSO-2014-1002-V is moot with no binding legal effect.

6. The Respondent has retained GeoDesign Inc. ("Engineer"), which is a qualified engineering consultant acceptable to the Commissioner, for overseeing the actions required by this Consent Order.
 7. On May 8, 2015, a site inspection was conducted by DEEP staff in the presence of Respondent and their Engineer. This inspection was scheduled to discuss Respondent's conformance with the requirements of Order No. DSO-2014-1002-V and to ascertain the condition of the Dam to determine its safety.
 8. On May 8, 2015, during the site inspection, representatives of DEEP and the Respondent observed some subsidence of the Dam crest, inadequacy of the riprap on the downstream embankment, and along with representatives of the Respondent encountered an inability to enter the downstream building to view and assess drawdown capability because the downstream building is not owned or controlled by the Respondent.
 9. By agreeing to issuance of this Consent Order, the Respondent makes no admission of fact or law with respect to the matters addressed herein.
- B. With the agreement of Respondent, the Commissioner, acting under Conn. Gen. Stat. §§ 22a-6 and 22a-402, orders Respondent as follows:
1. a) Retain a Connecticut Licensed Professional Engineer ("Engineer"). Respondent shall continue to retain a professional engineer licensed to practice in Connecticut and acceptable to the Commissioner to prepare the studies and documents required by this Consent Order and to oversee the actions required by this Consent Order. Respondent shall retain the Engineer until this Consent Order is fully complied with and within ten (10) days after retaining any engineer other than one originally identified under Paragraph A.7 of this Consent Order, Respondent shall notify the Commissioner in writing of the identity of such other engineer. The Engineer shall have specific and substantial experience in preparation of hydrologic and hydraulic studies and the design and implementation of dam repairs. Nothing in this paragraph shall preclude the Commissioner from finding a previously acceptable engineer unacceptable.
 - b) Investigate, and Submit Report of Investigation and Preliminary Engineering Design ("Report of Investigation"). Unless an additional ninety (90) day extension is granted by the Commissioner in writing to conduct a supplemental investigation or unless otherwise specified by the Commissioner in writing, WISH shall perform an investigation of the dam and within one-hundred eighty (180) days of issuance of this Consent Order, submit for the Commissioner's review and written approval, a comprehensive and thorough report signed and sealed in accordance with section 20-300-10 of the RSCA, which report describes in detail dams' ability to safely discharge the recommended design flood for this dam which is the ½ Probable Maximum Flood (PMF) including:
 - i. The hydrologic, and hydraulic, and structural stability investigations and computations performed to evaluate the dam's ability to safely discharge the ½

PMF through its spillway and if necessary by controlled overtopping of the earthen embankment and downstream masonry wall;

- ii. An evaluation of the ability of the riprap that exists on the embankment to protect that embankment from erosion or other damage in the event of overtopping;
 - iii. To the extent necessary, a discussion of alternatives considered and the recommended solution which once implemented will protect the dam from damage should the $\frac{1}{2}$ PMF design storm occur; and
 - iv. A preliminary design concept for necessary repairs and/or modifications to the dam such that it can safely pass the $\frac{1}{2}$ PMF design storm or presents recommendations for alternate remedial dam modification measures such that it can safely pass the $\frac{1}{2}$ PMF design storm.
- c) Revised Report of Investigation. If the Report of Investigation is found to be inadequate or not acceptable to the Commissioner, a Revised Report of Investigation shall be submitted within sixty (60) days of the issuance date of the written or electronic communication from the Commissioner describing the deficiencies of the Report of Investigation. The revised Report of Investigation must be signed and sealed by the engineer in accordance with Section 20-300-10 of the RCSA.
- d) Submit Plans and Specifications. On or before ninety (90) days following the date of the Commissioner's approval of the Report of Investigation or any revised Report of Investigation, Respondent, if required, shall submit for the Commissioner's review and written approval, construction plans and specifications based on the approved Report of Investigation.
- e) Revised Plans and Specifications. If the Plans and Specifications are found to be inadequate or not acceptable to the Commissioner, Revised Plans and Specifications shall be submitted within thirty (30) days of the issuance date of the written or electronic communication from the Commissioner describing the deficiencies of the Plans and Specifications. The revised Plans and Specifications must be signed and sealed by the engineer in accordance with Section 20-300-10 of the RCSA.
- f) Submit Schedule for Construction. On or before fifteen (15) days following receipt of the Commissioners written or electronic correspondence approving the Plans and Specifications, Respondent shall submit a schedule for the construction of any needed improvements to the dam including proposed contracting bidding and initiation of the work. Such schedule shall be timed to initiate and complete the work as soon as is possible weather conditions permitting.
- g) Construct Improvements to the Dam. To the extent required, Respondent shall perform the actions specified in the approved Plans and Specifications in accordance with the approved schedule(s), and, within fifteen (15) days of completing such actions, shall notify the Commissioner in writing that the actions have been

completed as approved. Such actions shall be overseen by the Engineer. Respondent shall not modify the approved actions without the prior written approval of the Commissioner.

- h) Submit As-Built Construction Drawings, Engineer Certification. On or before fifteen (15) days after completing the actions specified in subparagraph B.1.g., Respondent shall submit to the Commissioner:
 - i. An As-built version of the approved plans which are marked to depict the construction as completed, including any deviations from the approved plans and specifications. Said drawings shall be prepared and sealed by the engineer who oversaw the construction. In addition, the respondent shall submit of an electronic copy of the final as-built plans in Adobe Acrobat "pdf" format. The as-built plan shall be signed and sealed by the Engineer in accordance with Section 20-300-10 of the RCSA; and
 - ii. A certification signed and sealed by the Engineer in accordance with Section 20-300-10 of the RCSA that the actions required under this Consent Order to place the Dam in a safe condition have been completed as approved.
2. Monthly Progress reports. Following issuance of this Consent Order and continuing until Commissioner's written approval of any as built drawing submitted under Paragraph B.1.i of this Consent Order, Respondent shall submit monthly progress reports to the Commissioner describing the actions which Respondent took during the previous month to comply with this Consent Order. Such monthly reports shall be due for submission on or before the 5th day of each month for the previous month's activity. Reports may be submitted by email to DEEP.DamSafety@ct.gov.
3. Full compliance. Respondent shall not be considered in full compliance with this Consent Order until all actions required by this Consent Order have been completed and approved, to the Commissioner's satisfaction. Respondent are eligible to apply to the Commissioner for a Certificate of Approval ("COA") pursuant to Conn. Gen. Stat. § 22a-405 once Respondent has complied in full with Sections 1. a) through 1. h) ii) of this Consent Order.
4. Approvals. Respondent shall use best efforts to submit to the Commissioner all documents required by this Consent Order in a complete and approvable form. If the Commissioner notifies Respondent that any document or other action is deficient, and does not approve it with conditions or modifications, it is deemed disapproved, and Respondent shall correct the deficiencies and resubmit it within the time specified by the Commissioner or, if no time is specified by the Commissioner, within thirty (30) days of the Commissioner's notice of deficiencies. In approving any document or other action under this Consent Order, the Commissioner may approve the document or other action as submitted or performed or with such conditions or modifications as the Commissioner deems necessary to carry out the purposes of this Consent Order. Nothing in this paragraph shall excuse noncompliance or delay.

5. Definitions. As used in this Consent Order, "Commissioner" means the Commissioner of the Department of Energy and Environmental Protection or a representative of the Commissioner.
6. Dates. The date of "issuance" of this Consent Order is the date the Consent Order is deposited in the U.S. mail or personally delivered, whichever is earlier. The date of submission to the Commissioner of any document required by this Consent Order shall be the date such document is received by the Commissioner. The date of any notice by the Commissioner under this Consent Order, including but not limited to notice of approval or disapproval of any document or other action, shall be the date such notice is personally delivered or the date three (3) days after it is mailed by the Commissioner, whichever is earlier. Except as otherwise specified in this Consent Order, the word "day" as used in this Consent Order means calendar day. Any document or action which is required by this Consent Order to be submitted or performed by a date which falls on a Saturday, Sunday or a Connecticut or federal holiday shall be submitted or performed by the next day which is not a Saturday, Sunday or Connecticut or federal holiday.
7. Notification of noncompliance. In the event that any Respondent becomes aware that it did not or may not comply, or did not or may not comply on time, with any requirement of this Consent Order or of any document required hereunder, Respondent shall immediately initially notify by telephone or electronic mail the Commissioner or the individual identified in Paragraph 18 of this Consent Order and shall take all reasonable steps to ensure that any noncompliance or delay is avoided or, if unavoidable, is minimized to the greatest extent possible. Within seven (7) days of the initial notice, Respondent shall state in writing the reasons for the noncompliance or delay and propose, for the review and written approval of the Commissioner dates by which compliance will be achieved, and Respondent shall comply with any dates which may be approved in writing by the Commissioner. Notification by Respondent shall not excuse noncompliance or delay, and the Commissioner's approval of any compliance dates proposed shall not excuse noncompliance or delay unless specifically so stated by the Commissioner in writing.
8. Certification of documents. Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this Consent Order shall be signed by Respondent, and by the individual or individuals responsible for actually preparing such document, each of whom shall certify in writing as follows:

"I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, that the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in the submitted information may be punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law."

9. Noncompliance. Failure to comply with this Consent Order may subject Respondent to an injunction and penalties under Conn. Gen. Stat. Chapters 439 and 446j.
10. False statements. Any false statement in any information submitted pursuant to this Consent Order is punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law.
11. Notice of transfer; liability of Respondent and others. Until Respondent has fully complied with this Consent Order, Respondent shall notify the Commissioner in writing no later than 10 days after either transferring ownership of the Dam or obtaining a new mailing or location address. Respondent's obligations under this Consent Order shall not be affected by the passage of title to any property, to any other person or municipality. Any future owner of the Dam may be subject to the issuance of a Consent Order from the Commissioner.
12. Commissioner's powers. Nothing in this Consent Order shall affect the Commissioner's authority to institute any proceeding to prevent or abate violations of law, or to recover penalties for violations of law, including but not limited to violations of any permit issued by the Commissioner, or to place a dam in a safe condition and recover costs thereof. If at any time the Commissioner determines that actions taken by pursuant to this Consent Order have not successfully placed the Dam in a safe condition, the Commissioner may institute any proceeding to require Respondent to place the Dam in a safe condition.
13. Respondent's obligations under law. Nothing in this Consent Order shall relieve Respondent of other obligations under applicable federal, state and local law.
14. No assurance by Commissioner. No provision of this Consent Order and no action or inaction by the Commissioner shall be construed to constitute an assurance by the Commissioner that the actions taken by Respondent pursuant to this Consent Order will result in compliance with applicable laws.
15. Access to site. Any representative of the DEEP may enter the site without prior notice for the purposes of monitoring and enforcing the actions required or allowed by this Consent Order.
16. No effect on rights of other persons. This Consent Order neither creates nor affects any rights of persons or municipalities that are not parties to this Consent Order.
17. Notice to Commissioner of changes. Within fifteen (15) days of the date Respondent become aware of a change in any information submitted to the Commissioner under this Consent Order, or that any such information was inaccurate or misleading or that any relevant information was omitted, Respondent shall submit the correct or omitted information to the Commissioner.

18. Submission of documents. Any document required to be submitted to the Commissioner under this Consent Order shall, unless otherwise specified in this Consent Order or in writing by the Commissioner, be directed to:

Peter L. Spangenberg, Civil Engineer III
Dam Safety Program
Department of Energy and Environmental Protection
Water Planning and Management Division
79 Elm Street
Hartford, Connecticut 06106-5127
(860) 424-3870

Respondent consents to the issuance of this Consent Order without further notice. Once executed, this Consent Order supersedes Order No. DSO-2014-1002-V. The undersigned certifies that he is fully authorized to enter into this Consent Order and to legally bind the Respondent to the terms and conditions of this Consent Order.

WRIGHT INVESTORS' SERVICE HOLDINGS, INC.


Ira Sobotko
Vice President, Chief Financial Officer

July 19, 2018
Date

Issued as a final order of the Commissioner of Energy and Environmental Protection.


Robert Kaliszewski
Deputy Commissioner
Environmental Quality Branch

July 27, 2018
Date