

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

OFFICE OF COMPLIANCE & INSPECTION

IN RE: BMP, LLC

**FILE NO.: Dam State I.D. 160
and OCI-DAMS-23-11**

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 “RIDEM”) has reasonable grounds to believe that the above-named party (“Respondent”) has violated certain statutes and/or administrative regulations under RIDEM's jurisdiction.

B. FACTS

- (1) The subject property is a dam identified as Hope Dam, State Identification Number 160, located approximately 800 feet south of the intersection of North Road and Main Street and 340 feet west of Main Street, Assessor’s Plat 05, Lots 58 and 69 in the town of Scituate, Rhode Island (“Dam 160”).
- (2) The Respondent owns Dam 160.
- (3) Dam 160 is classified by RIDEM as Significant Hazard.
- (4) On December 2, 2022, Dam 160 was inspected. The inspection revealed dense vegetation on the upstream and downstream embankments that prohibited a complete inspection in these areas.
- (5) RIDEM considers the Dam unsafe because of the findings described in section B (4) above.
- (6) In a certified letter from RIDEM to the Respondent dated July 16, 2025, which was delivered on July 21, 2025, RIDEM forwarded a registration form for Dam 160. Respondent was required to complete and return the form to RIDEM by August 4, 2025.
- (7) As of the date of this Notice of Violation (“NOV”), the Respondent has not provided the registration form to RIDEM.

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) **Rhode Island's Rules and Regulations for Dam Safety (250-RIRC-130-05-1) ("DS Rules"), Part 1.6(A)** – requiring the owner of a significant hazard dam to maintain the dam in a safe condition
- (2) **DS Rules, Part 1.8(A)** – requiring the owner of a dam to provide a fully completed registration form to RIDEM.

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 RIDEM the enclosed registration form.
- (2) **Within 90 days of receipt of the NOV**, cut or remove improper vegetation on Dam 160 as described in section B (4) above in accordance with the DS Rules, Part 1.10(A). Cutting or removal shall be in enough to allow a thorough visual inspection to be performed. RIDEM shall be notified upon commencement and completion of this work.
- (3) **Within 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 ("Dam Engineer").
- (4) **Within 180 days of receipt of the NOV**, the Dam Engineer must complete the following in accordance with the DS Rules, Part 1.11(C):
 - (a) A visual inspection (after the vegetation is removed as described in section D(2)) of Dam 160 in the areas described in section B(4).
 - (b) Submit a report of the findings to RIDEM. If it is determined that the dam is unsafe, 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, the report must include an application prepared in accordance with the DS Rules, Part 1.10(B).
- (5) The report, application, and/or schedule required above shall be subject to RIDEM's review and approval. Upon review, RIDEM shall provide written notification either granting formal approval or stating the deficiencies therein. **Within 14 days (unless a longer time is specified) of receiving a notification of deficiencies**, submit to RIDEM a modified report, application and/or schedule or

additional information necessary to correct the deficiencies.

- (6) Commence work specified in the schedule approved by RIDEM within 20 days of approval (unless otherwise expressly authorized by RIDEM in writing to commence work later) 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 RIDEM's 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 RIDEM'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
RIDEM - Administrative Adjudication Division
235 Promenade Street, 3RD Floor
Providence, RI 02908-5767

- (c) Indicate whether you deny the alleged violations. See R.I. Gen. Laws Section 42-17.6-4(b).
 - (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 Part 1.7(B) of Rhode Island's *Rules and Regulations for the Administrative Adjudication Division* (250-RICR-10-00-01).
- (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 RIDEM'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) An original signed copy of the NOV is being forwarded to the Town of Scituate, Rhode Island wherein the Property is located to be recorded in the Office of Land Evidence Records pursuant to R.I. General Laws Chapter 34-13 and Section 46-19-4(c), as amended.
- (7) 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 LoBianco of RIDEM's Office of Legal Services at (401) 537-4412 or email joseph.lobianco@dem.ri.gov. All other inquiries should be directed to Stacey Pinto of the RIDEM's Office of Compliance and Inspection at (401) 537-4477 or email Stacey.pinto@dem.ri.gov.

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: _____
Christina Hoefsmit, Acting Administrator
RIDEM Office of Compliance and Inspection

Date: _____

CERTIFICATION

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

BMP, LLC
c/o Alexandria Pezzello, Registered Agent
Partridge Snow and Hahn
40 Westminster Street, Suite 1100
Providence, RI 02903

by Certified Mail.
