



2. Defendant, Wilson Reservoir Association, was a domestic non-profit corporation registered in the State of Rhode Island, with a principal office located at 595 Wallum Lake Road, Pascoag, Rhode Island 02859.
3. Wilson Reservoir Association Certificate of Authority was revoked by Rhode Island Secretary of State on or about February 9, 2016.
4. Defendant, Bernard Crodeau, is the last known Director and current President of Wilson Reservoir Association, with an address of 575 Wallum Lake Road, Pascoag, Rhode Island 02859.

**C. JURISDICTION AND VENUE**

5. Subject matter jurisdiction in this case is properly conferred in this Court pursuant to R.I. Gen. Laws §§ 8-2-13 and 42-17-2(21)(vi).
6. Personal Jurisdiction over the Defendants in this case is properly conferred in this Court based on Defendants' residence and ownership of real property within the State of Rhode Island.
7. Venue is properly placed in this Court pursuant to R.I. Gen. Laws § 9-4-3.

**D. FACTS**

8. Defendant, Wilson Reservoir Association, owns a dam identified as Wilson Reservoir Dam, State Identification Number 003, located approximately 2,100 feet west of the intersection of East Wallum Lake Road and Wallum Lake Road, approximately 100 feet north of Wallum Lake Road, Assessor's Plat 156, Lot 64, in the town of Burrillville, Rhode Island ("Dam 003").
9. Defendant, Bernard Crodeau is the President of Wilson Reservoir Association.

10. According to the Town of Burrillville tax assessor, the address for the Wilson Reservoir Association is c/o Jeremy Bailey 585 Wallum Lake Road, Pascoag Rhode Island 02859.

11. Dam 003 is classified as High Hazard.

12. On October 30, 2013, Dam 003 was inspected. The inspection revealed:

- a. Vegetation on the upstream side and downstream side of the embankment that did not allow a proper inspection to be performed; that the downstream wall appeared to be bulged and rotated outward; and a boulder filled slope and possible collapsed wall on the downstream side of the embankment.

13. On April 22, 2016, RIDEM issued a NOV to Defendants alleging violations of Dam Safety Regulations for:

- a. Failing to maintain Dam 003 in a safe condition;
- b. For requiring the owner of a high hazard dam to perform visual inspections of the dam whenever the RIDEM determines one is necessary; and
- c. For requiring the owner of a high hazard dam to perform a detailed investigation of the dam whenever the findings of a visual inspection reveal that the dam may be unsafe.

14. The Defendants did not request an administrative hearing to resolve the violations.

15. Among other terms, the NOV ordered the Defendants to:

- a. **Within 90 days of receipt of the NOV**, cut and remove the vegetation from areas of Dam 003, as described, in accordance with the DEM's Dam Safety Regulations, Rule 10A. Cutting or removal shall be in sufficient amounts to allow a thorough visual inspection to be performed. The DEM shall be notified upon commencement and completion of this work.
- b. **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 ("the Dam Engineer").
- c. **Within 180 days of receipt of the NOV**, the Dam Engineer must complete the following in accordance with the DEM's Dam Safety Regulations, Rule 11C:
  - i. A visual inspection of Dam 003;

- ii. A detailed investigation of Dam 003 to assess the bulge and potential rotation of the downstream wall and the possible collapsed section of the downstream wall; and
- iii. Submit a report of the inspection/investigation finding to the DEM. The report must specify the actions (in addition to the action 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 repost must include an application prepared in accordance with the RIDEM's Dam Safety Regulations, Rule 10B.
- d. The report, application, and/or schedule required above shall be subject to the 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 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 deficiencies.
- e. Commence work specified in the schedule approved by the DEM within 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.

16. To date, the Defendants have failed to comply with the NOV.

17. Because the Defendants failed to request an administrative hearing, the NOV pursuant to R.I. Gen. Laws §§ 42-17.1-2(21)(vi) and 42-17.6-4(b) automatically becomes a Final Compliance Order enforceable in Superior Court.

18. Dam 003 continues to be owned by the Defendants.

19. As of the date of this Complaint, the Defendants have failed to fully comply with the terms of the Final Compliance Order. Such non-compliance constitutes a serious threat to public safety.

### **COUNT 1**

*(Violation of Final Compliance Order)*

20. Plaintiff hereby restates and incorporates by reference the allegations contained in

Paragraph 1 through 19 above.

21. The NOV issued to the Defendants by the RIDEM on April 22, 2016, was issued pursuant to R.I. Gen. Laws §§ 42-17.1-2(21) and 42-17.6-3.
22. In accordance with R.I. Gen. Laws § 42-17.1-2(21)(i), the NOV issued on April 22, 2016, notified the Defendants of the facts that gave the Department reasonable grounds to believe that a violation of law had occurred; of the statutes and/or regulations violated; and the Defendant's right to request an administrative hearing before the Department's Administrative Adjudicatory Division by filing a request for hearing within twenty (20) days of service of the NOV.
23. Defendants, by failing to appeal the NOV, are deemed to have waived their rights to an adjudicatory hearing resulting in the NOV automatically transforming into a Final Compliance Order of the RIDEM.
24. Pursuant to R.I. Gen. Laws § 42-17.1-2(21)(vi), a Final Compliance Order is enforceable in the Superior Court through injunctive proceedings wherein the burden of proving error in the Final Compliance Order rests with the Defendants.
25. As of the date of filing this Complaint, the Defendants have failed to comply with the provisions of the Final Compliance Order in that they have failed to cut or remove vegetation to allow for a thorough visual inspection and have failed to have a registered professional engineer who is experienced with dam inspection, design, construction and repair complete an inspection and submit a report of said inspection to the RIDEM.

**WHEREFORE**, the Plaintiff, Janet L. Coit, in her capacity as Director of the Rhode Island Department of Environmental Management, hereby requests that Judgement be entered in favor of the Plaintiff and that the Plaintiff be granted the following relief:

1. Preliminary and Permanent Injunctive Relief, ordering the Defendants to immediately take all necessary action to bring Dam 003 into compliance with the Dam Safety Regulations, in accordance with the NOV and the Final Compliance Order, by ordering Defendants to:
  - a. **Within 90 days**, cut or remove the vegetation from the areas of Dam 003 as described, in accordance with the Dam Safety Regulations, 250-RICR-130-05-1.10(A). Cutting or removal shall be in sufficient amounts to allow a thorough visual inspection to be performed. The RIDEM shall be notified upon commencement and completion of this work.
  - b. **Within 90 days**, 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”).
  - c. **Within 180 days**, the Dam Engineer must complete the following in accordance with the Dam Safety Regulations, 250-RICR-130-05-1.11(C):
    - i. A visual inspection of Dam 003;
    - ii. A detailed investigation of Dam 003 to assess the bulge and potential rotation of the downstream wall and the possible collapsed section of the downstream wall; and
    - iii. Submit a report of the inspection/investigation findings to the RIDEM. 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 Dam Safety Regulations, 250-RICR-130-05-1.10(B).
  - d. The report, application, and/or schedule required above shall be subject to the RIDEM's review and approval. Upon review, the RIDEM shall provide written notification to the Respondent either granting formal approval or stating the deficiencies therein. **Within 14 days (unless a longer time is specified) of receiving a notification of deficiencies**, the Respondent shall submit to the RIDEM a modified report, application, and/or schedule or additional information necessary to correct the deficiencies.
  - e. Commence work specified in the schedule approved by the RIDEM within 20 days of approval (unless otherwise expressly authorized by the RIDEM in writing to commence work at a later time) and complete such work in accordance with the approved schedule.
2. Any other relief that this Court deems just and equitable, in accordance with the facts of this case.

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VERIFICATION

I, Paul W. Guglielmino, Principal Civil Engineer of Rhode Island Department of Environmental Management's Office of Compliance and Inspection and an authorized representative of the Director, first being duly sworn upon oath, hereby state that the facts contained in this Complaint to the best of my knowledge and belief, true and accurate.

For the Director,  
By: \_\_\_\_\_  
PAUL W. GUGLIELMINO  
Principal Civil Engineer  
Office of Compliance and Inspection  
Dated: February\_\_\_\_, 2019.

**STATE OF RHODE ISLAND  
COUNTY OF PROVIDENCE**

Subscribed and sworn to before me this \_\_\_\_day of February, 2019.

\_\_\_\_\_  
NOTARY PUBLIC  
My Commission Expires:

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Respectfully submitted,  
JANET L. COIT,  
in her capacity as Director,  
RHODE ISLAND DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT

Date: February \_\_\_\_\_, 2019

By her attorney:

/s/Tricia Quest  
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