



STATE OF CONNECTICUT)	DSCO-2011-1003V
)	
vs.)	OAK HILL FARMS DETENTION BASIN
)	(# 4813)
OAKHILL EQUESTRIAN PROPERTIES, LLC))	ELLINGTON

CONSENT ORDER

- A. With the agreement of Oakhill Equestrian Properties, LLC (“Respondent”) the Commissioner of Energy & Environmental Protection (DEEP) (“the Commissioner”) finds:
1. Respondent is the owner of Oak Hill Farms Detention Basin (“dam”) located at Oak Hill Farms Road in Ellington, Connecticut. The property the dam is located on (“the site”) is more fully described on a certain map or plan entitled “Boundary Plan Prepared for Oak Hill Estates, Mountain Street, Ellington Connecticut,” prepared by Tarbell, Heintz & Assoc., Inc., Civil Engineers-Land Surveyors, dated 10-10-02, revised through 3-27-03, which map is on file in the Ellington Town Clerk’s office. The dam is a portion of the easement areas described in a certain Drainage Easement-Warranty Deed from Oakhill Equestrian Properties, LLC to the Town of Ellington, dated December 4, 2003 and recorded February 18, 2005 at Volume 348, Page 322 of the Ellington Land Records.
 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(d) of the Regulations of Connecticut State Agencies (“RCSA”), the structure has been classified as a class BB, moderate hazard potential dam.
 3. The Respondent constructed the dam without first obtaining a DEEP dam construction permit in violation of Conn. Gen Stat. § 22a-403. Certain deficiencies exist in the construction of the dam, which serves as a detention basin for the Oak Hill Estates subdivision in the town of Ellington, Connecticut.
 4. Respondent has retained Karl Acimovic, P.E. (“the Engineer”), a professional engineer licensed to practice in Connecticut, and the Commissioner finds him to be acceptable for preparing the remedial design work required by this Consent Order and for overseeing the actions required by this Consent Order.
 5. On January 22, 2008, the Commissioner received a document entitled “Oak Hill Estates Ellington, CT, Hydraulic Analysis & Wetland Mitigation Report,” dated January 2008 and

prepared for Oakhill Equestrian Properties, LLC. The results of the hydraulic analysis are found to be acceptable for use in addressing necessary modifications to the outlet structure.

6. On August 29, 2012, the Commissioner received a preliminary set of plans from the Respondent entitled "Proposed Everwall Upstream and Downstream Endwalls, Plans, Elevation and Details, Oak Hill Estates, Oak Hill Farms Road, Ellington, CT" prepared by Joseph L. Tenedine III, P.E. and dated revised 8/23/12. These plans include pipe modifications to the thirty-six (36) inch reinforced concrete pipe, modifications to the outlet structure in accordance with the hydraulic analysis dated January 2008, and construction of upstream and downstream endwalls for the thirty-six (36) inch reinforced concrete pipe.
 7. On June 21, 2011, the Commissioner received a document containing copies of the proposed Conservation Easements and Easement Plan entitled "Easement Plan Addendum to Existing Conservation Easements prepared for Oak Hill Estates Mountain Street, Ellington, Connecticut," prepared by Tarbell, Heintz & Assoc., Inc., dated March 30, 2011. The proposed easements are to provide compensatory mitigation for the detention taking place within wetlands at the Oak Hill Estates subdivision. This document is acceptable for use in addressing the necessary compensation required as a result of violating Conn. Gen. Stat. § 403.
- 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 the Engineer. Respondent shall continue to retain the Engineer until this Consent Order is fully complied with and within ten (10) days after retaining any engineer other than the Engineer, Respondent shall notify the Commissioner in writing of the identity of such other engineer(s). Such other engineer shall have specific and substantial experience in the design and implementation of plans for dam construction and repairs. Nothing in this paragraph shall preclude the Commissioner from finding a previously acceptable engineer unacceptable.
 - b. Provide Erosion and Sedimentation Controls. Prior to conducting grading activity at the site, Respondent shall provide adequate erosion and sedimentation control measures. In any plan submitted to the Commissioner pursuant to paragraph B.1.c. of this Consent Order, if Respondent proposes to grade any portion of the site, then Respondent shall include details on erosion and sediment controls to be used during and after implementation of such plan and provisions for permanent stabilization of exposed or disturbed soils.
 - c. Submit Final Plans and Specifications. Within thirty (30) days following the issuance of this Consent Order Respondent shall submit for the Commissioner's review and written approval detailed final drawings and specifications signed and sealed by the Engineer in accordance with RCSA § 20-300-10 ("the final plans") for the actions necessary to place the dam in a safe condition ("dam repair actions"). The final plans shall be consistent with the recommendations for repair contained in the approved preliminary design and shall include, but not necessarily be limited to:
 - (i) soil erosion and sediment control measures, including a water handling plan to be used for the dam repair actions;

- (ii.) a sequence for the construction of the dam repair actions, including an inspection schedule for critical phases of construction that are to be performed and approved by the Engineer; and
 - (iii.) a proposed schedule for the dam repair actions, which schedule shall provide for completion of all dam repair actions as soon as possible but in no event later than December 31, 2012.
 - d. Submit Contract Plans and Specifications. Within thirty (30) days after the date of the Commissioner's review and written approval of the final plans specified in subparagraph B.1.c., Respondent shall submit for the Commissioner's review and written approval contract drawings and specifications for the actions approved in said final plans to place the dam in a safe condition ("the contract plans"). Such contract plans shall include a schedule to perform such actions and be signed and sealed by the Engineer in accordance with RCSA § 20-300-10.
 - e. Perform Actions to Place the Dam in a Safe Condition. Respondent shall perform the actions specified in the approved contract plans 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. Respondent shall not modify the approved actions without the prior written approval of the Commissioner.
 - f. Submit As-Built Construction Drawings, Certification, Operations and Maintenance Manual. On or before thirty (30) days after completing the actions specified in paragraph B.1.e., Respondent shall submit to the Commissioner for his review and written approval:
 - (i.) two copies of as-built construction drawings of the dam, each signed and sealed by the Engineer in accordance with RCSA § 20-300-10;
 - (ii.) a certification signed and sealed by the Engineer in accordance with RCSA § 20-300-10 that the dam repair actions have been completed as approved; and
 - (iii.) an Operation and Maintenance Manual that specifies all routine maintenance activities to be undertaken at the dam, identifies measures for monitoring those dam features that are essential to the dam's integrity, and prescribes a schedule for undertaking such activities and monitoring.
 - g. Upon the Commissioner's written approval of the Operation and Maintenance Manual described herein, Respondent shall implement said manual and maintain it in effect thereafter.
2. Progress reports. Within thirty (30) days following the date of issuance of this Consent Order and continuing until Commissioner's written approval of any as-built drawing submitted under paragraph B.1.f. of this Consent Order, Respondent shall submit monthly progress reports to the Commissioner describing the actions Respondent has taken during the month preceding any such report to comply with this Consent Order. Such monthly report shall be due on the 15th of the month.

3. Conveyance of Easements. Within one hundred and twenty (120) days following the date of issuance of this Consent Order, the Respondent shall submit verification that the following easements have been transferred to the Town of Ellington:
 - a. That portion of 1 View Point Lane, "Edgewater Hgts. Lot#1, as shown on a map or plan entitled "Easement Plan Addendum to Existing Conservation Easements Prepared for Oak Hill Estates Mountain Street, Ellington, Tarbell, Heintz & Assoc., Inc. Civil Engineers – Land Surveyors 1227 Burnside Ave., Suite 31, East Hartford, CT (860)528-1810 Job No. 987 Date: 3-30-11 Scale: 1" = 100' Drawn by RHH Sheet No: 1 of 1". Being bounded and described as follows: Beginning at a point in the common boundary line between 1 and 3 View Point Lane, which point is in the northerly line of View Point Lane; thence S55°07'35" W along the northerly line of View Point Lane a distance of 36.48' to a point; thence continuing along the northerly line of View Point Lane on the arc of a curve to the left, having a radius of 350.00' and a delta angle of 20°35'18", a distance of 125.77' to a point; thence N 50°13'26" W a distance of 309.62' to a point; thence S 87°49'17" W a distance of 69.10' to a point; thence S 71°55'40" W a distance of 49.85' to a point in the northerly line of Mountain Street; thence N22°24'59"W along the northerly line of Mountain Street a distance of 261.97' to a point; thence continuing along the northerly line of Mountain Street on the arc of a curve to the left, having a radius of 2000.00' and a delta angle of 5°39'00", a distance of 197.22' to a point; thence N28°03'59"W along the northerly line of Mountain Street a distance of 52.90' to a point; thence S78°03'08"E a distance of 259.37' to a point; thence N11°43'50"E a distance 333.36' to a point; thence S35°43'25"E a distance of 144.78' to a point; thence S21°39'38"E a distance of 745.04' to the point or place of beginning.
 - b. Those portions of 164 and 162 Mountain Street, "Edgewater Hgts. Lot#2" and "Edgewater Hgts. Lot#3", respectively, as shown on a map or plan entitled "Easement Plan Addendum To Existing Conservation Easements Prepared for Oak Hill Estates Mountain Street Ellington, Tarbell, Heintz & Assoc., Inc., Civil Engineers – Land Surveyors 1227 Burnside Ave., Suite 31, East Hartford, CT (860) 528-1810 Job. No. 987 Date:3-30-11 Scale 1" = 100' Drawn by RHH Sheet No: 1 of 1", being bounded and described as follows: Beginning at a point in the common boundary line between 164 Mountain Street and 4 View Point Lane, which point is in the southerly line of View Point Lane: thence S38°23'25"E a distance of 230.43' to a point; thence S33°18'15"E a distance of 321.13' to a point; thence S36°22'24"W a distance of 145.08' to a point; thence N36°57'36"W a distance of 316.02' to a point; thence N49°25'23"W a distance of 140.55' to a point; thence N61°01'44"W a distance of 141.96' to a point in the southerly line of View Point Lane; thence along the southerly line of View Point Lane, on the arc of a curve to the right, having a radius of 300.00' and a delta angle of 19°46'28", a distance of 103.54' to a point; thence N54°57'53"E along the southerly line of View Point Lane a distance of 139.98' to the point or place of beginning.

- c. That portion of 190 Mountain Street, A.P.N. 047-034-0000, as shown on a map or plan entitled "Easement Plan Addendum to Existing Conservation Easements Prepared for Oak Hill estates Mountain Street Ellington, Tarbell, Heintz & Assoc., Civil Engineers – Land Surveyors 1227 Burnside Ave., Suite 31, East Hartford, CT (860) 528-1810 Job. No. 987 Date: 3-30-11 Scale: 1"= 100' Drawn by RHH Sheet No; 1 of 1", being bounded and described as follows: Beginning at a point in the common boundary line between 190 and 192 Mountain Street, which point is located N32°52'09"E a distance of 296.28' from the northerly line of Mountain Street: thence from said point, N32°52'09"E a distance of 104.15' to a point; thence S56°24'29"E a distance of 130.90' to a point; thence S38°42'16"E a distance of 201.69' to a point; thence S33°41'13"W a distance of 57.74' to a point; thence N53°45'02"W a distance of 321.97' to the point or place of beginning.
- d. Those portions of 7 and 8 Clydesdale Circle, A.P.N. 047-034-0034 and 047-034-0033, respectively, as shown on a map or plan entitled "Easement Plan Addendum to Existing Conservation Easements Prepared For Oak Hill Estates Mountain Street, Ellington Tarbell, Heintz & Assoc., Inc. Civil Engineers – Land Surveyors 1227 Burnside Ave., Suite 31, East Hartford, CT (860) 528-1810 Job. No. 987 Date: 3-30-11 Scale: 1" = 100' Drawn by RHH Sheet No: 1 of 1", being bounded and described as follows: Beginning at a point in the common boundary line between 5 and 7 Clydesdale Circle, which point is located S70°35'33"W a distance of 257.86' from the southerly line of Clydesdale Circle; thence from said point, S70°35'33"W a distance 138.11' to a point; thence S74°58'26"E a distance of 104.94' to a point; thence S71°53'26"E a distance of 145.20' to a point; thence S62°22'27"E a distance of 60.06' to a point; thence S31°01'26"E a distance of 103.92' to a point; thence S35°43'25"E a distance of 144.78' to a point; thence S81°12'10"E a distance of 110.21' to a point; thence N40°46'00"W a distance of 306.71' to a point; thence N73°01'04"W a distance of 145.15' to a point; thence N47°09'58" W a distance of 65.15' to a point; thence N23°57'28"W a distance of 55.27' to the point or place of beginning.
4. Civil Penalty. A civil penalty of Thirty-Six Thousand, Five Hundred Dollars (\$36,500.00) is imposed on the Respondent as the total civil penalty to be sought by the Commissioner for those, and only those, violations described in paragraph A.3 of this Consent Order. The civil penalty shall be payable as follows:
- a. On or before ninety (90) days after issuance of this Consent Order, the Respondent shall pay Eighteen Thousand, Two Hundred and Fifty Dollars (\$18,250.00) in accordance with the provisions of paragraph B.5 of this Consent Order.
- b. If, on or before December 31, 2012, the Respondent has demonstrated that it has completed the dam repair actions and the Respondent submits as-built construction

drawings and an Operating and Maintenance Manual pursuant to paragraph B.1.f of this Consent Order and the Commissioner approves said documents, then the remaining Eighteen Thousand, Two Hundred and Fifty Dollars (\$18,250.00) of the civil penalty shall be forgiven.

- c. If the Respondent does not complete the dam repair actions by December 31, 2012, or the Commissioner has not approved the as-built construction drawings and the Operating and Maintenance Manual pursuant to paragraph B.1.f. by June 30, 2013, the Respondent shall pay the remaining Eighteen Thousand, Two Hundred and Fifty Dollars (\$18,250.00) on or before August 1, 2013 in accordance with the provisions of paragraph B.5 of this Consent Order.
5. Payment of Penalties. Payment of penalties under paragraph B.4. of this Consent Order shall be mailed or personally delivered to the Department of Energy and Environmental Protection, Bureau of Administrative Accounts Receivable Office, 79 Elm Street, Hartford, CT 06106-5127, and shall be by certified or bank check payable to the Connecticut Department of Energy and Environmental Protection (DEEP). The check shall state on its face, "Water Protection and Land Reuse/civil penalty, Consent Order DS-2011-1003V." A copy of the check and any transmittal letter shall be sent to Arthur P. Christian II, Supervising Civil Engineer, Inland Water Resources Division at the same address.
6. Penalty for late payment. The total civil penalty specified in paragraph B.4. shall increase by five (5) percent if not paid on or before the due date, provided that if the total civil penalty is not paid until thirty-one (31) or more days after the penalty is due, the total penalty shall increase by ten (10) percent. In addition, interest at the compounded rate of two-thirds percent per month shall accrue on any unpaid balance of the civil penalty.
7. 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 as approved and to the Commissioner's satisfaction.
8. 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. If Commissioner fails to notify Respondent that any document or other action is deficient within thirty (30) days after having received the document or notice of such other action, then it is deemed approved by the Commissioner. Nothing in this paragraph shall excuse noncompliance or delay.
9. Definitions. As used in this Consent Order, "Commissioner" means the Commissioner or a representative of the Commissioner.
10. 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 deposited in the U.S. mail or is personally delivered, 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.

11. 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 or by a duly authorized representative of 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 is punishable as a criminal offense under Conn. Gen. Stat. § 53a-157b and any other applicable law."
12. False statements. Any false statement in any information submitted pursuant to this Consent Order is punishable as a criminal offense under Conn. Gen. Stat. § 53a-157b and any other applicable law.
13. Notice of transfer; liability of Respondent. Until Respondent has fully complied with this Consent Order, Respondent shall notify the Commissioner in writing no later than fifteen (15) days after transferring all or any portion of the property, the operations, the site or the business which is the subject of this Consent Order or after 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 other person or municipality.
14. Commissioner's powers. Provided the Respondent is in full compliance with this Consent Order, the Commissioner will not seek further enforcement action against the Respondent for the specific violations addressed herein. In the event Respondent fails to fully comply with this Consent Order, or in the event additional violations or pollution caused by Respondent are discovered at the site, then the Commissioner shall have the authority to institute any proceeding or to take any action to prevent or abate violations of law, prevent or abate pollution, recover costs and natural resource damages, and to impose penalties for past, present or future violations of law.
15. Respondent's obligations under law. Nothing in this Consent Order shall relieve Respondent of other obligations under applicable federal, state and local law.
16. 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 or prevent or abate pollution.

17. 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.
18. Notice to Commissioner of changes. Within fifteen (15) days of the date Respondent becomes 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.
19. Notification of noncompliance. In the event that 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 notify by telephone the individual identified in the next paragraph 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 five (5) days of the initial notice, Respondent shall submit in writing the date, time, and duration of the noncompliance and 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.
20. Submission of documents. Any document required to be submitted to the Commissioner under this Consent Order shall, unless otherwise specified in writing by the Commissioner, be directed to:

Arthur P. Christian II, Supervising Civil Engineer
DEEP Inland Water Resources Division
79 Elm Street
Hartford, CT 06106-5127
(860) 424-3863

State of Connecticut vs. Oakhill Equestrians Properties, LLC

Consent Order DSCO-2011-1003V

Page 9 of 9

The Respondent consents to the issuance of this Consent Order without further notice.

OAKHILL EQUESTRIAN PROPERTIES, LLC

By: 
Alan D. Williams
Managing Member

8/28/2012
Date

Issued as a final order of the Commissioner of Energy and Environmental Protection, resolving Notice of Violation, DS-2005-1007V.

Deputy 
Commissioner

9/13/12
Date