

Connecticut Department of

**ENERGY &
ENVIRONMENTAL
PROTECTION**

STATE OF CONNECTICUT File# LIS-2012-3403-V Date of Issuance: April 30, 2012

v.

SACHEM'S HEAD YACHT CLUB

AND

SACHEM'S HEAD YACHT CLUB CORPORATION

CONSENT ORDER

A. With the agreement of the SACHEM'S Head Yacht Club and SACHEM'S Head Yacht Club Corporation ("the Respondents"), the Commissioner of Energy & Environmental Protection ("the Commissioner") finds:

1. The Respondent SACHEM'S Head Yacht Club Corporation is the owner of the island, the access bridge, and all structures located on the island located at 61 Chimney Corner Circle in Guilford, Connecticut ("the property"). The property is located adjacent to SACHEM'S Head Harbor, a tidal, coastal and navigable water of the State.
2. The Respondent SACHEM'S Head Yacht Club maintains all the floating docks and moorings located off the property identified in paragraph A.1., above.
3. On June 28, 1978, the Commissioner issued permit #SD-77137 to the SACHEM'S Head Yacht Club, Inc. authorizing the installation of two floating docks measuring approximately 10' wide by 20' long located off the eastern side of the island and one floating dock measuring approximately 8' wide by 20' long to be located along northern shoreline of the property. All other existing docking structures were determined to pre-date the regulatory process as shown in Attachment "A."
4. On or before March 15, 2012, the Respondent SACHEM'S Head Yacht Club modified the structures described in paragraph A.3., above, along the shoreline of the site within an area waterward of the high tide line at the property. The modifications include: a) removal of two approximately 10' wide by 20' long authorized floating docks located on the eastern side of the island and installation of floating docks measuring

approximately 24.5' wide by 91' long or 2,076 square feet; b) removal of the authorized 8' x 20' float and existing 50' x 70' float, and an 20' x 50' float located along the northern corner of the island and installation of two 16' wide by 20' long floating docks, four 10' wide x 20' long floating docks, and one 10' wide by 25' long floating dock; c) removal of an existing access ramp leading to a 10' wide by 20' long floating dock located along the northwestern corner of the property and installation of a 5' wide x 40' long pier, a 4' wide x 26' long ramp, and two 12' wide by 20' long floating docks; and d) installation of two 10' wide by 20' long floating docks located north off the shoreline of the 5' wide by 40' long pier described in paragraph A.4, above, as shown on Attachment "B."

5. The property and the location of the work described in paragraph A.3. above, shall hereinafter be referred to as "the site."
6. The Respondents have not applied for nor received any certificate or permit from the Commissioner under section 22a-361 of the Connecticut General Statutes (General Statutes) for the modification of the authorized structures described in paragraphs A.3 of this Consent Order.
7. By virtue of the above, the Respondents have violated section 22a-361 of the General Statutes.

B. With the agreement of the Respondents, the Commissioner, acting under sections 22a-6 and 22a-361 of the General Statutes, orders the Respondents as follows:

1. Installation of Structures. Upon issuance of this Consent Order, the Respondents may reinstall into the water the docking structures described in paragraph A.4, above.
2. Permit Application.
 - a. No later than ninety (90) days after issuance of this Consent Order, the Respondents shall submit a permit application to authorize the docking structures described in paragraph A.4., above. Such application shall include all information required on forms prescribed by the Commissioner, including a justification for the purpose and need for docking structures and their consistency with all applicable state statutes and policies.
 - b. In the event that the Commissioner's final determination on the permit application submitted pursuant to paragraph B.2.a., above, requires modification or removal of the existing docking structures waterward of the high tide line, the Respondents shall, not later than 30 days following issuance of a final determination, submit a

timetable to the Commissioner for his review and written approval for conforming the existing structure to the terms and conditions of said decision. Upon written approval, the Respondent shall conform such existing structures in accordance with the permit decision and the approved timetable.

3. Work Waterward of High Tide Line. The Respondents shall not conduct any work waterward of the high tide line at the site unless it is in accordance with CGS sections 22a-361 and/or 22a-32.
4. Full compliance. The Respondents 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 satisfaction of the Commissioner.
5. Penalty for past violations. On or before 30 days after issuance of this Consent Order, the Respondents shall pay a civil penalty of \$1,500.00 for the violation of section 22a-361 of the General Statutes described in paragraph A.4 above.
6. Payment of penalties. Payment of penalties under this Consent Order shall be mailed or personally delivered to Mr. Dennis Thibodeau, Department of Environmental Protection, Financial Management Office, 79 Elm Street, Hartford, CT 06106-5127, and shall be by certified or bank check payable to the Connecticut Department of Environmental Protection. The check shall state on its face, "Office of Long Island Sound Programs, Consent Order No. LIS-2012-3403-V."
7. Approvals. The Respondents 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 the Respondents that any document or other action is deficient, and does not approve it with conditions or modifications, it is deemed disapproved, and the Respondents 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 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.
8. Definitions. As used in this Consent Order, "Commissioner" means the Commissioner of Environmental Protection or an agent of the Commissioner. The date of "issuance" of this Consent Order is the date the Consent Order is deposited in the mail or personally delivered, whichever is earlier.

9. Dates. 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 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 legal holiday shall be submitted or performed on or before the next day which is not a Saturday, Sunday, or Connecticut or federal holiday.
10. Notification of noncompliance. In the event that the Respondents become aware that they 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, the Respondents shall immediately notify the Commissioner 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. In so notifying the Commissioner, the Respondents 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 the Respondents shall comply with any dates which may be approved in writing by the Commissioner. Notification by the Respondents shall not excuse noncompliance or delay. The Commissioner's approval of any revised compliance dates shall not excuse noncompliance or delay unless specifically so stated by the Commissioner in writing.
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 a duly authorized representative of the Respondents 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 that based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, 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 in accordance with Section 22a-6 of the Connecticut General Statutes, under Section 53a-157b of the Connecticut General Statutes, and in accordance with any other applicable statute."

12. Noncompliance. Failure to comply with this Consent Order may subject the Respondents to an injunction and penalties under Chapters 439, and 446i of the General Statutes.
13. False statements. Any false statement in any information submitted pursuant to this Consent Order may be punishable as a criminal offense in accordance with section 22a-6, under section 53a-157b of the CGS.
14. Notice of transfer; liability of the Respondents and others. Until the Respondents have fully complied with this Consent Order, the Respondents shall notify the Commissioner in writing no later than fifteen days after transferring all or any portion of the site, structures, obstructions, encroachments, fill, operations or facilities which are the subject of this Consent Order, or obtaining a new mailing or location address. The Respondents' obligations under this Consent Order shall not be affected by the passage of title to the site to any other person or municipality. A future owner of the site may be subject to the issuance of an Consent Order from the Commissioner.
15. Commissioner's powers. Nothing in this Consent Order shall affect the Commissioner's authority to institute any proceeding or take any action to prevent or abate violations of law, prevent or abate pollution, recover costs and damages for adverse impacts to natural resources and to impose penalties for violations of law, including but not limited to violations of any permit issued by the Commissioner. If at any time the Commissioner determines that the actions taken by the Respondents pursuant to this Consent Order have not successfully corrected all violations, the Commissioner may institute any proceeding to require the Respondents to undertake further investigation or further action to correct violations.
16. The Respondents' obligations under law. Nothing in this Consent Order shall relieve the Respondents of other obligations under applicable federal, state and local law.
17. No assurance by Commissioner. No provision of this Consent Order or inaction by the Commissioner shall be construed to constitute an assurance by the Commissioner that the corrective actions taken by the Respondents pursuant to this Consent Order will result in compliance with regard to any statute, regulation, permit, Consent Order or other authorization not identified hereunder.
18. Access to site. Any representative of the Department of Energy and Environmental Protection may enter the site without prior notice for the purposes of monitoring and enforcing the actions required or allowed by this Consent Order.
19. No effect on rights of other persons. This Consent Order shall neither create nor affect any rights of persons who or municipalities which are not parties to this Consent Order.

20. Notice to Commissioner of changes. Within fifteen days of the date the Respondents 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, the Respondents shall submit the correct or omitted information to the Commissioner.
21. Submission of documents. Any document required to be submitted to the Commissioner under this Consent Order or any contact required to be made with the Commissioner shall, unless otherwise specified in writing by the Commissioner, be directed to:

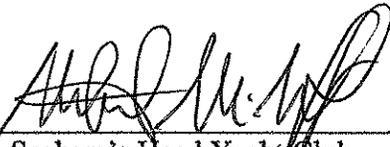
Kevin Zawoy
Department of Energy & Environmental Protection
Office of Long Island Sound Programs
79 Elm Street
Hartford, CT 06106-5127
(860) 424-3034
Fax # (860) 424-4054

22. Joint and Several Liability. The Respondents shall be jointly and severally liable for compliance with this Consent Order.

The undersigned certifies that he is fully authorized to enter into this Consent Order and to legally bind the Respondents to the terms and conditions thereof.

The Respondents consent to the issuance of this Consent Order without further notice.

BY:


Sachem's Head Yacht Club
Commodore, Michael McNiff

Date

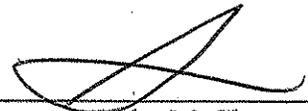
4/24/2012

AND

BY: 
Sachem's Head Yacht Club Corporation.
President, Robert B. Davidson
4/24/12
Date

Issued as a final order of the Commissioner of Energy & Environmental Protection on

4/30, 2012.


Macky McCleary
Deputy Commissioner