



STATE OF CONNECTICUT File #s LIS-2014-3669/3673-V Date of Issuance: March 18, 2015

v.

CITY OF MILFORD

CONSENT ORDER

A. The Commissioner of Energy & Environmental Protection ("the Commissioner") finds:

1. The City of Milford ("Respondent") is the owner of a tidal wetland identified on the City of Milford Assessor's Map as Map 046, Block 0588, Lot 00068 which is adjacent to Old Field Lane, Milford, CT ("Property 1") and the owner of property at the terminus of Waterbury Avenue (paper road), Milford, CT ("Property 2"). Property 1 is located adjacent to Gulf Pond, a tidal, coastal and navigable water of the State and contains tidal wetlands as defined by section 22a-29 of the Connecticut General Statutes ("CGS"). Property 2 is located adjacent to Long Island Sound a tidal, coastal and navigable water of the State.
2. On or before October 21, 2014, without authorization, Respondent at Property 1 replaced a 30" diameter reinforced concrete pipe (RCP) within a tidal ditch of Gulf Pond and added pieces of broken concrete along the embankment slope to stabilize the site waterward of the Coastal Jurisdiction Line ("CJL") and within tidal wetlands.
3. On or before June 3, 2014, without authorization, Respondent at Property 2 replaced an existing stormwater outfall pipe with a new HDPE pipe and a new concrete headwall waterward of the Coastal Jurisdiction Line ("CJL").
4. The property and the location of the work described in paragraph A.2., above, shall hereinafter be referred to as "site 1" and the property and location of work described in paragraph A.3., above shall hereinafter be referred to as "site 2."

5. Respondent has not received a certificate or permit from the Commissioner under sections 22a-361 or 22a-32 of the CGS for the work described in paragraph A.2. at the site and has not received a certificate or permit from the Commissioner under section 22a-361 of the CGS for the work described in paragraph A.3. at the site.
 6. By agreeing to the 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 the Respondent, the Commissioner, acting under CGS sections 22a-6 and sections 22a-361, and 22a-32, orders Respondent as follows:
1. Retention of Replaced Outfall Pipes and Headwall. Respondent may retain the replaced culvert section, stormwater outfall pipe, and headwall located at sites 1. and 2., pending a final determination, including a final determination on any appeal, of the Certificate of Permission (COP) applications #s COP-201500673-SJ for Waterbury Avenue and COP-201500675-SJ for Old Field Lane.
 2. COP Application Decision. In the event that the Commissioner's final determination on COP applications #s COP-201500673-SJ for Waterbury Avenue and COP-201500675-SJ for Old Field Lane, requires modification or removal of the structures, the Respondent shall, not later than 30 days following issuance of any final decision, submit a timetable to the Commissioner for his review and written approval for the modification or removal of the existing structure(s) in accordance with the terms and conditions of such final decisions. Upon the Commissioner's written approval, the Respondent shall remove the replaced structures and restore the area in accordance with the approved timetable and final decisions.
 3. No Additional Work. Respondent shall not conduct any work waterward of the coastal jurisdiction line or in tidal wetlands at the site without prior written authorization of the Commissioner in accordance with CGS sections 22a-361 and 22a-32.
 4. 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 satisfaction of the Commissioner.
 5. Supplemental Environmental Project (SEP). Respondent shall make every reasonable effort to complete the SEP described in paragraph B.5.a and detailed in Attachment "A." Reasonable efforts shall include, but not be limited to, seeking, within sixty (60) days of issuance of this Consent Order, all necessary local, state and federal permits and approvals necessary for the construction of the SEP such as obtaining from the Commissioner, a General Permit #DEP-LIS-GP-011 for removal of derelict structures,

and, implementing, within thirty (30) calendar days of issuance of all such permits and approvals, the SEP as set forth in Attachment "A" in accordance with the terms of such permits and approvals.

- a. The proposed SEP includes the removal of derelict piles and timbers from abandoned sections of outfall pipe supports located within Long Island Sound at the following locations: estimated 26 pilings from the Base of 6th Avenue (Laurel Beach Association), estimated 14 pilings from the base of Wildwood Avenue; estimated 50 pilings from the base of Naugatuck Avenue; estimated 30 pilings at the base of Bittersweet Avenue; estimated 30 pilings from the base of Smith Avenue; estimated 16 pilings from the base of Waterbury Avenue; and an estimated 24 pilings from the base of Ann Street.
- b. The total estimated cost for the SEP, as determined by the Commissioner, is five thousand dollars, (\$5,000.00).
- c. On or before 30 days after completion of the SEP, the Respondent shall submit for the Commissioner's review a final report that certifies completion of the SEP. Such final report shall include photographs showing the completed work, a complete final accounting of actual project costs incurred including receipts, and any other reasonable information requested by the Commissioner for the purpose of evaluating completion of the SEP.
- d. Should the Commissioner determine that the actual cost to the Respondent of the completed SEP is less than five thousand dollars (\$5,000.00), the Respondent shall pay the difference between such actual cost and the estimated cost, five thousand dollars (\$5,000.00), to the Commissioner as unexpended SEP funds. The Commissioner shall determine the amount of any such unexpended SEP funds owed and shall notify the Respondents in writing that such amount is due. The Respondents shall, within fourteen (14) days after the date of such written notice, remit the full amount of the unexpended SEP funds. Payment of unexpended SEP funds shall be by certified or bank check payable to "Treasurer, State of Connecticut." The check shall state on its face "Statewide SEP Account, Consent Order No. LIS-2014-

3673/LIS-2014-3669-V." The Respondent shall mail or personally deliver such payment to the Department of Energy and Environmental Protection, Bureau of Financial and Support Services, Accounts Receivable Office, 79 Elm Street, Hartford, Connecticut 06106-5127.

- e. If the Respondent fails to complete the SEP, the Respondents shall immediately notify the Commissioner in writing and shall, within fourteen (14) days of a written request by the Commissioner, remit a payment of five thousand five hundred dollars (\$5,500.00). The Respondent shall make such payment in accordance with the remittance procedures for unexpended SEP funds in subparagraph B.5.d. of this Consent Order.
 - f. If and when the Respondent disseminate any publicity, including, but not limited to, any press releases regarding the SEP, the Respondent shall include a statement that such funding is in settlement of an enforcement action brought by the Commissioner.
 - g. The Respondent shall not claim or represent that any SEP payment made pursuant to this Consent Order constitutes an ordinary business expense or charitable contribution or any other type of tax deductible expense, and the Respondent shall not seek or obtain any other tax benefit such as a tax credit as a result of the payment under this paragraph.
6. 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 the 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 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.
7. Definitions. As used in this Consent Order, "Commissioner" means the Commissioner of Energy & Environmental Protection or an agent of the Commissioner. The date of

"issuance" of this Consent Order is the date the Order is deposited in the mail or personally delivered to the Respondent, whichever is earlier.

8. 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 Order means calendar day. Any document or action which is required by this 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.
9. Notification of noncompliance. In the event that Respondent 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, Respondent 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, 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. The Commissioner's approval of any revised compliance dates shall not excuse noncompliance or delay unless specifically so stated by the Commissioner in writing.
10. 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 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 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 CGS Section 22a-6, under CGS Section 53a-157b and in accordance with any other applicable statute."
11. Noncompliance. This Consent Order is a final order of the Commissioner with respect to the matters addressed herein, and is nonappealable and immediately enforceable. Failure

to comply with this Consent Order may subject Respondent to an injunction and penalties under Chapters 439, and 446i of the General Statutes.

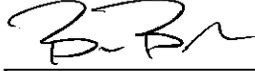
12. False statements. Any false statement in any information submitted pursuant to this Consent Order may be punishable as a criminal offense in accordance with CGS section 22a-6, under CGS section 53a-157b.
13. Notice of transfer; liability of Respondent and others. Until Respondent have fully complied with this Consent Order, Respondent 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. Respondent' 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 Order from the Commissioner.
14. 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 Respondent pursuant to this Consent Order have not successfully corrected all violations, the Commissioner may institute any proceeding to require Respondent to undertake further investigation or further action to correct violations.
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 or inaction by the Commissioner shall be construed to constitute an assurance by the Commissioner that the corrective actions taken by Respondent pursuant to this Order will result in compliance with regard to any statute, regulation, permit, order or other authorization not identified hereunder.
17. Access to site. Any representative of the Department of Energy & 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.
18. 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.

19. Notice to Commissioner of changes. Within fifteen 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.

20. 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) 424-3626
Fax # (860) 424-4054

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



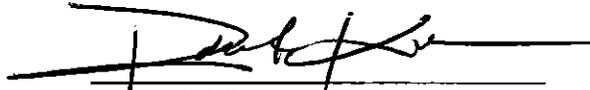
Benjamin G. Blake
City of Milford, Mayor

3-9-15

Date

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

March 18, 2015.



Robert J. Klee
Commissioner