DRAFT PERMIT

Permittee: Pickers Pond, LLC
P.O. Box 164, Uncasville, CT 06382

Attn: William J. Pieniadz

Permit Nos.: DS-201709321 (Dam Safety) & WQC-201709322 (Water Quality Certificate)

Town: Montville

Project: Removal of Picker Pond Dam

Waters: Oxoboxo Brook

Pursuant to Connecticut General Statutes Section 22a-403, the Commissioner of Energy and Environmental Protection (“Commissioner”) hereby grants a permit to Picker Pond, LLC (“the Permittee”) to construct the removal of the Picker Pond Dam including restoration of a stable riverine channel within the former pond area. In addition, pursuant to Section 401 of the Federal Clean Water Act (33 USC 1341), Certification is hereby granted for activities, including but not limited to construction or operation of facilities, which may result in any discharge into the waters of the state associated with the above referenced project. The purpose of the removal project is to remove the public safety hazard, restore a riverine habitat and enhance fish migration.

AUTHORIZED ACTIVITY

Specifically, the permittee is authorized to: Remove the spillway portion of the Picker Pond Dam and create a stable riverine corridor within the dewatered impoundment.

The activities proposed will affect 1.6 acres of the Picker Pond.

All activities shall be conducted in accordance with the 12 sheet plan set entitled: “PICKER POND DAM REMOVAL Route 32 / Route 163 Intersection, Uncasville, Connecticut” dated October 27, 2017 and revised to August 17, 2018 prepared by BSC Group and submitted as a part of the application.

This authorization constitutes the licenses and approvals required by Section 22a-403 of the Connecticut General Statutes and Section 401 of the Federal Clean Water Act (33 USC 1341).

This authorization is subject to and does not derogate any present or future property rights or other rights or powers of the State of Connecticut, conveys no property rights in real estate or material nor any exclusive privileges, and is further subject to any and all public and private rights and to any
federal, state, or local laws or regulations pertinent to the property or activity affected thereby.

Said discharge(s) will comply with the applicable provisions of sections 301, 302, 303, 306 and 307 of the Federal Clean Water Act (33 USC 1311, 1312, 1313, 1316 and 1317, respectively) and will not violate Connecticut's Water Quality Standards.

The permittee's failure to comply with the terms and conditions of this permit shall subject the permittee, including the permittee's agents or contractor(s) to enforcement actions and penalties as provided by law.

This authorization is subject to the following conditions:

CONDITIONS:

1. **Expiration.** This permit shall expire three years following the date of issue unless this permit is specifically renewed.

2. **Construction Commencement and Completion.** If construction authorized herein is not completed within three years of issuance of this permit or within such other time as may be provided by this permit, or if any activity authorized herein is not commenced within three years of issuance of this permit or within such other time as may be provided by this permit, this permit shall expire three years after issuance or at the end of such time as may be authorized by the Commissioner.

3. **Notification of Project Initiation.**
   a. The permittee shall notify the Commissioner in writing at DEEP.DamSafety@ct.gov no less than seven (7) days prior to commencement of permitted activities and no less than seven (7) days following completion of permitted activities.
   b. The permittee shall, pursuant to Section 22a-377(b)-1(a)(16)C of the Regulations of Connecticut State Agencies, notify the Commissioner and any potentially affected water company in writing at least seven (7) days prior to the lowering of Picker Pond for the purpose of undertaking permitted activities.
   c. The permittee or contractor shall notify Steve Gephard of the DEEP Fisheries Division at 860-966-9344 and steve.gephard@ct.gov a minimum of one week prior to commencement of drawdown to coordinate and oversee fish and aquatic wildlife salvage operations, installation of rootwad deflectors, installation of rock riffles, and application of hydroseeding.
   d. The Department of Energy and Environmental Protection shall be notified at least forty-eight (48) hours prior to drawdown of the impoundment, in accordance with Section 26-138 of the Connecticut General Statutes. Such notification shall be made to the Inland Fisheries Division, 79 Elm Street, Hartford, CT 06106-5127, and telephone no. 860-424-3474.
4. **De minimis Alteration.** The permittee may not make any alterations, except de minimis alterations, to permit authorized plans unless the permittee applies for and receives a modification of this permit. A de minimis alteration means a change in the design, construction or operation authorized under this permit that does not increase environmental impacts or substantively alter the construction of the project as permitted.

5. **Accuracy of Documentation.** In issuing this permit, the Commissioner has relied on information provided by the permittee. If such information was false, incomplete, or misleading, this permit may be modified, suspended or revoked and the permittee may be subject to any other remedies or penalties provided by law.

6. **Best Management Practices & Notification of Adverse Impact.** In constructing or maintaining any structure or facility or conducting any activity authorized herein, or in removing any such structure or facility under condition 5 hereof, the permittee shall employ best management practices to control storm water discharges, to prevent erosion and sedimentation, and to otherwise prevent pollution of wetlands and other waters of the State. Best Management Practices include, but are not limited, to practices identified in the Connecticut Guidelines for Soil Erosion and Sediment Control as revised, 2004 Connecticut Stormwater Quality Manual, Department of Transportation’s ConnDOT Drainage Manual as revised, and the Department of Transportation Standard Specifications as revised.

   a. The permittee shall immediately inform the Commissioner of any adverse impact or hazard to the environment which occurs or is likely to occur as the direct result of the construction, maintenance, or conduct of structures, facilities, or activities authorized herein.

   b. Use of 100% Biodegradable Erosion control Products. The use of rolled erosion control products for the stabilization of soil in wetlands and waters, and the floodplain, shall be limited to 100% natural biodegradable materials such as jute, sisal, coir or excelsior. Netting constructed from photodegradable, ultraviolet degradable or biodegradable plastics are not considered “biodegradable” for the purposes of this requirement and shall not be used.

7. **Reporting of Violations.** The permittee shall, no later than 48 hours after the permittee learns of a violation of this permit, report same in writing to the Commissioner. Such report shall contain the following information:

   a. the provision(s) of this permit that has been violated;

   b. the date and time the violation(s) was first observed and by whom;

   c. the cause of the violation(s), if known

   d. if the violation(s) has ceased, the duration of the violation(s) and the exact date(s) and times(s) it was corrected;

   e. if the violation(s) has not ceased, the anticipated date when it will be corrected;
f. steps taken and steps planned to prevent a reoccurrence of the violation(s) and the date(s) such steps were implemented or will be implemented;

g. the signatures of the permittee and of the individual(s) responsible for actually preparing such report, each of whom shall certify said report in accordance with condition 11 of this permit.

8. **Material Storage in the Floodplain.** The storage of any materials at the site which are buoyant, hazardous, flammable, explosive, soluble, expansive, radioactive, or which could in the event of a flood be injurious to human, animal or plant life, below the elevation of the five-hundred (500) year flood is prohibited. Any other material or equipment stored at the site below said elevation by the permittee or the permittee's contractor must be firmly anchored, restrained or enclosed to prevent flotation. The quantity of fuel stored below such elevation for equipment used at the site shall not exceed the quantity of fuel that is expected to be used by such equipment in one day.

9. **Permit Transfer.** This permit is not transferable without the prior written consent of the Commissioner.

10. **Contractor Notification.** The permittee shall give a copy of this permit to the contractor(s) who will be carrying out the activities authorized herein prior to the start of construction and shall receive a written receipt for such copy, signed and dated by such contractor(s). The permittee's contractor(s) shall conduct all operations at the site in full compliance with this permit and, to the extent provided by law, may be held liable for any violation of the terms and conditions of this permit.

11. **Certification of Documents.** Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this permit shall be signed by the permittee or a responsible corporate officer of the permittee, a general partner of the permittee, 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 the 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 a false statement in the submitted information may be punishable as a criminal offense in accordance with Section 22a-6 of the General Statutes, pursuant to Section 53a-157b and in accordance with any other applicable statute.”
12. **Submission of Documents.** Any document or notice required to be submitted to the Commissioner under this permit shall, unless otherwise specified in writing by the Commissioner, be directed to:

Director, Land and Water Resources Division  
Director, Water Planning and Management Division  
Department of Energy and Environmental Protection  
79 Elm Street, Hartford, CT 06106-5127

The date of submission to the Commissioner of any document required by this permit shall be the date such document is received by the Commissioner. The date of any notice by the Commissioner under this permit, including but not limited to notice of approval or disapproval on 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 permit, the word “day” means any calendar day. Any document or action which is required by this permit to be submitted or performed by a date which falls on a Saturday, Sunday or legal holiday shall be submitted or performed by the next business day thereafter.

13. **Rights.** This permit is subject to and does not derogate any rights or powers of the State of Connecticut, conveys no property rights or exclusive privileges, and is subject to all public and private rights and to all applicable federal, state, and local law. In constructing or maintaining any structure or facility or conducting any activity authorized herein, the permittee may not cause pollution, impairment, or destruction of the air, water, or other natural resources of this State. The issuance of this permit shall not create any presumption that this permit should be renewed.

**DAM SAFETY CONDITIONS**

14. This permit and a copy of the approved plans and related permit application materials shall be kept at the project site and made available to the Commissioner at any time during the construction of permitted activities.

15. Permitted dam removal activities shall be performed under the supervision of an engineer who is licensed to practice in the State of Connecticut and who is familiar with dam construction and dam removal. Said engineer shall, upon completion of the permitted activities, certify to the Commissioner in writing that the permitted activities have been completed according to the approved plans and specifications.

16. Within thirty (30) days of completion of the permitted activities, permittee shall submit to the Commissioner a single sheet record drawing depicting the dam removal as completed, including any deviations from the approved plans and specifications. Said drawing shall be prepared and sealed by the engineer who oversaw the construction. In addition, the permittee shall arrange for submission of an electronic copy of the final record drawings in Adobe Acrobat “pdf” format.

17. Nothing in this permit and no order, approval or advice of the Commissioner, shall relieve any owner or operator of -this dam- from his legal duties, obligations and liabilities resulting
from such ownership or operation. No action for damages sustained through the partial or total failure of any structure or its maintenance shall be brought or maintained against the state, the Commissioner of Energy and Environmental Protection, or his employees or agents.

18. **Sequence of Construction and Water Control.** The Sequence of Construction and Water Handling Plan shown on Sheets C-1.0 and 1.1 shall be utilized by the contractor constructing the dam removal project. If the sequence or water control plan are revised or updated, a PDF copy of the revised versions must be submitted to the Dam Safety Program to the attention of Peter Spangenberg at: DEEP.DamSafety@ct.gov within 48 hours of the revisions.

19. **Flood Contingency Plan.** The flood contingency plan submitted with the application shall be reviewed by the contractor constructing the dam removal project and if any revisions are made to the plan, a PDF copy of the revised version must be submitted to the Dam Safety Program to the attention of Peter Spangenberg at: DEEP.DamSafety@ct.gov within 48 hours of the revision.

20. **Unforeseen Conditions.** If during the process of construction, unforeseen conditions are found on the site and the permittee and their engineer determine that it would be appropriate to modify the design, then the permittee shall notify DEEP within 24 hours of any potential design changes to determine if the design modifications will be an activity that can be categorized as a de minimis activity when compared to the permitted design. No work shall take place which was not included as part of the permitted design until DEEP Dam Safety Staff respond to this determination request.

21. **Historic Documentation.** Catherine Labadia of the State Historic Preservation Office (SHPO) shall be contacted by email at Catherine.labadia@ct.gov with a request to confirm that the recommended documentation of the dam and its related historic components to meet state-level documentation standards have been completed. In addition, the SHPO recommends that a brief history and description of the dam, including project related information, photographs, and maps be submitted to the Society for Industrial Archeology New England Chapters Newsletter for publication. An Adobe Acrobat “pdf” version of the resulting documentation and history shall also be submitted to DEEP.DamSafety@ct.gov with the as-built drawings showing the removed dam required by the permit in section 14(c).

Issued by the Commissioner of Energy and Environmental Protection on:

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Date: ________________

Katherine S. Dykes

Commissioner