



STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION



OFFICE OF ADJUDICATIONS


IN THE MATTER OF : ORDER NO. DS-2000-1011V

PRESTONWOLD, INC., ET AL : OCTOBER 4, 2004

FINAL DECISION

The parties have agreed to resolve the appeal of the above-captioned order through adoption of the attached *Consent Order*. Upon review, I hereby issue this *Consent Order* as the *Final Decision* in this matter.

10/4/04
Date


Janice B. Deshais, Director

APPENDIX A

PARTY LIST

FINAL DECISION In the Matter of Prestonwold, Inc., et. al
Appeal of Order No. DS-2000-1011V

PARTY

REPRESENTED BY

Respondent

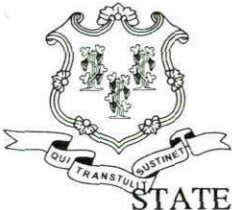
Prestonwold, Inc.
James L. Young, Jr., Esq.
Andrews, Young & Geraghty, PC
216 Broad Street
New London, CT 06320

Alfred E. Smith, Jr., Esq.
Murtha Cullina LLP
2 Whitney Avenue
New Haven, CT 06503-0704

Blue Lake LLC
Robert Anderson
c/o Irving, Dubicki & Camassar
181 Broad Street
New London, CT 06320

Department of Environmental Protection
Bureau of Water Management
Inland Water Resources Division
79 Elm Street
Hartford, CT 06106

Ugochukwu Uzoh
Environmental Analyst



**STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION**



STATE OF CONNECTICUT

) DS-2000-1011V

vs.

PRESTONWOLD, INC.,
JAMES L. YOUNG, and
BLUE LAKE, LLC

)
)
)
)
) BLUE LAKE DAM (#10227)
) NORTH STONINGTON

CONSENT ORDER

- A. With the agreement of Prestonwold, Inc. (“Respondent Prestonwold”), James L. Young (“Respondent Young”), and Blue Lake, LLC (“Respondent Blue Lake”), the Commissioner of Environmental Protection (“the Commissioner”) finds:
1. Respondent Prestonwold is a corporation organized under the laws of the State of Connecticut. Respondent Young is a custodian appointed by the Superior Court to manage the affairs of Respondent Prestonwold, pursuant to a March 21, 2002 memorandum of decision and order of the Hon. Robert I. Berdon, Judge Trial Referee in the matter of *Catherine Morrow, et al. v. Prestonwold, Inc.*, CV-00-0445844-S, a corporate dissolution proceeding over which the Superior Court has retained jurisdiction pending the winding up of Respondent Prestonwold’s affairs.
 2. Prior to June 2, 2004, Respondent Prestonwold’s primary tangible asset was a certain parcel (“the site”) which consists of approximately 89 acres of land, including a watercourse known as the Blue Lake (“the impoundment”), and other structures including the Blue Lake Dam (“the dam”). The site is identified as lots 1.06 and 1.07 on tax assessor’s map 231 in the town of North Stonington tax assessor’s office.
 3. The dam’s spillway is inadequate and cannot safely convey the flows of a 100-year return frequency rainfall event without overtopping the dam’s embankments.
 4. The dam would, by breaking away, cause loss of life or property damage.
 5. The dam is in an unsafe condition.
 6. On December 12, 2002, the Commissioner issued Order DS-2000-1011V (“the Order”) to Respondents Prestonwold and Young, ordering them to take certain specified actions to place the dam in a safe condition. On January 10, 2003, Respondents Prestonwold and Young filed a timely appeal of the Order with the Commissioner and, at a status conference on the appeal held on February 10, 2003, opted for a consensual resolution of the dam’s safety issues and the Order.
 7. At sometime subsequent to February 10, 2003, Respondents Prestonwold and Young retained Philip W. Moreschi, a professional engineer with the engineering

firm of Fuss & O'Neill, Inc. ("the Engineer"), to prepare the studies and documents and to oversee the actions required by the Order.

8. On August 4, 2003, Respondents Prestonwold and Young submitted a report of investigation on the condition of the dam entitled "Blue Lake Dam Dam Safety Investigation," dated July 15, 2003 ("the report"), describing the engineering analysis and investigations conducted including a hydraulic and hydrologic analysis of the dam and the results of the engineering analysis and investigations. The report rated the general condition of the dam as fair to poor. The report identified four options for placing the dam in a safe condition.
9. On August 13, 2003, the Commissioner approved a May 21, 2003 plan and proposal for a limited drawdown of the impoundment submitted by Respondents Prestonwold and Young via cover letter dated May 29, 2003 ("the drawdown plan"), appended hereto as *Attachment A*. Respondents Prestonwold and Young proposed to drawdown the impoundment in order to "allow an extended period of time to allow options to be explored for funding of permanent repairs to the dam while still providing reasonable protection to the dam and downstream properties." The impoundment has been drawn down in accordance with the drawdown plan, and remains in that condition pending further resolution of the safety issues relating to the dam.
10. By a letter dated March 19, 2004, appended hereto as *Attachment B*, Respondent Blue Lake, a limited liability company organized under the laws of the State of Connecticut, informed the Commissioner that it had contracted to purchase the site from Respondent Prestonwold. By an undated document filed in the proceedings respecting the appeal of the Order entitled "Motion to Intervene," Commissioner's copy received on March 24, 2004, Respondent Blue Lake also moved to intervene in the said proceedings.
11. On June 17, 2004, Respondent Blue Lake forwarded to the Commissioner a certified true and correct copy of a warranty deed dated June 2, 2004, appended hereto as *Attachment C*, with which Respondent Prestonwold conveyed the site to Respondent Blue Lake. Respondent Blue Lake now owns and controls the dam.
12. Robert Andersen is the organizer and managing member of Respondent Blue Lake, and is duly authorized by its articles of incorporation to subject Respondent Blue Lake to the obligations and responsibilities of this Consent Order.
13. Respondent Blue Lake by and through Robert Andersen has agreed to the substitution of Respondent Blue Lake for Respondents Prestonwold and Young with respect to the underlying Order, and agrees to assume all obligations and

responsibilities under the Order. Respondent Blue Lake by and through Robert Andersen hereby further agrees to place the dam in a safe condition by taking all necessary actions to repair the dam to the Commissioner's satisfaction.

- B. With the agreement of Respondent Blue Lake (hereinafter "Respondent"), the Commissioner, acting under Conn. Gen. Stat. §§ 22a-6 and 22a-402, orders the Respondent as follows:
- 1.a. Retain a Professional Engineer Licensed to Practice in Connecticut. On or before 30 days following the date of issuance of this Consent Order, Respondent shall retain an engineer licensed to practice in Connecticut and acceptable to the Commissioner to prepare the studies and documents required by this Consent Order, and to oversee the actions required by this Consent Order ("the Engineer"), and by that date, notify the Commissioner in writing of the identity of such engineer. Respondent shall retain the Engineer until this Order is fully complied with. Within 10 days after retaining any engineer other than one originally identified under this paragraph, Respondent shall notify the Commissioner in writing of the identity of such other engineer. The Engineer shall have specific and substantial experience in preparation of hydrologic and hydraulic studies and 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 any grubbing or grading activity at the site, Respondent shall provide adequate erosion and sedimentation control measures. If Respondent proposes, in any plan submitted to the Commissioner pursuant to this Consent Order, to grub or grade any portion of the site, Respondent shall include in any such plan 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. Maintain the Impoundment at its Present Drawdown Level. Respondent shall maintain the impoundment at its present drawdown level until such time the Commissioner approves in writing the as-built drawing required under paragraph B.1.g. of this Consent Order.
 - d. Submit Dam Repair Plan(s) to Place the Dam in a Safe Condition. Respondent shall select and fully design and develop one of the repair options specified under paragraph A. 8. hereinabove and shall, on or before 30 days following the date of issuance of this Consent Order, submit for the Commissioner's review and written approval dam repair plans which describe in detail the proposed actions to place the dam in a safe condition signed and sealed

by the Engineer in accordance with section 20-300-10 of the Regulations of Connecticut State Agencies (“RCSA”). Such repair plans shall be consistent with recommendations found in the report or any revised report of investigation, as approved by the Commissioner.

e. Submit Contract Plans and Specifications. Unless another deadline is specified in writing by the Commissioner, on or before 60 days after the date of the Commissioner’s approval of the plans specified in paragraph B.1.d., Respondent shall submit for the Commissioner’s review and written approval detailed contract drawings and specifications for the actions approved in said plans to place the dams in a safe condition, including a schedule for performing such actions, with said drawings and specifications signed and sealed by the Engineer in accordance with section 20-300-10 of the RCSA (“the contract plan”). Such plans shall be consistent with the recommendations found in the report, or any revised report of investigation, as approved by the Commissioner.

f. Perform Actions to Place the Dam in a Safe Condition. Respondent shall perform the actions specified in the approved contract plan in accordance with the approved schedule(s), and, within 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.

g. Submit As-Built Construction Drawings, Certification, Operations and Maintenance Manual. On or before 30 days after completing the actions specified in paragraph B.1.f., 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 section 20-300-10 of the RCSA;
- ii. a certification signed and sealed by the Engineer in accordance with section 20-300-10 of the RCSA that the actions required under this Consent Order to place the dam in a safe condition have been completed as approved;
- 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 which are essential to the dam’s integrity, and prescribes a schedule for undertaking such activities and monitoring.

- iv. a revised Emergency Operation Plan which takes into account, the conditions and features of the dam following completion of the actions required under this Consent Order, prepared in accordance the "Guidelines for the Preparation of Dam Emergency Operation Plans" prepared by the Department of Environmental Protection, dated 9/94 and made a part of this Order as Attachment D.

Upon the Commissioner's written approval of the Operation and Maintenance Manual and revised Emergency Operation Plan described herein, Respondent shall implement said manual and plan and maintain them in effect thereafter.

- h. Access to the Site. Any representative of the Department of Environmental Protection may inspect the dam and its appurtenant structures without prior notice for the purposes of monitoring and enforcing the actions required or allowed by this Consent Order.
2. 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.
3. Progress reports. Within 60 days following the date of issuance of this Consent Order and continuing until the Commissioner approves in writing the as-built drawing required under paragraph B.1.g. of this Consent Order, Respondent shall submit bi-monthly progress reports to the Commissioner describing the actions they took during the two-month period preceding any such report to comply with this Consent Order. Such bi-monthly report for any applicable two-month period shall be due for submission within 15 days after any of the following scheduled dates: September 1, November 1, January 1, March 1, May 1, and July 1, of each applicable year.
4. 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 30 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.

5. Definitions. As used in this Consent Order, "Commissioner" means the Commissioner or a representative of the Commissioner.
6. 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.
7. 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, if Respondent is not an individual, by Respondent's chief executive officer, managing member, or a duly authorized representative of such officer, as those terms are defined in §22a-430-3(b)(2) of the RCSA, and by the individual(s) responsible for actually preparing such document, and Respondent or Respondent's chief executive officer, or managing member, and each such individual 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."
8. 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.
9. 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.

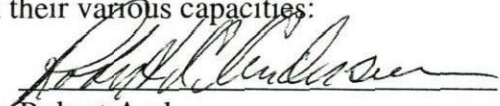
10. Notice of transfer; liability of Respondent. Until Respondent has fully complied with this Consent Order, Respondent shall notify the Commissioner in writing no later than 15 days after transferring all or any portion of the facility, the operations, the site or the business which is the subject 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.
11. Commissioner's powers. Nothing in this Consent Order shall affect the Commissioner's authority to institute any proceeding or to take any other 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. If at any time the Commissioner determines that the actions taken by Respondent pursuant to this Consent Order have not successfully corrected all violations, fully characterized the extent or degree of any pollution, or successfully abated or prevented pollution, the Commissioner may institute any proceeding to require Respondent to undertake further investigation or further action to prevent or abate violations or pollution.
12. Respondent's obligations under law. Nothing in this Consent Order shall relieve the Respondent of other obligations under applicable federal, state and local law.
13. 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.
14. 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.
15. Notice to Commissioner of changes. Within 15 days of the date the 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.
16. Notification of noncompliance. In the event the 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

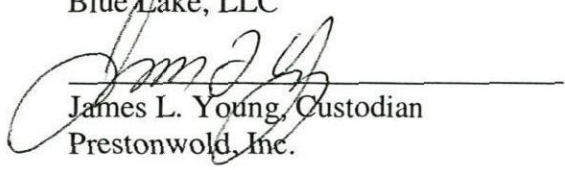
noncompliance or delay is avoided or, if unavoidable, is minimized to the greatest extent possible. Within 5 days of the initial notice, Respondent shall submit in writing the date, time, and duration of the noncompliance and the reasons for the noncompliance or delay and propose, for the review and 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.

17. 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:
Ugochukwu Uzoh, Environmental Analyst
DEP Inland Water Resources Division
79 Elm Street
Hartford, CT 06106
(860) 424-3713

Respondent consents to the issuance of this Consent Order without further notice. The undersigned certifies that he is fully authorized to enter into this Consent Order and to legally bind Respondent to the terms and conditions of the Consent Order. A corporate resolution of the Blue Lake, LLC granting such authorization is attached hereto as Attachment E to the Consent Order.

Execution of this Consent Order will rescind the Order (Order DS-2000-1011V) and resolve the matter of the appeal referenced in paragraph A.6. of this Consent Order and any future enforcement of the Order with respect to Prestonwold, Inc. and James L. Young, and will subject Blue Lake, LLC to all of the obligations and responsibilities under this Consent Order. The foregoing terms and conditions of this Consent Order having been agreed to by Blue Lake LLC, Robert Andersen, Prestonwold, Inc., and James L. Young, the following signatories enter into this Consent Order both personally and in their various capacities:

By:  9-14-04
Robert Andersen Date
Blue Lake, LLC

 9-15-04
James L. Young, Custodian Date
Prestonwold, Inc.

Issued as the *Final Decision* resolving appeal of *Order DS-2000-1011V*.

10/4/04
Date


Janice B. Deshais
Hearing Officer

- Attachment A: May 2003 Drawdown Plan.
- Attachment B: Letter dated March 19, 2004
- Attachment C: Warranty deed dated June 2, 2004
- Attachment D: Guidelines for the Preparation of Dam Emergency Operation Plans
- Attachment E: Corporate Resolution of the Blue Lake, LLC

MURTHA CULLINA LLP

A T T O R N E Y S A T L A W

WHITNEY GROVE SQUARE
TWO WHITNEY AVENUE, P.O. BOX 704
NEW HAVEN, CONNECTICUT 06503-0704

TELEPHONE (203) 772-7700
FACSIMILE (203) 772-7723
www.murthalaw.com

ALFRED E. SMITH, JR.
(203) 772-7722
ASMITH@MURTHALAW.COM

May 29, 2003

RECEIVED

MAY 29 2003

Ugochukwu Uzoh
DEP Inland Water Resources Division
79 Elm Street
Hartford, CT 06106

Re: Prestonwold

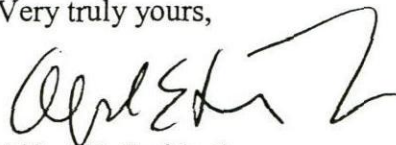
Dear Ugo:

Attached is a letter from Fuss & O'Neill summarizing issues related to the limited drawdown of Blue Lake. Please be aware that Fuss & O'Neill is currently looking at a lesser drawdown at the request of residents around and downstream of Blue Lake. If appropriate, a supplemental report may be submitted.

We have also reviewed the "bullet points" provided concerning a draft consent order. The memo accurately describes our discussions to date. As your memo notes, more discussion is required with respect to naming Attorney Young as a Respondent and the distribution of assets.

I understand that you will be drafting a consent order based on the foregoing.

Very truly yours,



Alfred E. Smith, Jr.

cc: James Young

Attachment



Fuss & O'Neill Inc. Consulting Engineers

146 Hartford Road, Manchester, CT 06040-5992
TEL 860 646-2489 FAX 860 643-8313
INTERNET: www.fussandonall.com

ORIGIN: O'NEILL
West Springfield, Massachusetts
Trumbull, Connecticut
Providence, Rhode Island

May 21, 2003

James L. Young, Jr.
Andrews Young & Geraghty, PC
216 Broad Street
P.O. Box 751
New London, CT 06320

RE: Interim Drawdown for Blue Lake

Dear Mr. Young:

We have completed our review of the interim drawdown for Blue Lake. Our analysis indicates that by removing the weirboards sufficient storage and additional flow capacity will be provided to just barely pass the 100 year return frequency flood flow.

This is, of course, not the long term solution since the DEP minimum expectation is that 1 foot of freeboard be provided between the 100 year flood elevation and the top of dam. This of course would also result in water surface elevation being lowered by approximately 2 feet below normal lake level which presumably is not desirable for the long term preservation of the lake. This should however allow an extended period of time to allow options to be explored for funding of permanent repairs to the dam while still providing reasonable protection to the dam and downstream properties.

We would recommend removing all of the weir boards and implementing an emergency action plan. This will provide a means to take emergency action should the dam begin to be overtopped from an extreme flood event. Of particular concern would be monitoring of the spillway weirboard slot to assure that it does not get blocked with floating debris.

Here is a brief summary of our findings:

Based on the survey information it appears that the top of dam is 1' above the top of the spillway (top of weirboards) elevation. We reviewed the 100 yr outflow with the weir boards and without the weir boards. Our results are as follows:



Fuss & O'Neill Inc. *Consulting Engineers*

James L. Young, Jr.

May 21, 2003

Page 2

- ◆ The 100-yr flood with the weir boards does overtop the dam by 0.3'.
- ◆ The 100-yr flood without the weir boards does not overtop the dam and leaves approximately 0.3' of free board.

We anticipate completing our analysis of options within the next 30 days. It is recommended that a minimum of 1 year be requested to allow the evaluation of funding options and options for future ownership and maintenance of the dam. Based on our experience with these types of projects, this may still not be enough time if funding is sought from the state; therefore, 2 years may be a more appropriate request.

Sincerely,

Thomas P. DeSantos, P.E.
Project Manager

/ndt

IRVING, DUBICKI & CAMASSAR, L.P.
ATTORNEYS & COUNSELORS AT LAW
181 Broad Street
New London, Connecticut 06320

RECEIVED

MAR 29 2004

TELEPHONE (860) 443-1864
TELECOPIER (860) 443-7023
Dept. of Environmental Protection
Office of the Commissioner

CHARLES J. IRVING
NARCY Z. DUBICKI
GARON CAMASSAR
RICHARD SIMONSON

ATTACHMENT B

March 19, 2004

Arthur Rocque, Commissioner
Department of Environmental Protection
79 Elm Street
Hartford, Connecticut 06106

RE: Department of Environmental Protection Order #: DS-200-1011V

Dear Commissioner Rocque,

Please be advised that I represent Blue Lake, LLC, which is under contract for the purchase of all property owned Prestonwold, Inc. including the dam and the land underlying the lake, which is subject the above referenced order. Pursuant to the contract, my client has agreed to become a Substitute Respondent in the above action and that the current Respondent be released from the order. My client has agreed to undertake the repair of the dam to the satisfaction of the DEP.

Please advise if anything further is necessary from the undersigned on behalf of Blue Lake, LLC to effectuate the substitution.

Sincerely,



Narcy Z. Dubicki

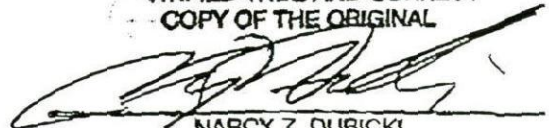
NZD/sk

cc: James Young, Esq.
David Wrinn, Assistant Attorney General
Alfred E. Smith, Jr., Esq.
Janice Deshais, Office of Adjudications
Andrew Brand, Esq.
Mike Bennett
Robert Andersen

RECEIVED

MAR 30 2004

DEPT. OF ENVIRONMENTAL PROTECTION
OFFICE OF DEPUTY COMMISSIONER
AIR WASTE AND WATERS


NANCY Z. DUBICKI
COMMISSIONER OF THE SUPERIOR COURT**WARRANTY DEED**

KNOW YE THAT PRESTONWOLD, INCORPORATED, a Connecticut corporation acting herein by JAMES L. YOUNG, JR., its court-appointed Custodian, of 216 Broad Street, New London, CT 06320 (hereinafter referred to as the "Grantor") for the consideration of TWO HUNDRED NINETY-ONE THOUSAND AND NO/100 DOLLARS (\$291,000.00) and other good and valuable considerations received to its full satisfaction of BLUE LAKE, LLC, a Connecticut limited liability company with a mailing address of c/o Irving, Dubicki & Camassar, 181 Broad Street, New London, CT, 06320 (hereinafter referred to as the "Grantee") do give, grant, bargain, sell and convey unto the said Grantee, its successors and assigns forever all those certain pieces or parcels of land, with the buildings and improvements thereon, situated in the Town of North Stonington, County of New London and State of Connecticut, being shown as Lot 1.06 and Lot 1.07 on a certain survey entitled "Boundary Survey Property of Prestonwold, Incorporated Miller Road North Stonington, Connecticut Scale: 1" = 100' Date: September 1, 1989", Sheet 1 of 5 and Sheet 2 of 5, revised 12-20-89 and 1-2-90, made by DiCesare-Bentley Engineers, Inc., on file in the North Stonington Town Clerk's office to which reference may be had.

Together with a fifty (50") feet right of way as reserved in a Quit Claim Deed from Prestonwold, Inc. to Pequot Audubon Society, Inc. dated February 21, 1990 and recorded in Volume 82 at page 448 of the North Stonington Land Records.

Said premises are conveyed subject to the following encumbrances:

1. Any and all provisions of any municipal regulation or ordinance of the Town of North Stonington, and any federal, state, local public or private laws, with special reference to the provisions of any zoning rules and regulations governing the subject premises.
2. Taxes to become due the Town of North Stonington on the List of October 1, 2003, and thereafter, which taxes by the acceptance of this deed the Grantee herein assumes and agrees to pay.
3. Possible drainage right of way in favor of the State of Connecticut dated October 20, 1939 and recorded in Volume 23 at Page 21 of the North Stonington Land Records.
4. Easement in favor of The Connecticut Light and Power Company dated September 6, 1962 and recorded in Volume 31 at Page 74 of the North Stonington Land Records.
5. Easement in favor of The American Telephone and Telegraph Company dated December 19, 1968 and recorded in Volume 36 at Page 483 of the North Stonington Land Records.

6. Riparian rights of others in and to the waters of any brooks, streams, rivers, lakes or ponds located upon, abutting or running through the premises

7. Rights, right of way and easements as more particularly set forth in a deed from Prestonwold, Incorporated to Pauline Colombi recorded in Volume 32 at page 564, as corrected by virtue of a Correcting Quitclaim Deed, dated October 13, 1989 and recorded in Volume 80 at Page 821 of the North Stonington Land Records. The Grantee specifically accepts this deed upon the knowledge and understanding that the rights granted under said deed include the right to maintain, repair and replace the water lines referred to in said, deed, as needed.

8. A State of Connecticut Department of Environmental Protection Order dated December 12, 2002, in the matter of State of Connecticut vs. Prestonwold, Inc. and James L. Young, #DS-2000-1011V Blue Lake Dam North Stonington, recorded in the North Stonington Land Records.


TO HAVE AND TO HOLD, the premises hereby conveyed, with the appurtenances thereof, unto the Grantee, its successors and assigns forever to its, and their proper use and behoof, and the said Grantor, does for itself and its successors and assigns, covenant with the Grantee and its successors and assigns, that the Grantor is well seized of the premises, as a good indefeasible estate in *FEE SIMPLE*; have good right to grant and convey the same in manner and form as herein written and the same are free from all encumbrances whatsoever, except as herein stated.

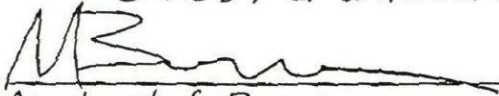
AND FURTHERMORE, the Grantor does by these presents bind itself and its successors and assigns forever to **WARRANT AND DEFEND** the premises hereby conveyed to the Grantee and its successors and assigns against all claims and demands whatsoever, except as herein stated.

IN WITNESS WHEREOF, the Grantor has hereunto set its hand and seal this 2nd day of June, 2004.

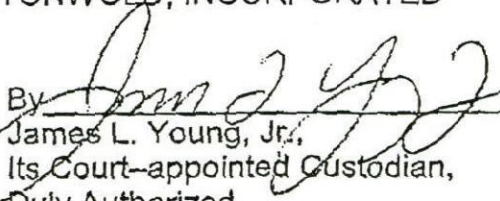
Signed, Sealed and Delivered
in the presence of:

PRESTONWOLD, INCORPORATED



WENDY L. WALTER


Michael S. Bonnano

By 

James L. Young, Jr.,
Its Court-appointed Custodian,
Duly Authorized

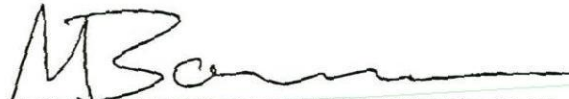
STATE OF CONNECTICUT)
)
COUNTY OF NEW LONDON)

ss: New London,

June 2, 2004

Personally appeared, before, the undersigned officer, JAMES L. YOUNG, JR., who acknowledged himself to be the Court-appointed Custodian of PRESTONWOLD, INCORPORATED, a Connecticut corporation, and that as such Court-appointed Custodian and being authorized so to do, he executed the foregoing instrument for the purposes therein contained, by signing the name of the Corporation his capacity as authorized Court-appointed Custodian.

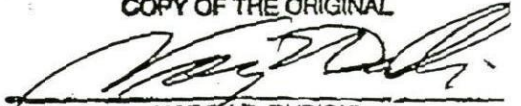
IN WITNESS WHEREOF, I hereunto set my hand and official seal.



Commissioner of the Superior
Court/Notary Public

My Commission Expires: _____

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QUIT CLAIM DEED - STATUTORY

NANCY Z. DUBICKI
COMMISSIONER OF THE SUPERIOR COURT

KNOW YE THAT PRESTONWOLD, INCORPORATED, a Connecticut corporation acting herein by JAMES L. YOUNG, JR., its court-appointed Custodian, of 216 Broad Street, New London, CT 06320 (hereinafter referred to as the "Releasor") for the consideration of ONE DOLLAR (\$1.00) and other good and valuable considerations received to its full satisfaction of BLUE LAKE, LLC, a Connecticut limited liability company with a mailing address of c/o Irving, Dubicki & Camassar, 181 Broad Street, New London, CT, 06320 (hereinafter called "Releasee") and its successors and assigns

with QUIT CLAIM COVENANTS

the property located in the Town of North Stonington as further described on Schedule A attached hereto.

EXCEPTING HEREFROM, HOWEVER, those certain properties set forth in a Warranty Deed from the Releasor herein to the Releasee dated and recorded of even date herewith.

The above-described premises are conveyed subject to the following:


1: Taxes to become due the Town of North Stonington on the List of October 1, 2003, which taxes by the acceptance of this deed the Releasee herein assumes and agrees to pay.

2. Riparian rights of others in and to the waters of any brooks, streams, rivers, lakes or ponds located upon, abutting or running through the premises, and particularly in and to the waters of Blue Lake, so-called.

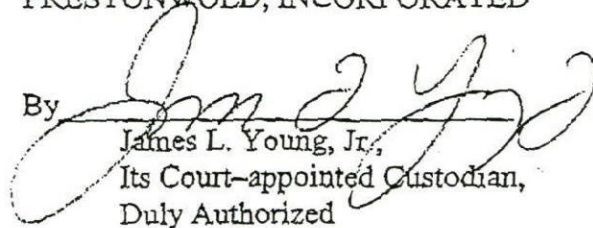
Signed this 2nd day of June, 2004.

Witnessed by:

PRESTONWOLD, INCORPORATED


WENDY L. WALLER

By


James L. Young, Jr.,
Its Court-appointed Custodian,
Duly Authorized


Michael S. Bannano

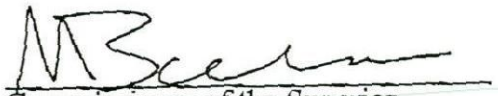
STATE OF CONNECTICUT)
)
COUNTY OF NEW LONDON)

ss: New London,

June 2, 2004

Personally appeared, before, the undersigned officer, JAMES L. YOUNG, JR., who acknowledged himself to be the Court-appointed Custodian of PRESTONWOLD, INCORPORATED, a Connecticut corporation, and that as such Court-appointed Custodian and being authorized so to do, he executed the foregoing instrument for the purposes therein contained, by signing the name of the Corporation in his capacity as authorized Court-appointed Custodian.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.


Commissioner of the Superior
~~Court Notary Public~~
My Commission Expires: _____

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SCHEDULE A

It is the intention of this deed to convey to the Releasee herein any and all real property and rights therein standing in the name of the Releasor herein, Prestonwold Incorporated, located in the Town of North Stonington, including but not limited to certain premises known as 62 I Patricia Avenue, the lake known as Blue Lake, and Blue Lake Dam, and further including any street and roads, including paper streets and roads, if any, owned by the Releasor herein, and further including any rights of first refusal and/ or any other interests held by or in the name of the Releasor herein, Prestonwold, Incorporated, including, but not limited to the following:

A certain piece or parcel of land as shown on a certain map, which map is recorded in the North Stonington Land Records, entitled "PRESTONWOLD- INCORPORATED, PLANS- #4 AND #5- REVISED TO SHOW RIGHT OF WAY ACQUIRED BY AMERICAN TELEPHONE AND TELEGRAPH COMPANY AND TO SHOW LOCATION OF LOTS #4, #5 AND #6, NORTH STONINGTON, CONN, SEPT 6, 1971, SCALE- 1' = 100', REVISION #2, GEORGE H. DEETER, LAND SURVEYOR, SEPTEMBER 6, 1971" located at the mouth of Ashwillet Brook, at the south end of Blue Lake. The brook runs through said parcel and said parcel is bounded on the west by a certain piece or parcel of land as shown on said map consisting of 1.79 acres and bounded on the east by a certain piece or parcel of land consisting of 1.81 acres as shown as said map.

Certain premises known as 62 I Patricia Avenue as more particularly identified on Assessor's Map 45/ 2734/ 27-7161, consisting of approximately 23,522.40 square feet.

Reference is hereby made the following:

1. Warranty Deed dated May 21, 1952 and recorded in Volume 26 at Page 170;
2. Quitclaim Deed dated June 9, 1959 and recorded in Volume 29 at Page 253;
3. Warranty Deed dated September 29, 1962 and recorded in Volume 31 at Page 78;
4. Quitclaim Deed dated September 5, 1964 and recorded in Volume 32 at Page 535;
5. Fiduciary's Deed dated November 21, 1985 and recorded in Volume 65 at Page 40;
6. Fiduciary's Deed dated November 21, 1985 and recorded in Volume 65 at Page 43.

A handwritten signature in black ink, appearing to be "J. J. Y.", is located in the bottom right corner of the page.

Fax

Name: Ugochukwu Uzoh
Fax: 860-424-4075
From: Nancy Z. Dubicki, Esq.
Date: 06/17/04
Subject: Prestonwold
Pages: 7, including cover sheet

Comments:

Per Attorney Young's request, enclosed please find certified copies of the original deed which were recorded in the North Stonington Land Records on June 3, 2004.

cc: James Young
Alfred Smith

Narcy Z. Dubicki, Esq.
Irving, Dubicki & Camassar, LLP
181 Broad Street
New London, Connecticut 06320
(860) 443-1864
Fax: (860) 443-7023

BUREAU OF WATER MANAGEMENT
Consent Order DS-2000-1011V Attachment D

**GUIDELINES FOR THE
PREPARATION OF
DAM EMERGENCY OPERATIONS PLANS**

**STATE OF CONNECTICUT
DEP/BUREAU OF WATER MANAGEMENT
INLAND WATER RESOURCES DIVISION**

Rev. 9/94

DAM EMERGENCY OPERATIONS PLAN GUIDELINES

Dam owners have historically been held liable for downstream damages incurred as a result of the failure of their dams. Consequently, dam owners are then responsible for the formulation of an Emergency Operation Plan (EOP) and the implementation of it. The principal purpose of the Emergency Operation Plan is the reduction of the potential hazard posed by a dam failure to downstream residents and property.

The following guidelines are intended to serve only as a general format for effective EOP formulation, not as an absolute standard. Each dam site must have an EOP which is tailored to reflect its own particular features and conditions. In order for the Emergency Operations Plan to be effective, it must contain the following three essential elements:

1. The determination of the area downstream of a dam which would be inundated by a dam breach and a map clearly delineating this area.
2. An established procedure for monitoring the dam during periods of heavy rainfall and runoff with specific personnel assignments and features of the dam to be inspected at given intervals.
3. A formalized warning notification system to alert appropriate local officials who are responsible for the warning and/or evacuation of residents in the area downstream of the dam which may be inundated by its failure.

A more detailed description of these three components now follows.

Dam Breach Impact Area

The area downstream of a dam which may be inundated by a breach is determined by an engineering study which evaluates such factors as the type of dam, probable mode of failure, water surface elevation at breach, downstream topography, stream channel capacity, existence of flood control projects further downstream, and other site specific considerations.

There are at least three engineering methodologies which have been developed for analyzing a dam breach and the resulting flooding to be expected downstream. The important assumptions to be made with all analyses is that the impoundment water surface elevation is at the top of dam with full spillway discharge occurring, and that the dam breach flood is superimposed on pre-existing flood flow within the downstream channel reaches. In this manner, the area inundated conservatively represents that flooding to be expected from a dam breach under most flow conditions.

Estimated flood levels are then plotted on topographic maps to determine the area inundated, and compared with any available flood studies. A list of streets and roads subject to flooding must also be included with the map.

Dam Surveillance

Emergency operation monitoring by a dam owner (or his designee) should commence when a "Flood Watch" alert is issued by the National Weather Service for a particular geographic area, or when heavy runoff conditions are experienced at the dam site. The inspection steps outlined herein should be undertaken at once and at three hour intervals thereafter, unless the "Flood Watch" is upgraded to a "Flood Warning" at which time the dam should be inspected hourly.

The observations to be made include (but are not necessarily limited to):

1. The rainfall at and water level of the impoundment should be measured and recorded.
2. The crest of the dam should be walked to determine if any cracking, settlement, movement or sloughing of the embankments has occurred.
3. The toe of the dam embankment and the abutment contacts should be inspected and all areas of seepage, soft spots, and boils noted. Boils are areas of concentrated seepage under pressure which have the ability to remove or "float" away the soil material through which it flows. (This process of soil removal is also referred to as piping). Their location should be recorded, as well as an estimate of the quantity of the seepage flow, and clarity of the water flowing from any seep. Muddy water flowing from a seep indicates that piping (the internal erosion of soil particles within an embankment) is occurring.
4. All spillway and outlet structures should be checked for accumulation of debris which should be removed as necessary.

It must be emphasized that the above emergency operation observations must be performed and a written record of same maintained. In addition, steps must be taken to provide adequate lighting to allow viewing of the dam at night.

An inventory and location of any available equipment, materials and manpower which could be utilized by the dam owner to clear debris blocking the spillway, repair surface erosion of an embankment, place sandbags, etc., should be provided. Personnel responsible for implementing these emergency repairs should also be listed.

Downstream Warning Notification

Early Warning

If during the inspection any of the following conditions are observed, the inspector shall notify the appropriate local emergency management and executive officials, as well as the DEP Flood Emergency Operations Center in Hartford, for an early warning declaration:

1. A marked increase in seepage through an embankment, particularly if evidence of boiling (seepage under pressure which tends to "float" away the material through which it flows) is observed.
2. An increase in the rate of rise of the impoundment such that the dam would be overtopped within three hours.

An early warning is intended to inform local authorities that conditions at the dam site exist which may require the evacuation of downstream residents within several hours to avoid loss of life in the event of a failure. Local authorities have the responsibility of alerting the threatened dwellings' occupants within the impact area (as specified by the flood inundation map), of the possibility that evacuation may become necessary. Furthermore, should evacuation of downstream residents become necessary only local officials, i.e., chief administrative official, local police, or emergency management official, have the authority to order an evacuation. It must be stressed that the early warning notice and/or actual evacuation of downstream residents should be performed according to a pre-arranged plan prepared by local authorities.

Local officials may utilize the Emergency Broadcast System to disseminate warnings regarding impending dam failures over the various electronic media available. The dam owner, however, does not have the authority to initiate any such broadcast.

Final Warning (Evacuation Notice)

A final warning should be initiated when in the judgement of the inspector a dam failure is likely and evacuation of the downstream area is necessary. Conditions which indicate failure is imminent include:

1. A dramatic increase in seepage flow (or a pre-existing boil), particularly if piping is occurring.
2. Cracking, settlement, or movement of masonry or concrete spillways, training walls, or other structures.
3. A water level within one foot of the top of dam and rising at a rate which would overtop the dam within one half hour.
4. Substantial erosion or sloughing of dam embankments.
5. Any other condition which may result in rapid (30 minutes or less) failure of the dam.

When issuing either an early or final warning notice, the dam owner/operator should only be responsible for one call to the local warning point (i.e., an office manned on a 24 hour basis or an appropriate dispatch center, local emergency management office, or police department, for example). Local officials bear the responsibility for fanning the warning out to other local and state agencies. The dam owner must consult the town on the selection of an appropriate warning point. If more than one town is potentially affected the other town(s) must be consulted on this point also. It is up to the town, not the dam owner, to determine how and where the warning message should be conveyed.

The following is a list of those officials and agencies which should be notified for warning and/or evacuation notices:

Town/City Chief Executive

Local Police Department

Local Emergency Management Director

State Office of Emergency Management (24 hour coverage) 566-3180

State Police (appropriate barracks)

DEP/Inland Water Resources Division's Flood Emergency Operations Center at 424-3706. (Note: DEP Communications Center at 566-3333 should be contacted in the event that the DEP Flood Emergency Center has not been activated after normal business hours).

During flood emergency surveillance of a dam site, provisions should be made for communications between the dam inspection personnel and above listed officials, which does not solely rely on telephone service, since it is very prone to flood-related disruption. Should an early warning or final warning/evacuation notice be issued, an all clear notice shall be issued after the flood emergency at the dam site has abated, so residents may return to their dwellings.

To summarize, an adequate Emergency Operation Plan must have a pre-determined flood inundation map, a schedule of personnel assigned to monitor the dam and to implement emergency repairs as needed, and a workable warning/notification system for alerting local authorities in communities downstream of the dam.

Furthermore, the local officials who are responsible for the actual warning or evacuation of residents, must have a pre-arranged plan for accomplishing same. Local and area emergency management personnel should be consulted to assist in the formation of these plans for this reason, since they have expertise in emergency preparedness planning.

Lastly, the EOP should be reviewed at least annually to update personnel assignments, any change in local elected officials, phone numbers, etc. In addition, any activity downstream of the dam which has occurred that may have changed the dam's hazard classification should be noted, i.e. construction (or removal) of dwellings, highways, bridges, flood control projects, industrial development, etc.

ATTACHMENT E

CONSENT/ RESOLUTION OF MEMBERS

The undersigned, being the holder of one hundred (100) percent of the interest of Blue Lake, Limited Liability Company, a Connecticut Limited Liability Company, hereby adopts the following resolutions:


RESOLVED: That it is advisable that the Company enter into a "Consent Order, DS-2000-1011V" with the State of Connecticut Department of Environmental Protection; and

FURTHER RESOLVED: That Robert Andersen is hereby authorized to execute, acknowledge and deliver, in the name and on behalf of the Company the foregoing identified Consent Order;

IN WITNESS WHEREOF, the undersigned have executed this Consent/ Resolution on the date set forth below.

9-14-04

DATE


By: Robert Andersen,
Sole Member

SWORN AND SUBSCRIBED TO ME THIS 14th DAY OF SEPTEMBER, 2004


SHARI KEEFE
NOTARY PUBLIC
MY COMMISSION EXPIRES: 08/31/09