

EXHIBIT A

STATE OF RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

OFFICE OF COMPLIANCE & INSPECTION

IN RE: SOSCIA HOLDINGS, LLC

File No.: OCI-FW-21-7

IMMEDIATE COMPLIANCE ORDER

A. INTRODUCTION

Pursuant to § 42-17.1-2(21) of the Rhode Island General Laws, as amended, (“R.I. Gen. Laws”) you are hereby notified that the Director of the Rhode Island Department of Environmental Management (“Director” of “RIDEM”) has determined that the above named party (“Respondent”) is ORDERED TO TAKE THE FOLLOWING IMMEDIATE ACTION to protect the environment in response to conditions that violate one or more of the following statutes and /or regulations as further detailed in this Immediate Compliance Order (“ICO”).

B. FACTS

- (1) Soccia Holdings purchased the Flat River Reservoir Dam in Coventry, Rhode Island, along with certain land and water rights commonly known as Johnson’s Pond (“Johnson’s Pond”) from the Quidnick Reservoir Company (“Quidnick”) in March 2020 by quitclaim deed.
- (2) On June 27, 2022, Governor McKee signed a law titled *An Act Relating to Waters and Navigation - Dam Permits*, which became effective upon the Governor's signature. The law reads as follows:

Any person who owns or operates a dam that has the capacity to store greater than one thousand four hundred (1,400) normal storage acre feet of water shall apply to the director of the department of environmental management for a permit to raise or lower the water level behind the dam. The owner or operator shall apply for a permit, and until such time as a permit is issued by the director, the owner or operator shall operate the dam in a manner that is consistent with historic use as determined by the director. The director may enforce this section in accordance with chapters 17.1 and 17.6 of title 42. This section shall not apply to dams that impound water for a public water supply system as defined in § 46-13-2. The department may promulgate rules and regulations to implement the provisions of this chapter.

- (3) Analysis of the United States Geological Survey (“USGS”) data from a stream flow monitoring station identified as South Branch Pawtuxet River at Washington County (Number 01116000) (“USGS Gauge”), which is near, and downstream from, the Flat River Reservoir Dam shows that Respondent is operating the Flat River Reservoir Dam in a manner that has directly resulted in water levels that are inconsistent with historic use at the Flat River Reservoir. *See* Affidavit of David E. Chopy, at Par. 19 and Par. 20 (attached hereto as **Attachment A**).
- (4) As of the date of this ICO, Respondent has not applied for a permit from the Director of RIDEM, despite two prior letters informing Respondent of the requirement to comply with the law.
- (5) In 2000, RIDEM’s Division of Fish and Wildlife (“F&W”) biologists observed the presence of five species of freshwater mussels in Johnson’s Pond. *See* Affidavit of Gabriel Betty (attached hereto as **Attachment B**).
- (6) On August 1-2, 2022, F&W investigated Johnson’s Pond to determine if freshwater mussels still currently reside there and whether they are at risk for harm due to low water levels. *See id.*
- (7) During that inspection, three live freshwater mussel species were identified. *Id.*, at Par. 14.
- (8) Two of the species found in Johnson’s Pond in 2000, and one found in 2022 are rare and of high conservation priority. *Id.*
- (9) The abnormally low water levels are adversely affecting the physical, chemical, and biological integrity of the habitat and adversely altering the uses, processes and activities of fish and wildlife.
- (10) Since June 27, 2022, Respondent has maintained an outflow rate from Johnson’s Pond greater than 40 cubic feet per second (“cfs”).
- (11) The activity of Respondent, to wit, maintaining a rate of more than 40cfs, is contributing to the abnormally low water levels.
- (12) Based on the science and biology of freshwater mussels, the abnormally low water levels in Johnson’s Pond are harmful to the freshwater mussels that live there. *Id.*

C. VIOLATIONS

Based on the foregoing facts, RIDEM has determined that violations of the following statutes and/or regulations are present at Johnson's Pond:

- (1) **R.I. Gen. Laws § 46-19.1-1** – requiring the owner or operator to operate the dam in a manner that is consistent with historic use as determined by the director. *Supra*.
- (2) **Rhode Island's *Water Quality Regulations (250-RICR-150-05-1)*, Part 1.10(B)(1)(b)** – requiring that all waters be free . . . *from anthropogenic activities* subject to these regulations that adversely affect the physical, chemical, or biological integrity of the habitat.

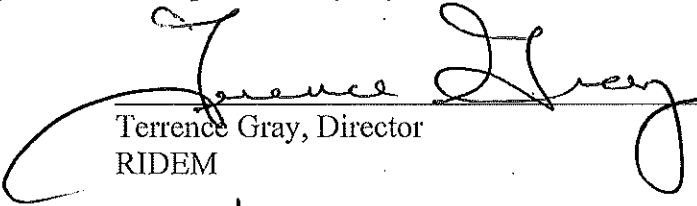
D. IMMEDIATE COMPLIANCE ORDER

Pursuant to R.I. Gen. Laws §§42-17.1-2(21)(ii)(A), Respondent is hereby ORDERED to reduce the water release from Flat River Reservoir Dam to 40cfs as measured at the USGS Gauge or such other rate sufficient to restore the Flat River Reservoir to the spillway level, but not less than 14cfs as measured at the USGS Gauge. This Immediate Compliance Order will be effective for 45 days after issuance and may be renewed for one additional period of 45 days.

E. NO RIGHT TO ADMINISTRATIVE HEARING

- (1) Pursuant to R.I. Gen. Laws §§42-17.1-2(21)(ii)(A), Respondent has NO RIGHT TO AN ADMINISTRATIVE HEARING regarding the ICO in that RIDEM has determined that the actions specified herein are immediately necessary to protect prevent harm to the environment.
- (2) The ICO is a final Compliance Order and is enforceable in Superior Court. See R.I. Gen. Laws §§42-17.1-2(21)(vi).
- (3) Failure to comply with the ICO may subject each Respondent to additional civil and/or criminal penalties as possible by law.
- (4) The ICO does not preclude RIDEM from taking any additional enforcement action nor does it preclude any other local, state, or federal governmental entities from initiating enforcement actions based on the acts or omissions described herein.

If you have any legal questions, you may contact (or if you are represented by an attorney, please have your attorney contact) Susan Forcier of RIDEM's Office of Legal Services at (401) 222-6607 ext. 2772305 or at susan.forcier@dem.ri.gov. All other inquiries should be directed to David E. Chopy of RIDEM's Office of Compliance and Inspection at (401) 222-1360, ext. 2777400 or at david.chopy@dem.ri.gov.



Terrence Gray, Director
RIDEM

Dated: August 9, 2022

CERTIFICATION

I hereby certify that on the 9th day of August
the within Notice of Violation was forwarded to:

SOSCIA HOLDINGS, LLC
c/o Richard E. Fleury, Resident Agent
33 College Hill Road
Building 20
Warwick, RI 02886

by Certified Mail.

