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## TITLE 490 – WATER RESOURCES BOARD

### CHAPTER 00 – N/A

### SUBCHAPTER 00 - N/A

#### PART 5 – Big River Management Area-

##### **PREFACE**

The following policies have been developed to guide the Rhode Island Water Resources Board in its management of the state-owned property in the Big River Management Area. It recognizes the natural resources of the area and those public uses that are compatible with them. The plan addresses administration, operation, maintenance and development requirements as well as the budgetary demands imposed.

The Board further recognizes the present usage of the land by the original owners. Only by joint local and state concern for the natural features of the area can the character of the region be maintained. The Board also acknowledges that all aquifers within the State must be preserved. The Big River Management Area is a water aquifer under State control and the integrity of the water quality can and must be preserved.

Furthermore, the RI Water Resources Board is committed to providing equal opportunity in every aspect of its programs and will not discriminate because of race, sex, national origin, age, religion, sexual orientation, or disability.

##### **Acknowledgments**

The RI Water Resources Board wishes to thank all persons who were instrumental in the development of the Big River Policy Book as well as all those who live within, or contribute to the daily operations of the Big River Management Area.

##### **Administration**

The Big River Reservoir concept was initiated in 1928. It was not until 1962 that a Special Governor's Commission recommended acquisition of the property. In 1964, the General Assembly, under the Big River Wood River Acquisition Act, established a requirement for a bond issue of five million dollars (\$5,000,000) to be placed on the general referendum ballot. Having recently experienced the inconveniences and health hazard associated with several drought seasons, the voters passed the bond referendum.

Under the powers of eminent domain, the state began acquiring property by condemnation beginning in Coventry in 1965, West Greenwich in 1966, and the in the Wood River area in Exeter in 1967. Due to substantial litigation, both the amount of land and the cost of acquisition exceeded desired proportions. In the end, the state obtained a total of 8,600 acres from 351 owners which comprised 444 parcels at a cost

of \$7.5 million. Management of the land and the 200 structures thereon, became the responsibility of the Water Resources Coordinating Board, forerunner of the Water Resources Board.

Due to the opposition to the reservoir by the federal government, the US Environmental Protection Agency, and environmental organizations, the state placed the project on indefinite hold in 1990. In 1993, the RI General Assembly passed legislation declaring the Big River Management Area as “Open Space,” to be utilized and enjoyed by residents of the State of Rhode Island. To this end, several civic groups engage in activities ranging from sports, hiking, canoeing, military training and other recreational activities.

## **JURISDICTION AND RESPONSIBILITY**

RI General Laws 1956, Chapter 46-15-6, Powers and Duties. In order to implement the plans and programs, the Board shall have the following powers and duties in addition to those powers enumerated under Chapter 46-15.1-5:

To acquire, with the limitation of funds therefore, the sites, appurtenant marginal lands, dams, waters, water rights, rights-of-way, easements, and other property or interests in property for reservoirs, ground-water wells, well-sites, and for such pipe-lines, aqueducts, pumping stations, filtration plants and auxiliary structures as may be necessary or desirable for the treatment and distribution of water from those reservoirs, ground-water wells and well-sites. Lands acquired under the provisions of this section shall be acquired with the approval of the governor by purchase, gift device, or otherwise on such terms and conditions as the Board shall determine, or by the exercise of eminent domain, in accordance with the provisions of RIGL Chapter 6 of Title 37, as amended, insofar as the same are consistent with the provisions hereof;

To enter into contracts and/or agreements with such departments, divisions, agencies, or boards of the state as are directed by the governor to regulate, manage, or perform related functions of any lands or waters acquired under the provisions of the Big River Wood River Reservoir Site Acquisition Act. (P.L. of 1964, Chapter 133);

To compensate the departments, divisions, agencies, or Board from the Water Development Fund established in RIGL Chapter 46-15.1-20 in an amount equal to the cost of providing such functions or services as are directed to be performed by the governor. The compensation shall be mandatory and shall be provided according to procedures established by the RI Department of Administration.

RI Public Law 1964, Chapter 133, Section 7 . . . the water resources co-ordinating board . . . Said Board is vested with all power and authority necessary or incidental to the purposes of this act. When deemed necessary, the Board reserves the right to authorize the State Police, RI Department of Environmental Management, and the RI National Guard, Air and Ground Divisions to perform duties on behalf of the Board.

## **FACILITIES**

Of the 200 buildings taken at the time of condemnation, there remained 47 residential homes, 79 mobile homes, 3 commercial buildings and a 9 hole golf course. In addition, there is a Field Office, located at 612 Nooseneck Hill Road, West Greenwich, which is the base of operations in the Big River Management Area.

## **EQUIPMENT**

In conjunction with the Memorandum of Understanding with the RI National Guard, the Board has at its disposal the following equipment: front end loaders, high utility motion vehicles, bulldozers, water tankers, 4x4 trucks, graders, various hand tools and manpower.

## **POLICIES**

In the operation of the Big River Management Area, the Board, having taken into consideration comments voiced at a public hearing, adopted the following policies, which have been filed with the Secretary of State. Specific agreements related to these policies are on file at the Water Resources Board office.

### **POLICY CONCERNING USE OF THE BIG RIVER MANAGEMENT AREA**

Consistent with the General Assembly designation of the Big River Management Area as open space to be utilized and enjoyed by residents of the State of Rhode Island, the Water Resources Board may allow individual and organized recreational and training activities within the area. Groups and/or organizations interested in conducting such activities must submit a Big River Management Area Land Use Request Form to the Board thirty (30) days prior to the activity date. The Board requires verification of general liability insurance coverage in an amount determined by the Board and/or reserves the right to require additional information it deems necessary. Individual activities which do not require Board approval include, but are not limited to, hunting, fishing, hiking, canoeing of Big River and horseback riding. Activities that are forbidden include swimming, trapping, camping, off-road biking, clear cutting, firewood cutting and canoeing on ponds. Fuel, electric motors and all terrain vehicles are forbidden in the Big River Management Area. The Board will seek the assistance of local and state law enforcement agencies in the removal/detainment of persons found engaging in unauthorized activities within the Big River Management Area. The Board cannot be held liable for any injuries sustained during voluntary recreational use of the Big River Management Area.

### **POLICY CONCERNING FAIR MARKET APPRAISALS**

In order to maintain rental market comparability on the Big River Management Area rental properties, the Water Resources Board will complete an initial fair market rental appraisal, using a comparative approach. The fair market rents established by this appraisal process will be reviewed annually. The housing component of the Consumer Price Index (CPI) for the New England Region, effective the preceding year, will be utilized to determine the annual rental increase. Notification of the rental increase will be provided to the tenants during the month of May with an effective rent increase on July 1 of that year. The Board will conduct subsequent fair market rental appraisals of all residential and commercial Big River Management Area properties on the fifth anniversary year commencing 1995, 2000, 2005, etc.

### **POLICY ON RENTAL FREEZE FOR ORIGINAL OWNERS & SENIOR CITIZENS ON 1977 LIST**

In 1977, the Water Resources Board and State Property Committee met to review and establish the rent for various Big River properties condemned and taken into state ownership. With input from state and local officials, the decision was made to "freeze" the rent charged to those individuals whose property was condemned for the Big River Reservoir but who continued to live there as tenants of the Water Resources Board. These "original owners" are defined as

## **5.1 Purpose**

The purpose of this regulation is to set forth procedures that preserve the land acquired by the Big River – Wood River Reservoir Site Acquisition Act, P.L. 1964, Ch. 133 for the development of future water supply. Further, this regulation also ensures that any use of the Big River Management Area preserves and protects the quality and quantity of water in the aquifer, protects public safety and is consistent with the development and use of the area for water supply.

## **5.2 Legislative Authority**

These regulations are promulgated pursuant to R.I. Gen. Laws §§ 37-20-1, 45-36-1(1) through (7), 46-15.1-19.1, 20-1-8 and R.I. Gen. Laws Chapter 42-17.1.

## **5.3 Definitions**

- A. "Board" means the Water Resources Board and/or its authorized agents.
- B. "DCAMM" means the Rhode Island Department of Administration, Division of Capital Asset, Management & Maintenance.
- C. "Development" means permanent improvements and/or permanent alterations to the land.
- D. "Management area" means the Big River Management Area as acquired by the Big River-Wood River Site Acquisition Act, P.L., 1964, Ch. 133.
- E. "Materials" means any natural resource located on the land, to include but not be limited to, rock formations, boulders, trees, soil and water resources.
- F. "Motorized" or "Mechanized vehicle" means any mechanized mode of transportation, to include but not be limited to, any vehicle that operates via a combustible engine or natural gas or electricity or solar.
- G. "Open space use" means activities that have a minimal and/or non-permanent impact on the physical characteristics and/or nature of the land and water resources.
- H. "Passive recreation" means any form of hiking, backpacking, hunting, fishing, horseback riding, ~~river~~ canoeing or kayaking.
- I. "RIDEM" means the Rhode Island Department of Environmental Management.

## **5.4 Allowed Uses in the Management Area**

- A. Passive recreation or open space use activity shall include but not be limited to, hiking, backpacking, hunting and trapping (As permitted and regulated by RIDEM), fishing, river canoeing and kayaking (limited to ponds and Big River), and horseback riding.
- B. Other uses or the above allowed uses in groups comprised of more than ~~tensix~~ (106) persons must be reviewed and approved by RIDEM pursuant to § 5.7 of this Part and shall require a special use permit.
- C. Non-mechanized or non-motorized bicycles are permitted subject to restrictions and requirements that the Board may periodically adopt and publish in consultation with the RIDEM.

## **5.5 Prohibited Uses in the Management Area**

- A. Development as defined in this regulation
- B. Swimming, ~~trapping~~, camping, and canoeing or kayaking on ponds
- C. Removal of any materials and/or natural resources of any kind from the management area including but not limited to clear-cutting, firewood cutting, unless and until approved by the Board
- D. Use of pesticides is strictly prohibited unless permitted and approved by RIDEM.
- E. Storage of hazardous materials is strictly prohibited unless permitted and approved by RIDEM.
- F. Use of Mechanized or Motorized vehicles as defined in § 5.3(E) of this Part is strictly prohibited.
- G. Other uses not explicitly allowed or prohibited in this regulation shall be evaluated on a case by case basis by the Board in consultation with RIDEM.

## **5.6 Leases for Residential, Non-Residential and Recreational Tenants**

- A. All Residential, Non-Residential and Recreational Leases in the Management Area shall be determined and evaluated on a case by case basis by DCAMM in consultation with the Board.
- B. Tenants

## 1. Original Residential Tenants

a. Original Residential Tenants means those persons whose names appear on the original deed and lease agreements signed in 1964 at the time of the land condemnation. ~~This rent concession is exclusive to the original owner(s) of the premises while he or she is a tenant of the Water Resources Board in that home which he or she owned at the time of condemnation. The rent concession shall terminate upon the death of the~~ Same shall continue to pay the original rent amount and shall not be subject to rent increases. This rent concession is:

(1) Exclusive to the original owner(s) of the premises in the Management Area while he or she is a tenant of DCAMM in that home which he or she owned at the time of condemnation.

(2) The lease shall terminate upon the death of the original owner or if the original owner fails to reside on a continuous and uninterrupted basis at the premises or upon termination of tenancy for breach or nonpayment.

~~—This rent concession will not apply to family members of the original owner and cannot be assigned or transferred.~~

~~Senior Citizens over sixty five who resided on Big River properties in 1977 were also granted a “freeze” in rent. This stabilized rent concession is exclusive to the senior citizen tenants who resided on the Big River property in 1977. This rent concession shall terminate upon death of the tenant or if the senior citizen fails to reside on a continuous and uninterrupted basis at the premises or upon the termination of tenancy for breach or nonpayment. This rent concession cannot be assigned or transferred.~~

### ~~POLICY CONCERNING SUBLEASING BY ALL TENANTS OTHER THAN ORIGINAL OWNERS~~

~~No tenants of the Big River Management Area are authorized to sublease any portion of the leased property, residences or other buildings located on or about his or her property, with the only exception being the one currently existing sublease for which the Board is presently scheduled to render a formal approval. Failure of the tenant to comply with this policy and~~

~~the lease agreement is a default of the lease agreement with the Board. Upon default by a tenant, the Board will begin eviction proceedings as set forth under state law.~~

~~Original Owners, who currently have Board approval, may extend the sublease to their property only after submitting a request to the Water Resources Board and receiving Board approval. The sublease request will set forth the actual intended sub-lessee's uses, insurance of the sub-lessee, any financial agreements between the lessee and sub-lessee. The Board reserves the right to request any additional information it deems appropriate prior to the ruling on the lessee's sublease request.~~

### ~~POLICY CONCERNING TEMPORARY REDUCED RENT FOR LOW INCOME TENANTS~~

~~The Big River property is not subsidized housing. However, the Board recognizes that certain existing tenants in the Big River Management Area do not have sufficient financial resources to lease the property they currently occupy at the fair market price. Therefore, in accord with guidelines established by US Housing and Urban Development, the Board will allow qualified existing tenants to remit no more than 30 percent (30%) of their household income for rent, effective on the signing of the new lease agreement. These tenants shall complete income verification forms provided by the Board to substantiate claims of inability to pay fair market rent. Tenants will be required to update household income information on an annual basis and/or upon any change of circumstances in household income or family status. Providing false or incomplete information relative to income will eliminate the tenant from eligibility for this program. Tenants participating in this program shall apply for subsidized housing to the local housing authority or other housing agency at the time of application to this program and will provide copies of the same to the Board. The concern of the Water Resources Board is to insure that no existing tenant is displaced, due to inability to pay the fair market rent. However this program is temporary in nature and is not intended to supply permanent subsidized housing. Only those persons who are Big River tenants as of December 1, 2000 are eligible to participate in this program. This program shall terminate on December 31, 2005.~~

## ~~POLICY CONCERNING INSPECTIONS~~

~~In order to sustain a safe, habitable environment for its tenants, the Water Resources Board shall conduct inspections no less than once a year of the residential and commercial facilities located within the Big River Management Area. Said inspections will be performed by the State Building Code Commission or other state approved entity which will report any findings of State Building Code violations to the Water Resources Board. The findings of the inspection shall be deemed conclusive to the condition of the property. In the event the dwelling is deemed irreparable and/or condemned by the State Building Code Inspector or other entity, the Water Resources Board reserves the right to terminate the lease and begin eviction proceedings. All buildings so designated will be razed as soon after the vacancy as practicable.~~

## ~~POLICY ON MAINTENANCE RESPONSIBILITIES~~

~~Recognizing the responsibility of the tenant to maintain their dwelling as follows: The tenant agrees during the continuance of the lease to keep~~

~~(3) The lease cannot be assigned or transferred.~~

### 2. Other Residential Tenants

a. Residential tenant means tenants other than those meeting the definition of an original owner in the Management Area. Same will be assessed fair market rent. DCAMM shall determine fair market rent.

### 3. Non-Residential Tenants

a. Non-residential tenant's rent in the Management Area is subject to an annual cost of living increase using the Consumer Price Index (CPI) for the New England Region, effective the preceding year. DCAMM shall calculate this rent annually.

C. As Residential, Non-Residential and Recreational Vacancies occur DCAMM shall ensure that no new leases issue and shall also ensure the demolition of any structures and shall ensure restoration of the property to its natural state. Extensions of existing leases are permissible on a case by case basis. DCAMM

shall be responsible for the demolition of any vacant property or structure in the Management Area.

D. Maintenance

1. The Tenant is responsible for keeping the interior and exterior of the leased Premises leased in good repair. Ordinary wear and tear are excepted, ~~including the setting of glass in windows and doors, if any, and in addition thereto, the Tenant covenants and agrees to.~~
2. Tenants must maintain the heating, plumbing, electrical, and all other mechanical and structural systems and ~~to~~must repair any damage caused by Tenant's misuse of all appliances within the leased Premises, including but without limiting the generality thereof: the plumbing facilities, heating appliances, electrical wires and fixtures, if any. ~~The Tenant will indemnify, defend and save harmless the Landlord from any and all loss or damage which at any time during the continuance of this lease may be caused to anyone or anything by the leakage or escape of any water to the leased Premises which is in any way caused by the Tenant. At the expiration, or sooner termination of this lease, Tenant shall quietly and peacefully surrender up to the Landlord full possession of the leased Premises together with all improvements, alterations and additions made during the term of the lease by either Tenant or Landlord, all in as good order as they now are or may be put in. The tenant agrees to repair any holes in floors, walls and fixtures of the Leased Premises caused by Tenant, and in the event that said Tenant shall leave the leased Premises in such a condition that Landlord shall be required to repair or restore the leased Premises, Tenant agrees, upon demand of Landlord, to pay the cost and expense thereof. The Water Resources Board has reduced the fair market rent value of each dwelling by an amount which reflects the average cost of maintaining the property in good condition in the standard set forth in the State Building Code. The Board will determine the rent reduction amount based upon recommendation of a licensed appraiser. No structural alterations shall be made unless the Lessee first obtains the permission in writing from the Water Resources Board using the "Request for Maintenance Form." Failure of the tenant to maintain and/or repair the property is a default of the lease agreement with the Board. Upon default by a tenant, the Board will begin eviction proceedings as set forth under state law.~~

POLICY ON APPLICATION PROCESS

The process for applying for property rental within the Big River Management Area shall be as follows:

1. ~~Application will be made available at the Water Resources Board Field Office, 612 Nooseneck Hill Road, West Greenwich, or other address designated by the Board, and will be provided by mail, upon request;~~
2. ~~Applicants must complete Application Form and provide verification of employment as well as rent history from a prior/present landlord(s).~~
3. ~~Board staff will review the application and determine acceptability based on number of occupants, household income and information provided by prior/present landlord(s).~~
4. ~~Applicants will be notified by mail of determination of acceptance/refusal and in the case of acceptance, the position on the waiting list.~~

~~Accepted applicants will be placed on a waiting list based on the official date of application, i.e., the date received by the Big River Management Area Property Manager. Applicants must complete a Notice of Continued Interest in Leasing Property form on an annual basis. Failure to complete this form will result in the applicant's name being removed from the waiting list. Applicants will be placed in available homes based on application date and suitability of home relative to the number of occupants.~~

#### **~~POLICY ON HAZARDOUS MATERIALS~~**

~~The RI Water Resources Board prohibits storage within the Big River Management Area of any listed hazardous substances in a quantity greater than the final reportable quantities as specified in 40 CFR 302.4, Superfund Hazardous Materials List. Furthermore, all commercial tenants are to comply with RIGL 28-21, Hazardous Substance Right To Know Law. A copy of both the law and regulation are on file at the Water Resources Board Field Office, 612 Nooseneck Hill Road, West Greenwich. Failure by a tenant to adhere to this policy will be considered a breach of the lease agreement; subsequently the Board may initiate eviction proceedings as set forth under state law.~~

#### **~~POLICY CONCERNING CATASTROPHIC REPAIRS~~**

~~The RI Water Resources Board, on each situation, will determine the requirements and procedures for repair of catastrophic damages. On behalf of the Board, the State Building Inspector or an authorized agent will inspect the property and advise the Board as to the extent of the repair necessary. The Board will approve the actions to be taken consistent with the opinion of the State Building Inspector and in accord with the mandates of the Rhode Island General Laws which may include repair, or demolition of, the building when appropriate.~~

#### **~~PROTECTION~~**

~~The Water Resources Board employs the assistance of local and state emergency personnel. The Mishnock Fire Company provides coverage for the area inclusive of Hopkins Hill Road, Division Road, Burnt Sawmill Road and Nooseneck Hill Road (up to Big River Bridge). The West Greenwich Fire Company supports the remainder of the Big River Management Area. The area is also patrolled by the RI Dept. of Environmental Management's Enforcement Division Conservation officers.~~

## **HISTORICAL SITES**

~~The Water Resources Board intends to coordinate with the RI Historical Preservation Society for the possible relocation of several historical homes within the Big River Management Area, prior to demolition, major renovation or initiation of construction of the Big River Reservoir. The Board also intends to relocate several historical cemeteries as part of the reservoir project. With the exception of the Hopkins Cemetery, these cemeteries are no longer functional. On April 24, 1978, the Board granted Ardis Barbour permission to be buried in her family cemetery on Hopkins Hill Road. This particular cemetery is located on high ground and will not be relocated due to the reservoir construction.~~

## **REVENUE**

~~**RI General Law 1956, Chapter 46-15.1-20 Water development account fund.** (a) There is hereby created a special fund called "water development fund" from any net proceeds which may be paid to the state as a result of the lease of any reservoir sites or other facilities as may be acquired or constructed by the state in accordance with the provisions of this chapter and chapter~~

~~15.1 of this title, as amended, or as otherwise authorized or permitted, or as a result of the sale of surplus property or any interest therein, including without limiting the generality of the foregoing, the sale of excess gravel, timber or tother materials located on the reservoir sites or other facilities. Monies from this fund are hereby appropriated for the purposes authorized by Chapter 46-15-6 and also hereby made available for borrowing by the board, in accordance with and pursuant to the provisions of Chapter 46-15.1-4, exclusive of acquisition of reservoir sites, and the state controller is hereby authorized and directed to draw his or her orders upon the general treasurer for the payment or loan of such sums or such portions thereof as may be required from time to time upon receipt by him of properly authenticated vouchers; provided, however, that in the event the water development account created by this chapter exceeds the sum of one million dollars (\$1,000,000) such excess over that amount is hereby made available and appropriated for expenditure by the board to implement the plans and programs thereof as are authorized by this chapter and chapter 15.1 of this title, the general laws exclusive of the acquisition of reservoir sites.~~

## **5.7 Requests to Use the Management Area - Subject to Issuance of a Use Permit From RIDEM**

- A. Individuals, Groups and/or Organizations interested in conducting activities in the Management Area other than those allowed in § 5.4(A) of this Part must submit an application to RIDEM no less than thirty (30) days prior to the proposed activity date(s).**
- B. RIDEM may require liability insurance coverage for some activities and may set other stipulations and requirements as RIDEM deems necessary.**

## **5.8 Enforcement**

RIDEM shall have the enforcement authority for the Management Area pursuant to R.I. Gen. Laws §§ 46-15.1-19.1, 20-1-8 and R.I. Gen. Laws Chapter 42-17.1.