

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
ADMINISTRATIVE ADJUDICATION DIVISION

IN RE: Michael Cullen
Freshwater Wetlands Application No. 87-0966F

DECISION AND ORDER

This matter is before the Hearing Officer on the application of Michael Cullen to alter freshwater wetlands on the east side of Carolina Nooseneck Road, 0.3 miles south of the intersection of the New London Turnpike in the town of Richmond, Rhode Island, further described as Richmond Tax Assessor's Plat 3C Lot 18.

The applicant requested permission to alter Freshwater Wetlands by clearing, grading, filling, soil disturbance, culverting three intermittent streams and installing riprap outfalls in and within 50 feet of a wooded swamp, three areas subject to storm flowage (intermittent streams) and that area within 100 feet of a flowing body of water less than 10 feet wide.

The purpose of said alterations is for construction of a residential driveway to serve as access to a proposed single family dwelling to be located to the rear (east) of the proposed alterations.

The application was denied by the Wetlands Section of the Department of Environmental Management (DEM) and a hearing was requested.

Donald J. Packer, Esq. of Packer & O'Keefe represented the applicant and Catherine Robinson Hall, Esq. and Sandra J. Calvert, Esq. represented the Department of Environmental Management.

The Prehearing conference was held on May 3, 1990 at 291 Promenade Street, Providence, Rhode Island 02908. No requests to intervene were received.

The Pre-Hearing Conference record was prepared by the Hearing Officer and the following stipulations were entered by agreement of the parties:

1. The applicant has filed all necessary documents and paid all necessary fees to be properly before the Hearing Officer in the above entitled matter.
2. The subject site is located east of Carolina - Nooseneck Road, 0.3 miles south of the intersection of the New London Turnpike; Assessor's Plat 3C, Lot 18, Richmond, Rhode Island.
3. The Application proposes the construction of a driveway in and within a wooded swamp and its 50 foot perimeter wetland, across three (3) intermittent streams and through a 100 foot riverbank wetland for the purpose of accessing a proposed single family dwelling.
4. The formal application, 87-0966F, was filed on January 26, 1988.
5. The site plan subject to this hearing is entitled "Formal Wetlands Determination w/Proposed Site Alterations", For: Michael Cullen - 692 Maple Street Narragansett Location: Tax Assessor's Map 3C, Lot 18 Carolina Nooseneck Rd., Richmond, RI", sheets 1 of 2 and 2 of 2, both sheets were most recently revised October 14, 1988 and received by the Department October 18, 1988.
6. The above-entitled site plan was sent to public notice on January 20, 1989. The forty-five (45) day public notice period expired on March 6, 1989.
7. The Department denied this application in a letter dated April 6, 1989 to Michael Cullen signed by Brian C. Tefft on behalf of the Department.
8. The Applicant filed a timely request for hearing on April 14, 1989.
9. The wetlands proposed to be altered and subject to the Department's Jurisdiction are a wooded swamp and that area of land within fifty (50) feet of a wooded swamp, three (3) areas subject to storm flowage and flooding (intermittent streams) and a 100 foot riverbank wetland (that area within 100 feet of a flowing body of water less than 10 feet wide) for the purpose of driveway installation and construction.

Public hearings were held on May 7, 1990 and May 8, 1990. Said hearings were held in appropriate places and locations, pursuant to

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notice by DEM.

A view was taken at the site on May 7, 1990.

In accordance with the Pre-Hearing Record, the following documents were admitted into evidence as joint exhibits:

JOINT EXHIBITS

- JT1. Formal application Form to Alter a Fresh Water Wetland received by the Department on January 26, 1988. (1 page).
- JT2. Site Plan submitted entitled "Formal Wetlands Application No. 87-0966F Wetland w/Proposed Site Alterations For: Michael Cullen - 692 Maple Street Narragansett Location: Tax Assessor's Map 3C Lot 18 Carolina Nooseneck Road, Richmond, RI", sheets 1 of 2 and 2 of 2, both sheets were most recently revised October 14, and received by the Department October 18, 1988.
- JT3. Official Notice regarding public notice dates, dated January 20, 1989 and signed by Brian C. Tefft (1 page).
- JT4. A letter dated February 23, 1989 to the Department from Patricia A. Valliere, Town Clerk for the Town of Richmond (2 pages).
- JT5. Wetland Wildlife/Recreational Evaluation by Susan Wilmont Cabeceiras dated March 1989 (12 pages).
- JT6. Letter dated April 6, 1989 to Michael Cullen from Brian C. Tefft denying Application No. 87-0966F (3 pages).
- JT7. Letter dated April 14, 1989 to Brian C. Tefft from Michael Cullen requesting an administrative hearing (1 page).
- JT8. Notice of Claim for Adjudicatory Proceeding by Donald J. Packer, Esq. on behalf of Michael Cullen, undated (1 page).
- JT9. Notice of Administrative Hearing and Prehearing Conference certification dated March 29, 1990 (5 pages).

In addition to said Joint Exhibits, the following were admitted as Applicant's exhibits:

- Applic 1. Objections/Comments, Review Panel Recommendations, showing a deadline date of April 10, 1989.

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- Applic 2. Fresh Water Wetlands Review Sheet dated March 23, 1989 by Susan Wilmont Cabeceiras (2 pages).
- Applic 3. Letter dated March 9, 1990 to the Department from Patricia A. Valliere of the Town of Richmond (2 pages).
- Applic 5. Resume of Wesley Grant, III (3 pages).
- Applic 6. Resume of Raymond T. Nickerson (2 pages).
- Applic 7. Letter to Gerald B. Middlemiss, Jr. from Donald J. Packer, Esq. dated April 24, 1989 (2 pages).
- Applic 8. Letter to Michael Cullen from Lisa B. Marino of Szeptowski Associates Inc. dated June 5, 1989 (1 page).
- Applic 10. Deed from Mark S. Rotondi and Patricia A. Rotondi to Michael Cullen dated November 20, 1986.

Applicant's Exhibits No. 4 for Identification and No. 9 for Identification were not admitted as full Exhibits.

The following were admitted as Exhibits for the Department:

- Dept 1. Resume of Brian C. Tefft (3 pages).
- Dept 2. Map prepared by Brian C. Tefft dated May 4, 1990 based on aerial photographs 13-376.

The issues to be considered by this hearing (per stipulation of the parties) are the following:

1. Whether the subject wetland is a "valuable" wetland pursuant to the definition provided in § 7.06 (b) of the Rules and Regulations?
2. Whether the proposed alterations will reduce the value of a "valuable" recreational Environment?
3. Whether the proposed alterations will reduce and negatively impact the aesthetic and natural character of the undeveloped wetland and buffer zone?
4. Whether the proposed alterations will cause unnecessary and undesirable destruction of freshwater wetlands pursuant to § 5.03 (b) and (c) (7) of the Rules and Regulations?

5. Whether the proposed alterations will result in loss, disturbance, encroachment and permanent alteration of wetland wildlife habitat associated with the subject wetland area?
6. Whether the proposed alterations are inconsistent with the policies, intents and purposes of the Act and the Rules and Regulations?

The applicant bears the burden of proving by a preponderance of the evidence that the subject proposal is not inconsistent with the provisions of the Rhode Island General Laws and the Rules and Regulations of DEM.

Mr. Jeffrey Spencer was the first person to present his statement orally at the hearing. He owns the property two lots south or downstream of the applicant's property, where he installed his driveway approximately seven years ago, after having obtained DEM approval.

Mr. Spencer stated that he is ecology minded and feels that his driveway did not affect the environment other than the areas immediately under the driveway. He has made a conscious effort to protect the wetland and he and others have noticed that everything seems to be flourishing. He has observed very little wildlife (other than red squirrels) in the area.

He expressed the view that if the culverts are placed properly on the Cullen property, there would be no disturbance to the wetland and he could see no reason to object to applicant's proposal.

The first witness called by the Applicant was William Michael Sullivan, a member of the Town Council for the Town of Richmond, a member of the Richmond Conservation Commission and a faculty member in the Department of Plant Science at the University of Rhode Island.

Mr. Sullivan initially stated his views and the views of the Richmond Town Council under public comment, but was later called as a witness for applicant. He pointed out that although the Richmond Town Council had expressed some concerns about the proposed project, it had basically expressed its approval of same.

This view was based upon the facts that although approximately a quarter acre of wetland would be altered in preparation or construction of the proposed driveway (which was deemed significant), the amount of the watershed above this driveway is relatively small and there is significant gradient between the upper reach of the watershed and the proposed driveway. The Town's concern as to the number of culverts that should be required was not substantiated nor was a satisfactory explanation of same provided.

John M. Cronin was the next witness called by the applicant. Mr. Cronin is a retired chief of the Rhode Island Division of Fish and Wildlife in DEM. He testified that after reviewing the situation as it exists with reference to other driveways already in existence in the surrounding area, there would be absolutely no affect on wildlife population. That there would be a plant disruption by disturbing approximately a quarter acre of land, but there would be no disturbance of any unique species.

Under cross-examination Mr. Cronin stated that although cumulative loss can often be a real problem, he did not consider it a problem in this case.

Mr. Robert H. Lowry was then called to testify for the applicant. He

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is a retired natural resource enforcement officer for the State of Rhode Island. By agreement of counsel, his statement was delivered as public comment. He stated that he was appearing at this hearing to remedy what he considered a grave injustice to the applicant. He feels that the aesthetic value of the area would not be disturbed by this project and that building an access driveway so the applicant can build a home would be a minimal change to the wetland area. He strongly urged the issuance of the permit to applicant.

Michael P. Cullen, the applicant, testified next. He purchased the subject property in November of 1986, which consists of approximately 62 acres, having a 200 foot frontage. When he purchased the property he felt that considering the amount of driveways already existing in the area, DEM approval should be basically a formality. After experiencing difficulty in obtaining a permit, he later sought access via the driveway of his neighbor to the south, which was steadfastly refused.

The applicant's next witness was Wesley Grant III. He is a registered professional engineer, registered land surveyor in the State of Rhode Island, and registered professional engineer in the State of New Hampshire. The witness has a Bachelor of Science degree in civil engineering from New England College in New Hampshire and has been practicing civil engineering for about 21 years, and has extensive experience in designing drainage systems. Mr. Grant testified that the most recently revised site plan submitted for this project (October 14, 1988) calls for the construction of a 15 foot wide gravel driveway to access the rear of the property. Said driveway requires crossing

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Wetlands, but the proposed roadway would be installed in the highest course across this wetland so as to minimize any impacts.

The width of the area of disturbance to wetlands by construction of this driveway ranged from 21-22 feet to 41-42 feet.

The witness explained the size and location of the three culverts proposed by him in the revised site plan and he stated that a fourth culvert could easily be installed to accommodate the concerns of the Richmond Conservation Commission.

Mr. Grant's opinion was that the installation of these three culverts and the construction of this driveway was designed to maintain basically the flow characteristics across this wetland for up to a 25 year frequency storm, and that it has a potential under a 50 year frequency storm to provide ponding for a short period of time. The Department's Engineer expressed satisfaction with the proposed three culverts and it did not appear that a fourth culvert should be required.

Raymond Thomas Nickerson testified next for the applicant. He is an environmental planner, with a Bachelor's degree in natural resources from the University of Rhode Island, a Master's degree in community planning also from the University of Rhode Island and was accepted as an expert in natural resources. He flagged the wetland edge for this application and examined the wetland on this site and the adjacent areas.

He opined that the installation of the proposed driveway would not have a detrimental effect on the ability of the wetland to provide the habitat for wildlife and the least possible impact on the wetland.

Under cross examination, it was brought out that Mt. Nickerson's

evaluation was primarily to assess the impact on the wetland in terms of the vegetation community and that he did not make any assessment as to the cumulative impact of construction upon the freshwater wetland in the area. He acknowledged that construction of the driveway would directly result in the loss of what he believed was 9,085 square feet of wetland and therefore a direct loss of wetland life habitat. However, he stated that installation of a driveway on this particular site would not alter the natural character of the wetland other than in the area of the driveway, since the wetland has been subjected to some alterations by adjacent properties with no discernible difference between the wetland systems.

The Department called as its only witness Brian C. Tefft, who is the supervising environmental planner of the Rhode Island Department of Environmental Management Freshwater Wetlands section. He has a Bachelor of Science degree in Natural Resources Management from the University of Rhode Island, a Master of Science degree in Wildlife Management from Frosberg State College, and extensive training background and experience in evaluating and assessing wildlife habitat, and recreational environment of Freshwater Wetlands.

Mr. Tefft acknowledged that valuable wildlife habitat is not at the issue in this hearing, but valuable recreational environment is an issue. He stated that this wetland does meet the definition of a valuable wetland by virtue of its application of valuable recreational environment which, by definition, is a relatively natural or undeveloped area which in its natural state is capable of supporting recreation by the general public.

Mr. Tefft explained the alterations proposed by the subject application and described the premises involved. There is a state regulated freshwater wetland across the entire frontage portion of the lot (being two hundred feet wide and four hundred to four hundred and twenty feet in depth); The wetland is comprised of a wooded swamp; it is comprised of a number of streams, all of which are intermittent streams; the proposed residential driveway would require a berm or dike across perpendicular to the direction of flow of the wetland to access an area to the rear.

This would result in a physical disturbance to the wetland of approximately twenty five to twenty seven feet in width through the entire four hundred feet length corridor.

The department employed several tools, of which aerial photography was one factor, to process the subject application to determine the wetland evaluation unit, which was approximately 9.2 acres; and the wildlife habitat was evaluated in light of said evaluation unit. This witness further explained that the wooded swamp on this site (which is part of a complex that extends beyond the subject site) provides a certain amount and type of wildlife habitat, and that a significant block of the remaining wetland unit on the subject property and adjacent to it is presently undisturbed.

It was this witnesses's opinion that the proposed alterations would affect the wildlife habitat of this area by the physical disturbance caused by the replacement of approximately 10,180 square feet of wetland by the non-wetland gravel roadway and also there would be associated

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impacts by the construction and ultimate maintenance and use of the subject roadway. This creates a zone of influence which goes beyond the physical disturbance of the road and diminishes the value of the area for wildlife.

A map prepared by Mr. Tefft dated May 4, 1990, was introduced in evidence (Department's Exhibit No. 2) locating the various driveways on the neighboring properties along Carolina Nooseneck Road in order to clarify the status of several of the crossings which cross the subject wetland complex. Said driveways on the easterly side (same side as applicant) of Carolina Nooseneck Road in the vicinity of the applicant's property were respectively identified as: Brunell (which commenced as a violation and was later approved by the Department in 1976; Freeze (approved by the Department in 1977); Spencer (approved by the Department in 1980); Middlemiss (which commenced as a violation and approved by the Department in 1980); Cullen (applicant). Approximately the same amount of wetland alteration, two-tenths of an acre, were involved with each of the foregoing properties.

On the westerly side of Carolina Nooseneck Road there were several paths or driveways that were out of the wetland area and several driveways that Mr. Tefft concluded were violations as unauthorized freshwater wetland crossings.

Beyond the Cullen property (further north) Clark was approved in 1980 as an insignificant alteration since it only crossed a small, limited segment of a stream area so as to have a limited impact on areas involved with wetland. However, Mr. Tefft recently observed that the Clark

driveway is not in conformance with the Department's approval and is another possible violation.

The remaining driveway in the area is located to the north of the applicant's property and is outside of the freshwater wetlands.

Mr. Tefft testified that the proposed alteration would contribute to the cumulative loss of the wetland involved by increasing the total loss to over one acre (of an approximately nine acre wetland). It is his opinion that the proposed driveway will cause further reduction in the value of the wetland wildlife habitat, further reduce the value of a valuable recreational environment, reduce and negatively impact the aesthetic and natural character of the wetland and constitute an undesirable destruction of freshwater wetlands.

No actual testimony was provided by the Division concerning the culverts proposed by the applicant, other than that same were approved by the engineering section of the Division. The size and location of the driveway on the highest course across the wetland, and the design of the three culverts appear adequate to accommodate the three small intermittent streams on said property and to adequately maintain the flow characteristics across the wetland and flooding was not considered a problem by the engineers for applicant and the Division.

The Department conceded that valuable wildlife habitat is not at issue here; but it felt that valuable recreational environment is at issue. Although a very thorough and capable explanation of the views of the Department was presented, those views appeared to be based on the disturbance of a wetland wildlife habitat which is capable of supporting

recreation by the general public. However, little or no specific evidence was provided by the Division to substantiate any viable possible recreational uses. The wetland complex can hardly be considered as relatively undeveloped (as the Division intends), and an objective view of the area compels the conclusion that it is extensively developed.

Also, the wetland on the site is not realistically capable of supporting any recreation by the general public. Certainly, if such uses were possible, it would still be retained after the proposed project is completed. Any present aesthetic value would be basically unchanged and clearly not reduced or negatively impacted by the proposed alterations.

The wetland involved is crossed by numerous other driveways very similar to what the applicant proposes, so that its value as a recreational environment has already diminished to the point where it is virtually non-existent. There is limited wildlife species on the site and a great deal of human activity in the area.

The Department's experts stated that there is a significant block of the remaining wetland unit on the subject property and adjacent to it that is presently undisturbed. However, this area has already been subjected to the same associated impacts that the Department claims will be caused by the subject roadway and cumulative loss is not a factor here.

The evidence introduced by the applicant clearly established that the proposed alterations would certainly not cause any unnecessary or undesirable destruction of freshwater wetlands. The applicant substantiated that no other alternatives exist to access the rear non-wetland portion of applicant's property (where applicant's home is to be located).

The proposed driveway was carefully and strategically placed in the best possible location and no portion of applicant's home is to be located within the wetland. In conformity with the existing homes in the area, applicant's home should not be visible from the road and the gravel driveway should completely blend with the character of the neighborhood.

In light of all the homes, driveways and surroundings already existing in the area, the physical presence and ultimate use and maintenance of the subject driveway should have no appreciable adverse or harmful effect on the wetland wildlife habitat associated with the wetland area.

The views of the Division appear more prohibitive than regulatory and are too strict an interpretation to be warranted in this matter.

The credible evidence clearly establishes that the applicant has effectively sustained its burden of proving by a preponderance of the evidence that the proposed alterations are consistent with the policies, intent and purposes of the Act and the Rules and Regulations.

FINDINGS OF FACT

After review of all the documentary and testimonial evidence of record, I make the following specific findings of fact.

1. A Prehearing Conference was held on May 3, 1990.
2. Public Hearings were held on May 7 and May 8, 1990.
3. All hearings were held in appropriate places and locations.
4. All hearings were conducted in accordance with the provisions of the "Administrative Procedures Act" (Chapter 42-35 of the General Laws of Rhode Island, and specifically § 42-35-9) and the "Freshwater Wetlands Act" (Rhode Island General Laws Sections 2-1-18 et seq.).
5. The parties stipulated that the applicant has filed all necessary documents and paid all necessary fees to be properly before the Hearing Officer in this matter.
6. The site plan submitted for the application was most recently revised on October 14, 1988 and received by the Department on October 18, 1988; the hearings conducted were based upon said revised plans.
7. The applicant seeks approval to alter a Fresh Water Wetlands on a parcel of land located east of Carolina Nooseneck Road, 0.3 miles south of the intersection of the New London Turnpike in the town of Richmond, Rhode Island, further described as Richmond Tax Assessor's Plat 3C Lot 18.
8. The wetlands proposed to be altered are a wooded swamp and that area within 50 feet of a wooded swamp, three areas subject to storm flowage and flooding (intermittent streams) and a 100 foot riverbank wetland (area within 100 feet of a flowing body of water less than 10 feet wide).

9. The purpose of said alterations is for construction of a gravel residential driveway to serve as access to a proposed single family dwelling located outside of the proposed alterations.

10. The application's property consists of approximately 8 acres (200 foot frontage and 1,700 feet in depth).

11. The wetland portion of applicant's land runs in a north/south direction across the entire front of his property and is about 200 feet wide and 400 to 420 feet in depth.

12. The wetland complex continues across the fronts of the properties on both sides of the applicant having approximately the same configuration and the same amount of physical disturbance, and continues across other adjoining properties.

13. The physical disturbance to the wetland by the proposed alteration totals approximately 10,180 square feet (25 to 27 feet in width through the entire 400 foot corridor).

14. The driveways crossing the wetland on the surrounding parcels are similar in size and purpose and have the same amount of wetland alteration (.2 acre) as applicant's; these being approved at an earlier time by the Department.

15. The subject wetland is located in an area that is already largely developed in a manner similar to the subject application.

16. There is no other available access to location of the applicant's house other than the proposed driveway.

17. The proposed project is in conformance with the surrounding area so that any reduction in size of the wetland is relatively insignificant.

18. The subject wetland is not a "valuable" wetland.
19. The proposed alteration's contribution to the cumulative loss of the wetland is negligible and any adverse affects would be insignificant.
20. The proposed driveway will not cause a reduction in the value of the wetland wildlife habitat.
21. The subject wetland is not a "valuable" wetland in that it does not provide a valuable recreational environment.
22. The proposed driveway will not reduce the value of a valuable recreational environment.
23. The proposed alterations will not reduce or negatively impact any aesthetic or natural character of an undeveloped wetland and buffer zone.
24. The proposed alterations will not result in loss, disturbance, encroachment or permanent alteration of wetland wildlife habitat associated with the subject wetland area.
25. The proposed alterations will not cause an unnecessary or undesirable destruction of freshwater wetlands.
26. The proposed alterations are consistent with the policies, intents and purposes of the Act and the Rules and Regulations.

CONCLUSIONS OF LAW

Based upon all the documentary and testimonial evidence of record, I conclude the following as a matter of law:

1. All of the hearings in this matter were held in appropriate places and locations.
2. All hearings were held in accordance with Rhode Island General Laws, the Administrative Rules for Practice and Procedure for DEM, DEM Rules and Regulations governing the enforcement of the Fresh Water Wetland Act.
3. The matter is properly before the Administrative Adjudication Officer.
4. The area in question is not a "valuable" wetland pursuant to the definition provided in § 7.06 (f) of the Rules and Regulations.
5. The proposed alterations will not reduce the value of a valuable recreational environment.
6. The proposed alterations will not reduce or negatively impact the aesthetic and natural character of an undeveloped wetland and buffer zone.
7. The proposed alterations will not cause unnecessary and undesirable destruction of freshwater wetlands pursuant to § 5.03 (f) and (c) (7) of the Rules and Regulations.
8. The proposed alterations will not result in loss, disturbance, encroachment and permanent alteration of wetland wildlife habitat associated with the subject wetland area.
9. The proposed alterations are not inconsistent with the best public interest and public policy as stated in § 2-1-18 and 2-1-18 of the Rhode Island General Laws and § 1:00 of the Rules and Regulations governing the Freshwater Wetlands Act.
10. The applicant has sustained his burden of proof that the application will not cause random, unnecessary and/or undesirable destruction of a freshwater wetland which should be protected by the Director.

THEREFORE, IT IS

ORDERED

1. Application No. 87-0966F to alter fresh water wetlands (pursuant to the site plan as revised October 14, 1988 and received by the Department October 18, 1988) be and is hereby granted.

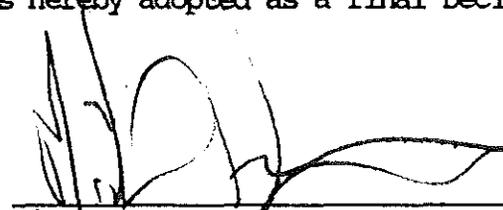
I hereby recommend the foregoing Decision and Order to the Director for issuance as a final Order.

October 16, 1990
Date


Joseph F. Baffoni
Hearing Officer

The within Decision and Order is hereby adopted as a final Decision and Order.

November 5, 1990
~~October~~
Date


Michael Annarummo
Director
Department of Environmental Management

CERTIFICATION

I hereby certify that I caused a true copy of the within to be forwarded regular mail, postage pre-paid to Michael Cullen, 24 Cornell Road, Narragansett, Rhode Island 02882; Donald J. Packer, Esq., Packer & O'Keffe, 1220 Kingstown Road, Peace Dale, Rhode Island 02883; Patricia A. Valliere, Town Clerk, Town of Richmond, Town Hall, Wyoming, Rhode Island 02898; Stephen D. DiLorenzo, Department of the Army, 424 Tropelo Road, Waltham, Massachusetts 02254; Lisa Marino, Szepatowski Associates, Inc., 23 Narragansett Avenue, Jamestown, Rhode Island 02835; Wesley Grant, III, P.E., Environmental Consultants, Inc., Dugway Bridge Road, West Kingston, Rhode Island 02892; Raymond T. Nickerson, Sycamore Bray, 27 Andre Avenue, Wakefield, Rhode Island 02879; Pasquale F. DeBernardo, President, Town Council, Town Hall, Wyoming, Rhode Island 02898 and via inter-office mail to Sandra Calvert, Esq., Office of Legal Services, 9 Hayes Street, Providence, Rhode Island 02908; Kendra Beaver, Esq., Office of Legal Services, 9 Hayes Street, Providence, Rhode Island 02908; Catherine Robinson Hall, Office of Legal Services, 9 Hayes Street, Providence, Rhode Island 02908 on this Su day of December, 1990.

Charles R. Downing