

Department of Environmental Management  
Administrative Adjudication Division  
State of Rhode Island  
RE: COMBS, BETTY J.  
AAD NO. 04-003/ISA  
LETTER OF DENIAL OF APPLICATION NO. 0205-2467  
October 7, 2004

**DECISION AND ORDER**

This matter came before the Administrative Adjudication Division ("AAD") on a request for an adjudicatory hearing filed by Betty J. Combs ("Applicant") following the denial by the Department of Environmental Management ("DEM" or "Department"), Office of Water Resources ("OWR" or "Office") of the Applicant's application and request for a variance to install an individual sewage disposal system "ISDS" on real property located in the Town of Charlestown, Rhode Island, identified as Lot 40 on Charlestown Tax Assessor's Plat 13 ("Property" or "site"). Said property is bounded northerly by Old Post Road and easterly by Narrow Lane.

On June 16, 2003, the Applicant filed Application No. 0205-2467 ("Application") with the Office requesting a permit to install an ISDS to service a restaurant to be constructed on the site. Said application requested one (1) variance to the Rules and Regulations Establishing Minimum Standards Relating to Location, Design, Construction, and Maintenance of Individual Sewage Disposal Systems ("ISDS Regulations"). Specifically, Applicant sought a variance from the following minimum standard:

1. SD 3.05 Location - requiring a minimum distance of four hundred feet (400') from a public drinking water supply and any component of an ISDS. See Minimum Distances Table, 10. Public Drinking Water Supply Well.

The Office denied the Application on January 20, 2004.<sup>1</sup> The denial letter stated that the Department evaluated the effect of the variance on the public interest and the public health, and determined that the Applicant did not provide convincing evidence to demonstrate that the degree of environmental protection provided under the ISDS Regulations could be achieved without strict application of the particular provisions from which the variance was requested. In particular, the Department considered:

1. The effect of the requested variance as a potential cause of any public or private nuisance;
2. The effect that the requested variance may have on the public health;
3. The effect of the proposed system on any drinking water supply or tributary thereto;

On February 19, 2004 the Applicant appealed the denial of the Application to the AAD. A prehearing conference was held on April 16, 2004, and the Prehearing Conference Record was entered on April 20, 2004. The Hearing was conducted on May 10, 11 and 12, 2004. Following the hearing, post-hearing memoranda were filed by the Applicant and OWR. Response memoranda were due by July 2, 2004; and the hearing was deemed closed on that date.

The Applicant at the adjudicatory hearing bears the burden of proof to demonstrate through clear and convincing evidence that: (1) A literal enforcement of the Regulations will result in unnecessary hardship to the Applicant; (2) That the system will function as proposed in the application; and (3) That the issuance of a permit will not be contrary to the public interest, public health and the environment. In order to demonstrate that the proposed ISDS will not be contrary to the public interest, public health and the environment, the Applicant must introduce clear and convincing evidence that:

1. The waste from the proposed system will not be a danger to public health;
2. The disposal system to be installed will be located, operated and maintained so as to prevent the contamination of any drinking water supply or tributary thereto;
3. The waste from the proposed system will not pollute any body of water or wetland;
4. The waste from the proposed system will not interfere with the public use and enjoyment of any recreational resource; and
5. The waste from the proposed system will not create a public or private nuisance.

The following stipulations of fact were agreed upon by the parties pursuant to the Prehearing Conference Record:

1. On June 16, 2003, Betty J. Combs filed an ISDS Variance Application No. 0205-2467 for property located at Assessor's Plat 13, Lot 40, Old Post Road, Charlestown, Rhode Island (the "Property").
2. Betty J. Combs is the current owner of the Property.
3. Application No. 0205-2467 requested variances to Rules SD 3.05-10 of the *Rules and Regulations Establishing Minimum Standards Relating to Location, Design, Construction and Maintenance of Individual Sewage Disposal Systems* ("ISDS Regulations").
4. On January 20, 2004, the Department of Environmental Management denied ISDS Application No. 0205-2467.
5. Betty J. Combs timely appealed the denial of Application No. 0205-2467 to the DEM Administrative Adjudication Division.

A list of Exhibits introduced at hearing is attached as Appendix A.

Applicant proposes to construct and operate a new "family diner" on the subject property owned by Applicant in the Town of Charlestown. There is no public water supply available in Charlestown to service said property; and no municipal sewer system is available. Applicant requests a variance from the minimum distance between the parts of an individual sewage disposal system and the public drinking water supply well on said premises.

The Applicant, Betty J. Combs, was the first witness called for the Applicant. She testified that she acquired the Property, consisting of approximately four (4) acres, in November 2002. She stated that her proposal is to construct and operate a family diner at the site; and that she purchased all four acres purposely so that a public well and a septic system would be acceptable on the property. Applicant received the requisite zoning approval of the Town of Charlestown for the construction of a restaurant on the Property in January 2003, and the approval of the Rhode Island Department of Health for a well on the premises to service the restaurant in July 2003 (since there is no public water supply available in Charlestown to the Property).

William Dowdell, P.E., who was qualified as an expert in the field of design and adequacy of septic systems, testified next for Applicant. Mr. Dowdell testified that he had designed a septic system for a proposed restaurant; and had a preliminary meeting with representatives of the ISDS section of DEM in April, 2003. After completing the soil testing and after discussions with DEM, Mr. Dowdell redesigned and submitted a formal application in which he downsized the size of the restaurant from 119 seats to a 54-seat restaurant. It was Mr. Dowdell's opinion that the leach field and septic system as designed in the plan submitted would accommodate the flow from a 54-seat restaurant.

It was Mr. Dowdell's testimony that he designed a septic system for the subject property using a daily flow of 35 gallons per seat per day rather than the 70 gallons per seat per day as provided in the DEM Regulations. He explained that the 35 gallons per seat per day was based on actual water consumption data of comparable restaurants in Narragansett and Westerly. Said data was obtained from records of what Mr. Dowdell considered comparable restaurants using public water and sewer systems (which meant that metering was available to measure the flow).

Mr. Dowdell further testified that the actual records of the range of flows of the restaurants selected were between 10.4 and 12.9 gallons per seat per day. Mr. Dowdell opined that the maximum flow for a restaurant using 10 to 12 gallons per seat per day (using a "peaking factor" of 2.0<sup>2</sup>) would be 23.3 gallons per seat per day; and that the flow from the instant restaurant would be equivalent or comparable to the restaurants he studied in Narragansett and Westerly.

The Applicant called three OWR employees, viz. Mohamed J. Freij, P.E., Russell Chateaufneuf, P.E., and Brian Moore, P.E., as witnesses. By agreement of the parties, it was stipulated at the hearing that each of said witnesses were qualified as an expert in the fields as proposed by OWR in the Prehearing Conference Record (and as set forth hereinafter).

Mohamed J. Freij, P.E., Chief, Groundwater & Wetlands Protection, OWR was the next witness called by Applicant. It was stipulated by the parties at the hearing that Mr. Freij is qualified as an expert in the field of sanitary engineering and in the application of and compliance with ISDS Regulations. Mr. Freij was questioned as to the reasons for the denial of the Application. He testified that there were a number of reasons why the Application should be denied. Essentially, it was Mr. Freij's testimony that the system proposed failed to meet the criteria of 70 gallons per seat per day, and that the site falls in a critical resource area. He explained that since the proposed system exceeded two thousand

gallons per day, it would be designated as a large system, and an extensive environmental impact study are required to justify the approval of the system by DEM.

It was Mr. Freij's expert opinion that the Applicant did not provide any information to show (1) that the proposed application was not contrary to the public interest, public health and the environment; (2) that it would not create a public or private nuisance; and (3) that the proposed system would be located, operated, or maintained so as to prevent the contamination of any drinking water supply. The Applicant called Russell J. Chateauneuf, P.E., Chief of OWR's Groundwater & Wetlands Protection Programs, as her next witness. The parties stipulated that Mr. Chateauneuf is an expert in the field of sanitary engineering and the application of and compliance with ISDS Regulations. This witness testified that he was involved in the decision making on the subject application; and that after review and consideration of the water usage records of restaurants in Narragansett and Westerly, they were rejected. Mr. Chateauneuf testified that Mr. Freij's initial recommendation was to return the Application as unacceptable; but that after a meeting with Brian Moore, Mr. Chateauneuf and Mr. Freij, the three of them made a joint decision at that point to deny the Application rather than to return it as unacceptable.

It was Mr. Chateauneuf's belief that all of the property in the Town of Charlestown located in a critical resource area is not serviced by municipal sewer systems; and that most, if not all of said property, is not serviced by public water supply. The OWR considered, but did not accept Applicant's request to use the records of water consumption at other restaurants submitted by Applicant in November, 2003, and OWR denied the Application.

Mr. Chateauneuf then testified that he has been employed in his present position for four years, and had worked in a similar capacity in the ISDS program since 1991. As such, he has reviewed hundreds, if not thousands, of ISDS applications. He stated that the Department receives approximately three to four thousand ISDS applications a year, and he is responsible for overseeing decisions made on those applications.

It was Mr. Chateauneuf's expert opinion that the intent of the provision concerning SD 3.01 entitled "Determination of Sewage Flow"<sup>3</sup> was to provide some flexibility in looking at other data in making a decision as to what the appropriate minimum design flow rate should be for a particular establishment. Mr. Chateauneuf testified that generally OWR will only deviate from or consider flow reductions from SD 3.01 on repair applications for existing restaurant establishments, and occasionally on alterations to systems of existing restaurants. He stated that, based on OWR's experience, using 70 gallons per day per seat for a full service restaurant is the appropriate minimum design flow requirement for such uses. Mr. Chateauneuf explained that restaurant waste is a higher waste strength than conventional sanitary sewage (such as domestic uses). Therefore the extra treatment and leach field capacity provided by sizing based on 70 gallons per seat per day ensures that the system will function properly for the reasonable life of the system. This is especially important because the application involves a variance in the minimum distance to a public water well, and a reduction in minimum design requirements would impose an added resource risk to the public water supply source nearby.

Mr. Chateauneuf opined that reducing the minimum flow requirements for restaurant seating in this particular setting could pose an added threat because of the soils that are known to exist in a critical resource area. A reduction (such as proposed here) would result in an undersized system for the flow the establishment would have; and there is a greater potential for inadequate treatment of the waste water which would lead to the possible contamination of nearby wells.

It was Mr. Chateauneuf's opinion that the Application should have been submitted as a large system under SD 19.02, and that if an Environmental Impact Assessment (as required thereunder) had been provided, it would have been helpful in this matter. He explained that variances are required for this proposal because the public well is located closer than four hundred feet to several septic systems located on adjacent parcels of property.

Brian Moore, P.E., a Supervising Sanitary Engineer with OWR, was the last witness called by Applicant. Mr. Moore testified that he became involved in the Application after the original engineering review was complete and after the Application was ready for decision. This witness stated that at that time the decision was made not to use the records of water consumption submitted by Applicant. Thereafter, OWR denied the application rather than to return it as

unacceptable because OWR believed Applicant was reluctant to provide further information concerning the leaching area.

After Applicant rested her case, OWR also rested its case without calling any witnesses.

Applicant argues the following:

1. The DEM's septic system rules have been applied to this application in an arbitrary and capricious manner or in a manner characterized by an abuse of discretion.
2. The denial of this application was not in accordance with DEM's own regulations.
3. The denial of this application by DEM was clearly erroneous.
4. The DEM's septic system rules, as applied to new restaurants within the Town of Charlestown, are unfair, unreasonable, and effectively confiscatory and those rules effectively impose zoning controls which are reserved to cities and towns in Rhode Island and are therefore contrary to constitutional and statutory authority.

OWR counters that:

1. The Applicant has failed to show by clear and convincing evidence that the proposed ISDS would function as proposed and would not be contrary to the public interest and the public health;
2. The Applicant has failed to show by clear and convincing evidence that a literal enforcement of the regulations will result in unnecessary hardship; and
3. The OWR's denial of the Applicant's variance application is fully supported by probative, reliable, and substantial evidence on the whole record originally submitted, is in accordance with controlling regulations, and therefore should be affirmed.

By way of background, it is undisputed that the Applicant purchased the Property in November 2002, on which she planned to construct a "family type" restaurant (sometimes referred to as the "Charlestown Diner"). Applicant initially arranged for zoning and planning approvals for said restaurant from the Town of Charlestown. In response to the petition of the Applicant for a zoning map change, the Charlestown Planning Board recommended, and the Charlestown Town Council approved an amendment to the zoning map (in January 2003), thereby permitting the construction of a restaurant on said Property.

On July 7, 2003, Applicant (after a hearing by the Division of Water Quality of the Rhode Island Department of Health) was granted a variance (with certain restrictions and/or conditions) for a public well on the Property to serve as a public source of public drinking water for the proposed Charlestown Diner. (See Applicant's Exhibit 7 Full).

Since the Applicant proposed to construct a new structure on the Property from which sewage will have to be disposed of by means of an individual sewage disposal system, Applicant sought the approval of OWR for an ISDS. On Applicant's behalf, Mr. Dowdell designed a septic system for the proposed restaurant and met with representatives of OWR concerning same. After completing the required soil testing, and after discussions with OWR, the size of the proposed restaurant was scaled down to 54 seats and the ISDS was designed using a daily flow rate of 35 gallons per seat per day for a total design flow of 1995 gallons per day. As previously set forth herein, the Application and request for variance was denied by OWR, and the instant appeal to AAD ensued.

I am acutely aware that Applicant was able to obtain municipal and other departmental approvals/permits, and that considerable time and effort have been expended by her in this endeavor. However, the decision in this matter must be based on all of the relevant evidence and testimony that was introduced at the hearing in accordance with the pertinent statutes and ISDS Regulations. Consequently, the outcome of this matter must be based on whether Applicant has met her burden of proving by clear and convincing evidence supporting the instant variance request that the proposed ISDS would function as proposed in the Application, and that the issuance of a permit will not be contrary to the public interest, public health and the environment.

It is acknowledged by Applicant that the Property is located in a "critical resource area with highly permeable soil", and that the regulations presently require a daily flow rate of 70 gallons per seat for this kind of restaurant. However, Applicant contends that the preamble to SD 3.01 "overrides" that standard by providing that consideration will be given to maximum sewage flow estimates derived from actual records of water consumption kept at comparable establishments. It is argued by Applicant that she provided OWR with sewage flow estimates derived from actual records of water consumption at comparable establishments, but that OWR "did not give consideration to that data

and rejected the septic system plan and the well set-back variances which had been requested by Applicant.”

The Applicant argues at length that the “flow estimates derived from actual records of water consumption kept at similar establishments” as provided to DEM by Applicant should have been considered by OWR prior to the denial, and that the proposed ISDS should have been approved. The testimony of the three OWR employees (who were called as witnesses by the Applicant) shows that the OWR reviewed and considered said water consumption records prior to the denial, and that there were valid reasons why OWR denied the application. In any event, the testimony demonstrates that the Applicant failed to prove that records presented were from comparable establishments. Contrary to Applicant's arguments, the DEM septic system rules have not been applied to this application in an arbitrary and capricious manner or in a manner characterized by an abuse of discretion. The testimony of the three OWR experts called to testify by the Applicant shows that the ISDS Regulations were applied properly and correctly throughout, and that the denial was in accordance with the ISDS Regulations. Although the OWR may not have explained the reasons for its denial as fully as Applicant would have liked prior to the denial, certainly there was no abuse of discretion by OWR.

The testimony and evidence introduced at the hearing explains why the OWR may have approved a septic system for a different full service restaurant, but was reluctant to do so under the circumstances in this matter. The proposed system in this matter was not sized correctly in accordance with the ISDS Regulations, and the system fails to meet the criteria of 70 gallons per seat per day. This is especially important in this matter because the site falls within a critical resource area. Since the proposed system exceeds 2000 gallons per day, it should be designated as a large system. Therefore, a more extensive groundwater analysis and well testing and groundwater flow direction is needed to warrant the approval of the proposed ISDS and variance in the instant matter. The testimony and evidence do not support Applicant's contention that the DEM regulations as applied to new restaurants in the Town of Charlestown are unfair, unreasonable or effectively confiscatory. The testimony of the witnesses clearly shows that alternatives exist which would undoubtedly allow Applicant to use her Property in a beneficial manner. The Applicant in any event has failed to make the requisite proof that a literal enforcement of the regulations will result in unnecessary hardship.

The Rhode Island Supreme Court has consistently held that in requests for variances in similar matters, the burden is on the party seeking the variance to show by probative evidence that being restricted to the permitted uses will result in a deprivation of all beneficial use of the property. OK Properties v. Zoning Board of Review, 601 A.2d 953 (R.I. 1992). Clearly the Applicant has not introduced the requisite evidence that the ISDS Regulations would deprive Applicant of all beneficial use of her Property.

Applicant also argues that the effect of the septic system rules and regulations, as applied to new restaurants within the Town of Charlestown, effectively impose zoning controls which are reserved to cities and towns in Rhode Island and are therefore contrary to constitutional and statutory authority.

The AAD has consistently held that constitutional issues are not properly before this tribunal. As pointed out by the U.S. District Court for the District of Rhode Island in Bowen v. Hackett, 361 F. Supp. 854, 860 (D.R.I. 1973) the “expertise of state administrative agencies does not extend to issues of constitutional law.” Applicant's constitutional arguments are preserved for the record but will not be addressed further in this decision.

Based on the foregoing, I find that Applicant has failed to prove by clear and convincing evidence that the application as proposed will attain the same degree of environmental protection under SD 3.05 regarding the public health and public interest objectives of the Rules concerning design, installation and operation of an ISDS and public drinking water supply well. Therefore, the Application and the variance requested from SD 3.05(10) of the ISDS Regulations should be denied.

## **FINDINGS OF FACT**

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

1. On June 16, 2003, Betty J. Combs filed an ISDS Variance Application No. 0205-2467 for property located at Assessor's Plat 13, Lot 40, Old Post Road, Charlestown, Rhode Island (the "Property" or "Site").
2. The Property is bounded northerly by Old Post Road and easterly by Narrow Lane.
3. Betty J. Combs is the current owner of the Property.
4. Application No. 0205-2467 requested variances to Rules SD 3.05-10 of the *Rules and Regulations Establishing Minimum Standards Relating to Location, Design, Construction and Maintenance of Individual Sewage Disposal Systems* ("ISDS Regulations").
5. On January 20, 2004, the Department of Environmental Management denied ISDS Application No. 0205-2467.
6. On February 19, 2004, Applicant, Betty J. Combs, timely appealed the denial of Application No. 0205-2467 to the DEM Administrative Adjudication Division for Environmental Matters ("AAD").
7. The Prehearing Conference was held on April 16, 2004, and the Prehearing Conference Record was entered on April 20, 2004.
8. The administrative hearing was held on May 10, 11 and 12, 2004. Both parties filed post-hearing memoranda. Post-hearing response memoranda were due by July 2, 2004; however, neither party filed a post-hearing response memorandum.
9. All hearings were conducted in accordance with the provisions of the "Administrative Procedures Act" (Chapter 42-35 of the Rhode Island General Laws), the Rules and Regulations Establishing Minimum Standards Relating to Location, Design, Construction and Maintenance of Individual Sewage Disposal Design Systems, and the Administrative Rules of Practice and Procedure for the Administrative Adjudication Division for Environmental Matters.
10. Applicant purchased the subject property in November, 2002.
11. The Applicant proposed to install an individual sewage disposal system ("ISDS") to service a "diner type" restaurant to be constructed on the site.
12. The subject area is not serviced by a municipal water supply, and there are no municipal sewers available at the present time.
13. The subject property contains slightly over four (4) acres.
14. The variance requested by Applicant proposes locating the ISDS at about two hundred seventy-four feet (274') from the nearest proposed public water supply well ("public well") to service the proposed restaurant rather than the minimum four hundred feet (400') distance requirement of SD 3.05(10) of the ISDS Regulations.
15. The existing septic systems on adjacent Lots 60, 61, 62 and 41 are all within four hundred (400') feet of the proposed public well.
16. The site is located in a critical resource area.
17. The proposed system fails to meet the criteria of seventy (70) gallons per seat per day (per table seat or counter seat) pursuant to the Minimum Design Requirements for Sewage Flow of SD 3.01 of the ISDS Regulations.
18. The Applicant did not provide the requisite groundwater analysis, well testing and groundwater flow direction in this matter.
19. The proposed ISDS and the nearby ISDSs will cause an increase in the nitrate level of the groundwater, which may impact the proposed public well and cause the drinking water to be contaminated.
20. Excessive nitrate levels in the groundwater may contaminate the proposed public well.
21. The contaminants contained in the wastewater from the proposed and neighboring ISDSs may prove hazardous to the health of those consuming the water from the proposed public well.
22. Applicant has not explored all alternatives to the subject application in order to reduce environmental impact, and at the same time, derive a beneficial use of the property.
23. Alternatives exist for Applicant to utilize the Property for other buildings serviced by an ISDS on the site.
24. The Applicant will not be denied all beneficial use of her property if the denial is sustained.

## **CONCLUSIONS OF LAW**

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

1. All hearings were conducted in accordance with the Rhode Island General Laws, the Rules and Regulations of DEM for ISDS and the Rules of Practice and Procedure for the Administrative Adjudication Division for Environmental Matters.
2. Individual Sewage Disposal System Regulation SD 2.01 (a) requires the Applicant to obtain a permit to install, construct, alter or repair an Individual Sewage Disposal System. The variance from SD 3.05(10), which Applicant seeks, will be contrary to the purposes and policies set forth in the Administrative Findings and Policy of the Individual Sewage Disposal System Rules and Regulations.
3. Applicant has not met the burden of proving by clear and convincing evidence that the disposal system to be installed will be located, operated and maintained so as to prevent the contamination of any drinking water supply or tributary thereto; and that the waste from the disposal system will not create a danger to the public health.
4. Applicant has failed to demonstrate through clear and convincing evidence that the system will function as proposed in the application, and that the issuance of a permit will not be contrary to the public interest, public health and the environment.
5. Denial of the variances requested will not result in a denial of all beneficial use of the property; therefore, a literal enforcement of the provisions of the Individual Sewage Disposal System Regulations will not result in any unnecessary hardship to the Applicant.
6. Application No. 0205-2467 does not conform to the requirements of the ISDS Regulations. Therefore it is hereby

### **ORDERED**

1. Application No. 0205-2467 and the request for variance from ISDS Regulations submitted by Applicant be and they are hereby **DENIED**.  
Entered as an Administrative Order and herewith recommended to the Director for the issuance as a Final Agency Decision and Order this 27<sup>th</sup> day of September, 2004.  
Joseph F. Baffoni  
Hearing Officer  
Entered as a Final Agency Decision and Order this 7<sup>th</sup> day of October, 2004  
Frederick J. Vincent  
Acting Director

### **NOTICE**

If you are aggrieved by this final agency order, you may appeal this final order to the Rhode Island Superior Court within thirty (30) days from the date of mailing of this notice of final decision pursuant to the provisions for judicial review established by the Rhode Island Administrative Procedures Act, specifically, R.I. Gen. Laws 42-35-15.

### **APPENDIX A**

#### **FOR APPLICANT**

- APPLIC. 1 SD 3.01, Determination of Sewage Flow, from DEM's Standards  
Full for Construction and Design
- APPLIC. 2 Tables of Water Usage - FY 1999-2000, for 4 full service  
for ID restaurants compiled from Town of Narragansett, Rhode Island flow figures.
- APPLIC. 3 Table of Water Consumption History for 2 full service  
for ID restaurants compiled from records of the Town of Westerly Water Department.
- APPLIC. 4 March 14, 2003 letter from Dowdell to Russell J. Chateauf, Full P.E. of DEM requesting a meeting to discuss a proposed 119 seat diner on the Property.

- APPLIC. 5 Resume of Dowdell - 5 pages  
Full
- APPLIC. 6 Applicant's letter of appeal to the Administrative  
Full Adjudication Division dated February 13, 2004.
- APPLIC. 7 Department of Health, Division of Drinking Water Quality,  
Full Decision and Order dated July 7, 2003.
- APPLIC. 8 Town of Charlestown zoning radius map.  
Full
- APPLIC. 9 ISDS system application and approval with attached site  
Full plans for property at 2 Bluff Avenue, Westerly, Rhode Island.

**FOR OWR:**

- OWR 1 Copy of DEM Division of Groundwater and ISDS Dry Season  
Full Application for soil for Application No.0205-2467,  
dated October 7, 2002; seven (7) pages.
- OWR 2 Copy of ISDS Site Evaluation Form for A.M. 13, Lot 40, TH1, dated  
Full November 14, 2002, two (2) pages.
- OWR 3 Copy of ISDS Site Evaluation Form for A.M. 13, Lot 40, TH2, dated  
Full November 14, 2002, two (2) pages.
- OWR 4 Copy of Dry Season Inspection for Soil for A.M.13, Lot 40 dated  
Full November 14, 2002, one (1) page.
- OWR 5 Copy of ISDS Request for Variance for Application No.0205-2467,  
Full dated June 16, 2003, four (4) pages.
- OWR 6 Copy of site plan for "Proposed Sewage Disposal System  
Full Designed for the Charlestown Diner at A.M. 13/Lot 40 Situated in the Town of Charlestown,  
R.I." dated June 13, 2003, one (1) page.
- OWR 7 Copy of ISDS Application Submission Requirements checklist,  
Full Application No.0205-2467, dated June 18, 2003, four (4) pages.
- OWR 8 Copy of DEM initial review of Application No.0205-2467, dated  
Full July 2, 2003, three (3) pages.
- OWR 9 Copy of Radius Map of Property, dated September 24, 2003, two  
Full (2) pages.
- OWR 10 Copy of Letter from William D. Dowdell, P.E. to Kyle Ferriera,  
Full dated November 6, 2003, seven (7) pages.
- OWR  
10(a) Copy of revised exhibit attached to OWR 10 Full.  
Full
- OWR 11 Copy of ISDS Variance Review Sheet, Application No.0205-2467,  
Full dated December 2, 2003, one (1) page)
- OWR 12 Copy of ISDS Variance Application No.0205-2467 corrected  
Full denial letter dated January 20, 2004 with copy of ISDS Application; five (5) pages
- OWR 13 Resume of Mohammed J. Freij, P.E., P.L.S.; two (2) pages.  
Full
- OWR 14 Resume of Brian M. Moore, P.E.; two (2) pages.  
Full



OWR 15 Resume of Russell J.Chateauneuf, P.E.; one (1) page.

Full

OWR 16 Document entitled meeting with Betty Combs, Vic Orsinger dated

Full April 2, 2003.