

RI Department of Environmental Management

ISDS Designer Licensing Review Panel

DRAFT Minutes of Open Session of May 4, 2007

This meeting of the ISDS Designer Licensing Review Panel was conducted at 235 Promenade Street, in Conference Room 280C.

Members of the Panel Present:

Scott Moorehead, Chairman

Jim Tavares

David Burnham

Dan Cotta

Members Absent:

Al DiOrio

Others present:

Russ Chateaufneuf, Chief, DEM Groundwater & Wetlands Protection

Brian Moore, DEM ISDS Program

Brian Sullivan, DEM ISDS Program

Lisa McGreavy, DEM Groundwater and Wetlands Protection

The meeting was called to order at 9:40 A.M.

Minutes of the March 30, 2007 Meeting Open Session:

Dave Burnham made a motion to accept the Minutes of the Open Session portion of the March 30, 2007 meeting with no revisions. Jim Tavares seconded the motion. Dave Burnham, Jim Tavares, Dan Cotta, and Scott Moorehead voted in favor of the motion. The motion passes.

At 9:41 A.M., in open call, Scott Moorehead announced that the meeting would proceed in Executive Session pursuant to R.I.G.L. 42-46-5 (a)4 for discussion of conduct of specific designers. Dave Burnham made a motion to enter into Executive session. Jim Tavares seconded the motion. Scott Moorehead, Dave Burnham, Jim Tavares, and Dan Cotta voted in favor of conducting business in Executive Session. The motion passes.

Continuation of Open Session

The open meeting was reconvened at 10:10 A. M.

Dave Burnham made a motion to reaffirm votes taken in Executive Session and seal the minutes of the Executive Session. Dan Cotta seconded the motion. Dave Burnham, Dan Cotta, Jim Tavares, and Scott Moorehead voted in favor of the motion. The motion passes.

Votes taken while in Executive Session:

Dave Burnham made a motion to accept the Minutes of the Executive

**Session portion of the March 30, 2007 meeting with one revision:
Page 1, 2nd full paragraph, change “D. Hingorany” to “K. Hingorany”.**

Jim Tavares seconded the motion. Dave Burnham, Jim Tavares, Scott Moorehead, and Dan Cotta voted in favor of the motion. The motion passes.

D. Burnham made a motion based on the panel’s review of ISDS applications #0033-1609, #0033-2482, and #0033-0434 in the Town of Tiverton submitted by licensed designer Kamal Hingorany, and based on the panel’s opportunity to meet with Mr. Hingorany on these issues, that the panel recommends to the director that Mr. Hingorany’s license be suspended for a period of six (6) months, Mr. Hingorany be required to submit a quality improvement plan sufficient to meet a standard of care that is acceptable to the Department prior to reinstatement. Jim Tavares seconded the motion. After discussion, S. Moorehead made a motion that the wording “prior to reinstatement” be moved to the first part of the sentence. D. Burnham seconded the motion. S. Moorehead, D. Burnham, J. Tavares and D. Cotta voted in favor of the motion. The motion passes. The revised motion is as follows: D. Burnham made a motion based on the panel’s review of ISDS applications #0033-1609, #0033-2482, and #0033-0434 in the Town of Tiverton submitted by licensed designer Kamal Hingorany, and based on the panel’s opportunity to meet with Mr. Hingorany on these issues, that the panel recommends to the director that Mr. Hingorany’s license be suspended for a period of six (6) months, and prior to reinstatement,

Mr. Hingorany be required to submit a quality improvement plan sufficient to meet a standard of care that is acceptable to the Department.

Dave Burnham made a motion to seal the minutes of the Executive Session, adjourn the Executive Session, and reconvene the Open Session. Jim Tavares seconded the motion. Dave Burnham, Jim Tavares, Dan Cotta, and Scott Moorehead voted in favor of the motion. The motion passes.

Ponaganset Middle School:

B. Moore briefed the panel about an incident that occurred at the Ponaganset Middle School in Gloucester. The contractor working on the leaching field apparently used dredge spoils from the I-195 bridge project to construct the leachfield. The department issued a stop construction order and is currently waiting for testing results from Crossman Engineering before deciding on an action. The dredge spoils contain shells, cans, and concrete blocks, etc. Chateaufort added that this is an issue considering that there is a downgradient private well that is a point of compliance with drinking water standards. The department is obligated to protect groundwater both on and off site. B. Moore will report back to the panel at the next meeting.

Amendments to the ISDS Regulations:

R. Chateauneuf outlined some of the changes that are being proposed to the ISDS regulations that would be of special interest to the panel. Final language changes will be made through the end of May after which a public workshop will be held followed by the public notice. S. Moorehead expressed general support of the proposed changes. D. Burnham noted that the changes do not reference that the panel may require a quality improvement plan. Chateauneuf will add language that the panel may also recommend some other remedial action to clarify that they not only recommend license suspensions. D. Cotta noted that the changes do not reflect that the panel may also recommend a penalty fee. Chateauneuf noted that he will add that the panel may characterize the level of the violation as minor, major etc. in their recommendation to the director. Chateauneuf noted that the terminology “ISDS” is changing to “OWTS” (Onsite Wastewater Treatment Systems) to reflect that systems today treat waste rather than disposing of it. The panel’s name will need to be changed as well.

Some highlights include:

A new section (Section 12.4.3) is being added to allow the panel to review designer performance issues that arise from the departments’ performance evaluation policies and procedures. Currently the regulations only allow the department to review complaint-driven matters.

Language was also added in Section 44.3 under responsibilities of a

licensed designer that a designer be available to directly witness and inspect the system installation. D. Burnham inquired as to how the term “available” would apply to large firms that often have a number of staff working under the direction of a licensed designer. B. Moore responded that it is the intent of the rule that designers be available to perform the work properly. J. Tavares agreed that the language reflect that the designer is ultimately responsible for the work no matter where he or she is located.

Section 44.91 (b) was added to allow the applicant to apply for a replacement designer if the designer is unavailable or absent after a period of thirty days.

Section 45 was revised to address the submittal of COC’s to the department and would require that a designer who performs the witnessing of an OWTS installation not withhold issuance of the COC provided other requirements are met.

Continuing Education Credits:

S. Moorehead inquired about whether the department would grant continuing education credits to panel members. R. Chateauneuf will look into the idea.

D. Burnham inquired about whether the department would require continuing education credits for installers in order to provide incentives for learning more. R. Chateauneuf responded that the department looked into this some time ago; the regulations do not broach the topic. Also, with 1200 installers in the state, he is not sure if the department’s resources could administer the program.

Next Meeting:

The next meeting of the panel is tentatively scheduled for Friday, September 21, 2007 from 9:30 AM to 12:00 PM in Conference Room 280C in the DEM Office of Water Resources.

Dave Burnham made a motion to adjourn. Jim Tavares seconded the motion. Dave Burnham, Jim Tavares, Scott Moorehead, and Dan Cotta voted in favor of the motion. The motion passes.

The meeting adjourned at 11:30 A.M.