

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

IN RE: Bleach Avenue Corporation  
Freshwater Wetlands Application No. 87-778F

DECISION AND ORDER

This matter is before the Hearing Officer on the application of Bleach Avenue Corporation to alter freshwater wetlands located south of Bleach Avenue at the intersection of Laramee Street (paper street) and Jefferson Street (paper street), further described as Tax Assessor's Plat 8, Lots 75-88 and portions of Lots 73-74-61, in the Town of West Warwick, Rhode Island.

The applicant requested permission to alter Freshwater Wetlands consisting of a 50 foot perimeter wetland associated with a wooded swamp and the 200 foot riverbank wetland associated with a flowing body of water 10 feet wide or greater (Pawtuxet River).

The proposed alterations consist of construction of buildings, parking lots, retaining walls, installation of drainage discharge, (with a rip rapped outfall) and all associated grading, vegetative clearing, soil disturbance and filling within state regulated freshwater wetlands.

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

John B. Webster, Esq. represented the applicant and Sandra J. Calvert, Esq. represented the Division of Groundwater and Freshwater Wetlands of the Department of Environmental Management.

Prehearing conferences were held on August 14, 27 and 30, 1990. No requests to intervene were received at or prior to the Pre-Hearing

Conference.

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 filed an application for permission to alter a freshwater wetland on December 9, 1988.
2. The subject site is located south of Bleach Avenue at the intersection of Laramee Street (paper street) and Jefferson Street (paper street). Assessor's Plat 8, Lots 75 - 88 and portions of lots 73, 74 and 61 in West Warwick, Rhode Island.
3. The wetlands proposed to be altered consist of the 200 foot riverbank wetland associated with the Pawtuxet River and a 50 foot perimeter wetland associated with a wooded swamp contiguous with the Pawtuxet River.
4. The site plan subject to this hearing is that which was sent to public notice and entitled "Pawtuxet River Commons, - West Warwick, RI", 4 sheets, revise date June 29, 1989 and received by the Department June 30, 1989.
5. The site plan was sent to public notice on August 9, 1989. The public notice period ended on September 22, 1989.
6. The Department received one letter during the public notice period from Janice Drolet which was deemed substantive in nature by the Department.
7. The Department denied this application in its letter dated November 2, 1989 to Richard Skurka.
8. The Applicant requested a hearing in its letter dated November 10, 1989.
9. The Department sent an adequate notice regarding the schedule for the Pre-Hearing Conference and the Hearing dated July 31, 1990.
10. The Applicant has filed all necessary documents and paid all necessary fees to be properly before this hearing.

The parties agreed that the following issues were submitted to the Hearing Officer for decision:

1. Whether the subject wetland is a "valuable" wetland pursuant to the definition provided in Section 7.06 (b) of the Rules and Regulations?

2. Whether the proposed alterations will result in the loss, encroachment and permanent alteration of a valuable wetland wildlife habitat associated with the subject wetlands area?
3. Whether the proposed alterations will result in the reduction in value of a valuable wetland wildlife habitat?
4. Whether the proposed alterations will result in the reduction in value of a valuable recreational environment?
5. Whether the proposed alterations will cause unnecessary and/or undesirable destruction of freshwater wetlands as described by Section 5.03 of the Rules and Regulations?
6. Whether the proposed project is consistent with the best public interest and public policy as stated in Sections 2-1-18 and 2-1-19 of the Act and Section 1.00 of the Rules and Regulations?

After consideration of additional issues suggested by the parties, the Hearing Officer concluded that the only additional issue presented (although similar to those agreed upon), was:

7. Whether the proposed project will cause unnecessary and/or undesirable destruction of the FWWL in that it will cause the reduction of the value of a valuable recreational environment?

Administrative adjudicatory hearings were held on September 4, 5 and 6, 1990.

All of said public hearings were held in appropriate places and locations, pursuant to notice by DEM.

A view of the site was conducted on September 4, 1990.

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

JOINT EXHIBITS

- JT.1 Formal Application Form to Alter a Fresh Water Wetland dated December 8, 1988 and received by the Department on December 9, 1988. (1 page).

- JT.2 Site Plan entitled "Pawtuxet River Commons - West Warwick, RI", 4 sheets, revise date June 29, 1989 and received by this Department on June 30, 1989.
- JT.3 Official Notice regarding public notice period, dated August 9, 1989 and signed by Brian C. Tefft. (2 pages).
- JT.4 One (1) letter of objection received during the public notice period which was deemed substantive in nature from Janice M. Drolet dated August 19, 1989. (1 page).
- JT.5 Evaluation of Application for permission to alter freshwater wetlands by Susan Cabeceiras dated October 3, 1989. (18 pages).
- JT.6 Letter dated November 2, 1989 to Richard Skurka from Brian C. Tefft denying the application. (3 pages).
- JT.7 Letter dated November 10, 1989 to Brian C. Tefft from John B. Webster requesting a hearing. (3 pages).
- JT.8 Notice of Administrative Hearing and Pre-Hearing Conference dated July 31, 1990 and signed by Joseph F. Baffoni, Chief Hearing Officer. (4 pages).
- JT.9 Resume of Brian C. Tefft. (3 pages).
- JT.10 "Drainage Computations for Pawtuxet River Commons, West Warwick, Rhode Island", prepared by William D. Dowdell. P.E., dated August 23, 1989. (19 pages).
- JT.11 Letter dated July 26, 1989 from Brian Tefft to Richard Skurka.
- JT.12 Engineer's Narrative by William D. Dowdell dated December 8, 1988. (2 pages).
- JT.13 Freshwater Wetlands Review Sheet dated January 26, 1989 with attached Engineering Review Sheet dated January 26, 1989. (3 pages).
- JT.14 Freshwater Wetlands Review Sheet dated July 17, 1989. (2 pages).
- JT.15 Engineering Review Sheet dated June 16, 1989. (1 page).
- JT.16 Wetlands Review Committee Decision dated October 18, 1989. (1 page).
- JT.17 Objections Comments - Review Panel Recommendations indicating "6 week Deadline: 11/3/89". (2 pages).

- JT.18 "Pawtuxet River Commons, Formal Wetland Application, Abutter's List Within 200 Feet of Wetland Alteration", submitted by William D. Dowdell, P.E. and dated December 7, 1988. (2 pages).
- JT.19 Letter of Transmittal to R.I.D.E.M. - Wetlands Section from Dowdell Engineering Associates dated December 8, 1988. (1 page).
- JT.20 Freshwater Wetlands Review Sheet dated October 31, 1989.
- JT.21 Letter to William D. Dowdell, P.E. from Don A. Centracchio dated May 22, 1989. (1 page).
- JT.22. Freshwater Wetlands Review Sheet dated February 21, 1989 with attached Engineering Review Sheet dated February 22, 1989. (3 pages).
- JT.23. Resume of John L. Meyer. (6 pages).
- JT.24. Resume of Scott S. Hobson. (1 page).
- JT.25. Resume of William D. Dowdell, P.E. (4 pages).

In addition to said Joint Exhibits, the following was admitted as Department's exhibit:

- Dept 1. Letter to W. D. Dowdell & Associates from Raymond T. Nickerson of Sycamore Bray dated June 26, 1989 and received by the Department on June 30, 1989. (2 pages).

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.

John Theroux was the first witness to testify for the applicant. He is a part owner of Bleach Avenue Corporation, which owns the subject premises and is the applicant in this matter.

Mr. Theroux stated that the applicant purchased the subject property in November of 1987. They planned to develop this property, comprised of

a house (which they planned to sell), some frontage lots on another road, and the subject property to the rear. The applicant proposes building three 14-unit apartment buildings on the rear portion of the property. This part of the premises is accessed by two paper streets, and applicant's proposal calls for the construction of a cul-de-sac at the end of Jefferson Street. The property slopes less steeply away from Jefferson Street than that portion of the property to the north on Larimee Street (the other paper street). Also, the 3 buildings were to be located on the higher portion of said property (closer to the proposed cul-de-sac), rather the lower portion of the property (closer to the Pawtuxet River).

This witness felt that the project as proposed was the only feasible use that could be made of their property.

It was brought out in cross-examination of this witness that applicant's purchase consisted of approximately 5.7 acres, that applicant disposed of .5 acres, so that the remaining property subject to this application is 5.2 acres.

John McGillivray, Executive Director of the Pawtuxet River Authority, appeared under the Public Comment portion of this hearing to reiterate that the Pawtuxet River Authority had submitted a letter to the Hearing Officer objecting to the granting of the wetlands permit for this development.

Janis Drolet, an abutter, also appeared under Public Comment and stated that a petition had been directed throughout the neighborhood which contained a number of signatures in opposition to the proposed

buildings.

William Dowdell of Dowdell Engineering testified next for applicant. He has a Bachelor of Science Degree in civil environmental engineering from the University of Rhode Island where he also took some graduate courses in their MBA program.

Mr. Dowdell was admitted by agreement as a professional engineer and a qualified expert in the area of engineering. This witness prepared the site plan (JT.2) that was submitted for this application. He explained that the plan depicts the construction of three buildings, each 44 feet by 100 feet, with a total of 42 dwelling units; the buildings being positioned in the optimum location from a standpoint of topography.

The existing grade of Larimee Street (a paper street providing access from Bleach Avenue) is very steep having some slopes of approximately 43 per cent. The terrain in the area east of Larimee Street (northerly of the proposed buildings) would be next to impossible to build on because of the steep slope. This would create severe erosion control problems involving the river or the wetlands.

It was Mr. Dowdell's opinion that the project as proposed represents the least possible disturbance for development of the site from an engineering point of view.

It was elicited in cross-examination of this witness that the slope in the northern most portion of the project is 33 percent, and the slope in the area where the northern most building is located (bordering Laramee Street) is 25 per cent. Further that the existing slope from the northwestern corner of the parking lot to the northeastern most corner of

the parking lot is 46 per cent. They gravitated toward the more level portions of the site to simplify construction and the buildings were placed where the slope is less severe; and failure of a parking lot is not a health or life threatening situation, whereas failure of a building is.

Brian Tefft, an employee of the Department was called next by the applicant and examined as an adverse witness.

Mr. Tefft testified as to the proceedings conducted by the Department and his part in the evaluation and denial of the subject application. It was brought out through this witness that the subject property was recently posted (no trespassing) and that no recreators were actually observed on the property.

However, the ability of the public to observe or partake in the recreational value of the wetland clearly does not require physical access of the property, nor does the lack of observed recreators indicate that the property is incapable of supporting recreational activities.

Scott Hobson, of Environmental Scientific Corporation, a subsidiary of Keyes Corporation, testified next for the applicant. It was stipulated that he is an expert in wildlife biology and impacts on wetland biology. He performed the evaluations for wildlife and recreation purposes for the subject application. These included review of the site plan, field inspection of on-site and off site wetlands, DEM modified Golet evaluation and a wetland evaluation technique (WET) evaluation.

Mr. Hobson testified that this wetland is deemed a valuable wetland



wildlife habitat according to the Department's rules and regulations based on score or rank from his Golet evaluation. He stated that his post-project WET showed no change in functions or values from pre-project to post-project for the Pawtuxet River. He conducted a separate WET of the impact area (the palustrine wetland on the west side of the Pawtuxet River that the proposed project will border) and the post-project differed only on nutrient removal and transformation which changed in opportunity from a low to a high, and that should be qualified stating that the effectiveness of that is also high, which means that that wetland is relatively resilient, so that change probably would not have an effect on the wetland.

It was this witness's opinion that this project would not reduce the value of an admittedly valuable wetland. Mr. Hobson stated that his additional evaluations indicated that the limits of disturbance, i.e. the hay bales to the 200 foot riverbank wetland. would be .73 acres of impact area in the riverbank wetland. The retaining wall is linear and parallel with the wetland so that wildlife travel corridor would be maintained by this project. Mr. Hobson further opined that this project would not reduce the value of a valuable wildlife habitat; would not reduce the value of a recreational environment; and this project is neither unnecessary nor undesirable.

Under cross-examination, Mr. Hobson enumerated numerous specific recreational activities that the subject wetland was capable of supporting, including canoeing, fishing, education, bird watching, nature study, hiking and swimming. He also acknowledged there would be a

reduction in the amount of vegetation in the 200 foot riverbank wetland.

John Meyer, the director of environmental sciences for Environmental Scientific Corporation was the next witness for applicant. He assessed the impacts of the proposed project on water quality or storm water runoff impacts on the value of the subject wetland.

Mr. Meyer performed a storm water pollutant loading analysis, taking into account certain conditions and measures taken or that can be taken to reduce pollutant loads leaving the site in storm water runoff.

Based on conditions they assumed in performing this analysis, viz, an infiltration trench (which would infiltrate a half inch of runoff from the project site) and some planting along the perimeter of the project site, the pollutant removal efficiency of that for storm water for suspended solids was determined to be approximately 70% for nitrogen, 50% for phosphorous, 40% for lead, copper and zinc and 65% for hydrocarbons.

It was this witness's opinion that if the project is constructed according to their assumed conditions, that the quality of the storm water would meet the Environmental Protection Agency's standards for the protection of aquatic life, and therefore would not have an adverse impact on water quality or on the value of the subject wetland and this project would not reduce the value of a valuable wildlife habitat.

It was brought out in cross-examination of Mr. Meyer that neither of his two assumptions (planting along the perimeter of the developed site area and the infiltration trench) were provided in the site plan which is the subject of this hearing.

Brian Tefft, supervisor of applications with the Freshwater Wetland

Section within the Division of Groundwater and Freshwater Wetlands of DEM testified for the Division.

Mr. Tefft has a Bachelor of Science, Natural Resource Management from the University of Rhode Island and a Master of Science, Wildlife Management, from the University of Maryland/Frostburg State University. He was qualified as an expert in aerial photogrammetry and interpreted aerial photographs of the general area of the subject property taken in 1981 and 1985.

This witness participated in and supervised the administrative and technical evaluation of the proposal submitted to the Department in the pending application. He conducted three site visits prior to this hearing. He described the subject wetland complex, identified the vegetation present therein and explained the different categories of wetland and the general ecological picture of the complex. This long and winding complex of wetlands are connected hydrologically due to the presence of the Pawtuxet River.

Mr. Tefft opined that this wetland complex provides wildlife habitat for numerous wildlife species. This wetland complex, consisting of a swamp and a river (over 10 feet wide) and the riverbank is very significantly large. The vegetated wetland portions cover approximately 23 acres which contain a diversity of vegetative types capable of supporting numerous wildlife species.

The river flows along the perimeter (lowest portion) of the site and is known to support fish and various aquatic life that fish find as part of their food chain. The open water and deep marsh areas provide

suitable habitat for numerous species of waterfowl. Within the swamp there are small areas where water pools during portions of the season which amphibians utilize as breeding habitat. The upland portion of this wetland water course corridor attracts numerous species of birds and various mammals, large and small. The undeveloped portions of this area are almost surrounded by developed subdivisions or urban land so that this wetland complex is a refuge for various wildlife, and very little of such refuge is left in West Warwick.

This witness stated that the subject wetland complex is capable of supporting many types of both consumptive and non-consumptive recreation. The wide, flat open water area supports water based recreation, such as canoeing and boating, which is enhanced by the relatively undeveloped surrounding landscape.

The river is C water quality and supports fishing. Other types of non-consumptive recreation are directly related to either direct observation of wildlife or bird watching, nature study, education, the recreational or aesthetic characteristics of the open space and the undeveloped wetland complex. He opined that the subject wetland complex is a valuable recreational environment and that the proposed alterations will reduce and negatively impact the aesthetic and natural character of the undeveloped subject wetland complex.

Mr. Tefft testified that subject project proposes alteration of approximately 33,000 square feet of State regulated wetland area. He described the three different types of soils in the area and it was stipulated by counsel that the project would disturb the soils in the

area. This witness stated that the severe slopes in the area of the proposed construction and the types of soil pose potential problems and that substantial danger exists of erosion and sedimentation into the subject wetland area. This can change the overall characteristics of the vegetation or cause the death of vegetation in the area and cause a decline of water quality.

Mr. Tefft described the construction proposed by this application, which would alter approximately eight-tenths of an acre of vegetated wetland complex including removal of all trees, shrubs and natural habitat in said area. This would result in significant encroachment to within approximately 75 feet of the Pawtuxet River and this wetland complex which is considered a valuable wetland wildlife habitat. In addition to the short term impacts of this project on the subject wetland complex (displacement of wildlife, noise factors, etc.), this project will have long-term impacts in that it will permanently eliminate eight-tenths of an acre for food or cover by wildlife that would live in this area. It would also displace wildlife beyond the perimeters of the physical disturbance.

This witness further opined that the proposed project would negatively impact the recreational environment provided by the subject wetland complex in that it would reduce the open space and visual aesthetic characteristics of the wetland.

Mr. Tefft was of the opinion that:

1. The proposed alterations would cause an unnecessary alteration of a freshwater wetland;

2. The project as proposed will result in an undesirable alteration of a freshwater wetland;
3. The proposed alteration will result in loss, encroachment and permanent alteration of a valuable wetland wildlife habitat;
4. The proposed alteration will result in the reduction in value of a valuable wetland wildlife habitat;
5. The proposed alterations will reduce the value of a valuable wetland recreational environment.
6. The proposed alterations will reduce and negatively impact the aesthetic and natural character of the undeveloped wetland and adjacent areas which serve as a buffer zone.

William Dowdell was called as a rebuttal witness for the applicant. He testified that the cul-de-sac as proposed on the site plan could not be relocated as a suitable alternative.

Mr. Dowdell stated that he believed that the plan as submitted for this application complied with the Soil and Erosion Control Ordinance of the Town of West Warwick. Also, it complies with the Soil and Erosion Control Handbook in effect at the time. This witness felt that effectively designed, installed and maintained erosion control measures should prevent siltation of the downstream wetlands; however, he admitted that said measures are only as good as the maintenance.

It was elicited in cross-examination of Mr. Dowdell that although there was no objections by the Engineering Department of DEM to the sedimentation and erosion control plans, there was no express review indicated nor any approval of same by the DEM Engineers.

Mr. Dowdell's answers concerning the degree or extent of the soil erosion problems created by the varying slopes involved appeared evasive and tended to affect his credibility. The removal of the presently

existing vegetation and the construction of three large buildings and surrounding parking areas on the banks of such a severe slope would most likely present severe erosion control problems.

The bold assertions as to the lack of any possible soil erosion problems that severe storms might create did not properly address this matter, especially in view of the steepness of the slopes involved and the proximity of the Pawtuxet River. Although little was presented by the Division in this regard, applicant failed to satisfy its burden of proof in this regard.

The existing vegetation on these slopes not only serves to prevent such erosion that could cause potential contamination of the Pawtuxet River, but is clearly necessary for wildlife existing in or utilizing the area. Said vegetation also enhances the aesthetic character of the area, whereas man made structures (buildings and parking lots, etc.) obviously detract or destroy the aesthetic character of an undeveloped wetland area.

This undeveloped area in its present state and the wildlife associated with same provide excellent opportunities for research, nature study and education, especially in light of the neighboring school. The value of the recreational environment provided in its present state is enhanced by the surrounding urbanization, and would be destroyed or greatly reduced by the proposed alterations.

The wetlands evaluation technique analysis (WETA) utilized by applicant's witnesses does not adequately assess the recreational values associated with the wetland wildlife habitat as to the quality and magnitude of functions. Proper evaluation of same requires consideration

of the expert opinions of the biologists.

The Department's testimony as to the adverse effects of the project on wildlife and recreation appear clearly more credible, as the alterations proposed would certainly impact and adversely affect the wildlife that inhabit and utilize the wetland. The proposed alterations are undesirable in that they will result in the reduction in value of a "valuable" wetland and its valuable wildlife habitat and valuable recreational environment.

Applicant's assertion that the subject real estate is "private property" and the subsequent "posting" of said land to prohibit access thereto by the general public does not prohibit potential recreational activities as defined in the Rules and Regulations. The subject property is capable of supporting recreational activities that may be permitted or allowed on said premises in its present state (or even promoted by the owners) and also clearly capable of supporting non-consumptive uses without such permission.

The applicant argues that the Department failed to substantiate any reasonable alternatives to the proposed project; however, applicant failed to adequately address such reasonable alternatives, as reduction in size of the project or relocation of the buildings. Applicant's blanket denials and its generalizations in this regard failed to satisfy its burden of proof that the proposed alterations would not result in unnecessary destruction of freshwater wetlands.



FINDINGS OF FACT

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

1. Prehearing Conferences were held on August 14, 27 and 30, 1990.
2. Administrative Adjudicatory Hearings were held on September 4, 5 and 6, 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 formal application No. 87-778F was filed on December 9, 1988.
6. The site plan subject to this hearing in application No. 87-778F is entitled "Pawtuxet River Commons, - West Warwick, Rhode Island" revise date June 29, 1989, received by the Department on June 30, 1989.
7. The site plan was sent to public notice on August 9, 1989 and the public notice period ended on September 22, 1989.
8. The Department denied this application on November 2, 1989.
9. The applicant has filed all necessary documents and paid all necessary fees to be properly before the Hearing Officer in this matter.
10. The applicant seeks approval to alter a Fresh Water Wetlands on a parcel of land located south of Bleach Avenue at the intersection of Larimee Street and Jefferson Street (both paper streets), further described as West Warwick Tax Assessor's Plat 8, Lots 75-88 and portions of lots 73-74-61.

11. The wetlands proposed to be altered are a 50 foot perimeter wetland associated with a wooded swamp and the 200 foot riverbank wetland associated with a flowing body of water 10 feet wide or greater (Pawtuxet River).

12. The purpose of said alterations is for construction of three 14 unit apartment buildings, parking lots, retaining walls, installation of drainage discharge with a rip rapped outfall and all associated grading, vegetated clearing soil disturbance and filling within a state regulated freshwater wetland.

13. The applicant's property consists of approximately 5.2 acres which is severely sloped from Jefferson and Larimee Streets down to the Pawtuxet River.

14. The wetland portion of applicant's land runs from the Pawtuxet River and the continuous wooded swamp (both on the lower portion of said property) part way up the steep slope toward Jefferson and Larimee Streets.

15. The proposed project will result in the alteration and disturbance of approximately 33,000 square feet of state regulated freshwater wetland.

16. The subject wetland is a "valuable" wetland.

17. The existing vegetation in the subject wetland provides an excellent habitat for wildlife and also serves as a natural barrier to prevent soil erosion.

18. There are numerous species of wildlife that inhabit and utilize said subject wetland complex.

19. The subject wetland (with its proximity to the Pawtuxet River) is in a natural and undeveloped state, provides cover for wildlife, has aesthetic appeal and is capable of supporting many recreational activities by the general public.

20. The alterations proposed will cause a reduction in value and a permanent encroachment and loss of a valuable wetland wildlife habitat.

21. The proposed project will adversely affect the wildlife habitat and the recreational environment and reduce the value of a "valuable" wetland.

22. The proposed alterations will cause an unnecessary and undesirable destruction of freshwater wetlands.

23. The proposed alterations are inconsistent 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 a "valuable" wetland pursuant to the definition provided in § 7.06 (b) of the Rules and Regulations.
5. The proposed alterations will result in the loss, encroachment and permanent alteration of a "valuable" wetland wildlife habitat associated with the subject wetland area.

6. The proposed alterations will cause an unnecessary and undesirable destruction of the freshwater wetland in that it will cause a reduction in value of a "valuable" wetland wildlife habitat.
7. The proposed alterations will reduce the value of a valuable recreational environment.
8. The proposed alterations WILL cause unnecessary and undesirable destruction of freshwater wetlands pursuant to § 5.03 of the Rules and Regulations.
9. The proposed alterations will reduce and negatively impact the aesthetic and natural character of an undeveloped wetland and buffer zone.
10. The proposed alterations are 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.
11. The applicant has not sustained its burden of proof that the application will not cause random, unnecessary and/or undesirable destruction of freshwater wetlands.

THEREFORE, IT IS

ORDERED

1. Application No. 87-778F to alter fresh water wetlands be and is hereby DENIED.

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

JANUARY 4, 1991  
Date

Joseph F. Baffoni  
Joseph F. Baffoni  
Hearing Officer

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

1/10, 1991  
Date

JAMA  
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 Bleach Avenue Corporation, c/o Dowdell Engineering Associates, P.O. Box 1684, 3949 Old Post Road, Charlestown, Rhode Island 02813; John B. Webster, Esq., Adler, Pollock & Sheehan Incorporated, 2300 Hospital Trust Tower, Providence, Rhode Island 02903; Jean P. Roch, President, West Warwick Town Hall, 1170 Main Street, West Warwick, Rhode Island 02893; John Theroux, Bleach Avenue Corporation, 22 Lowell Street, Coventry, Rhode Island 02816; Richard Skurka, Bleach Avenue Corporation, 22 Lowell Street, Coventry, Rhode Island 02816; Stephen Lapointe, Bleach Avenue Corporation, 22 Lowell Street, Coventry, Rhode Island 02816; Raymond T. Nickerson, Principal, Sycamore Bray, P.O. Box 3630, Peacedale, Rhode Island 02883; Janice M. Drolet, 51 Arthur Street, West Warwick, Rhode Island 02893; Pawtuxet River Authority Senior Center, 20 Factory Street, West Warwick, Rhode Island 02893; Sandra Calvert, Esq., Office of Legal Services, 9 Hayes Street, Providence, Rhode Island 02908; Brian Tefft, Supervisor for Applications, 291 Promenade St., Providence, Rhode Island 02903; and Susan Rossi, 291 Promenade St., Providence, Rhode Island 02903 on this \_\_\_\_\_ day of \_\_\_\_\_, 1991.

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