

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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FILE COPY

STATE OF WISCONSIN
BEFORE THE EXAMINING BOARD OF ARCHITECTS, PROFESSIONAL
ENGINEERS, DESIGNERS AND LAND SURVEYORS
- PROFESSIONAL ENGINEERS SECTION

IN THE MATTER OF :
: FINAL DECISION
STUART J. DURKEE, P.E., : AND ORDER
: RESPONDENT. :

The parties to this action for the purposes of Wis. Stats. sec. 227.16 are:

Stuart J. Durkee
1110 Hilltop Drive
Rice Lake, WI 54868

Examining Board of Architects, Professional Engineers,
Designers, and Land Surveyors
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation & Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

A party aggrieved by this decision may petition the Board for rehearing within twenty (20) days after service of this decision pursuant to Wis. Stats. sec. 227.12. The petition in this instance would be captioned with Stuart J. Durkee, P.E., as the respondent.

A party aggrieved by this decision who is a resident of this state may also petition for judicial review by filing the petition in the office of the clerk of the circuit court for the county where the party aggrieved resides within thirty (30) days after service of this decision. A party aggrieved by this decision who is not a resident of this state must file the petition for judicial review in the office of the clerk of circuit court for Dane County. A party aggrieved must also serve the board and other parties with a copy of the petition for judicial review within thirty (30) days after service of this decision pursuant to Wis. Stats. sec. 227.16. The party to be named as respondent in the petition is the Examining Board of Architects, Professional Engineers, Designers, and Land Surveyors.

The parties in this matter agree to the terms and conditions of the attached stipulation as the final disposition of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached stipulation and makes the following:

FINDINGS OF FACT

1. Stuart J. Durkee (hereinafter Mr. Durkee) (DOB: June 20, 1936), 1110 Hilltop Drive, Rice Lake, Wisconsin, is duly licensed as a professional

engineer in the State of Wisconsin (license #8257); this license was issued on December 3, 1963.

2. At all times relevant to this action, Mr. Durkee was employed as a professional engineer working for Cooper Engineering Company, 100 West Orchard Beach Lane, Rice Lake, Wisconsin.

3. On or about April 27, 1983, plans and specifications for a lift station and sanitary sewers extension were submitted to the DNR for approval under the seal of Stuart Durkee.

4. The plans were denied approval on September 23, 1983, due to technical difficulties.

5. Sometime between late August and September 1983 and while plan approval was pending, the lift station and approximately 3,300 feet of sewer pipe were installed under the supervision and direction of Mr. Durkee, all without approval and in violation of Wis. Stats. sec. 144.04 and Wis. Adm. Code sec. NR 1.08.03.

6. On or about November 14, 1983, Mr. Durkee requested DNR authorization to discharge wastewater from the village treatment facility to a borrow pit for emergency overflow containment.

7. Mr. Durkee received notification via telephone on or about November 23, 1983, followed by written notification on December 2, 1983, that no authorization would be granted by the DNR for this discharge. This denial was based, in part, on Mr. Durkee's failure to provide additional information as requested by DNR.

8. On exact dates unknown, but without DNR approval and under the direction and supervision of Mr. Durkee, a siphon was constructed from one of the seepage cells in the treatment facility to the borrow pit referred to above. Discharge from the cells to the borrow pit began on or about January 31, 1984, and continued through March 6, 1984, all in violation of Wis. Stats. sec. 144.04 and 147.07, and Wis. Adm. Code sec. NR 108.03.

CONCLUSIONS OF LAW

By his actions in the above-described project without previous Department of Natural Resources approval, Stuart J. Durkee, P.E., is subject to disciplinary action by the Board pursuant to Wis. Stats. sec. 443.11(1)(d) and (2) and Wis. Adm. Code sec. A-E 4.003(3)(a) and (c).

Therefore, it is hereby ORDERED:

Stuart J. Durkee, P.E., is hereby REPRIMANDED.

EXAMINING BOARD OF ARCHITECTS, PROFESSIONAL ENGINEERS,
DESIGNERS, AND LAND SURVEYORS
PROFESSIONAL ENGINEERS SECTION

By:

Edward P. Crowley
A Member of the Board

11-21-84
Date

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STATE OF WISCONSIN
BEFORE THE EXAMINING BOARD OF ARCHITECTS,
PROFESSIONAL ENGINEERS, DESIGNERS AND LAND SURVEYORS,
PROFESSIONAL ENGINEERS SECTION

IN THE MATTER OF THE :
LICENSE OF :
 : STIPULATION
STUART J. DURKEE, P.E., :
RESPONDENT. :

It is hereby stipulated between the above-captioned Respondent on his own behalf and Steven M. Gloe, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows that:

1. This Stipulation is entered into as a result of a pending investigation by the Division of Enforcement (case file #84 A&E 53). The undersigned consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint. The adoption of the Final Decision and Order shall constitute resolution of all allegations investigated in conjunction with file #84 A&E 53 as they pertain to the undersigned and Cooper Engineering, Inc., including the allegations concerning projects in Granton, Luck, Sheldon, Birchwood, and Bloomer, Wisconsin, and the F&A Dairy Project. *St J Durkee*

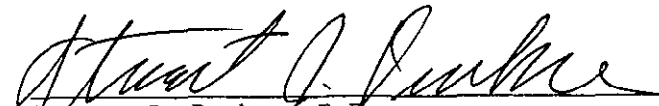
2. The undersigned understands that that by the signing of this Stipulation, he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, at which time the State has the burden of proving those allegations by clear, satisfactory and convincing evidence; the right to confront and cross-examine the witnesses against him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.

3. Mr. Durkee agrees to the adoption of the attached Final Decision and Order by the Board.


4. If the terms of the attached Order are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings.

5. If the Board accepts the Order, the parties to this Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties.

6. The Division of Enforcement joins Stuart Durkee in recommending that the Board adopt this Stipulation and issue the attached Final Decision and Order.


Stuart J. Durkee, P.E.

11/17/86
Date


Steven M. Gloe, Attorney
Division of Enforcement

11/18/86
Date

SMG:dms
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