

**VIRGINIA:**

**SEWAGE HANDLING AND DISPOSAL APPEAL REVIEW BOARD**

ALLEN FARMER, )  
 )  
 Appellant, )  
 )  
 v. )  
 )  
 VIRGINIA DEPARTMENT OF HEALTH, )  
 )  
 Appellee. )

**ORDER**

This matter comes before the Sewage Handling and Disposal Appeal Review Board (“Board”) pursuant to Virginia Code § 32.1-163.6 and § 2.2-4000 et seq. Based upon the entirety of the record of this matter presented at the May 11, 2011 hearing, the Board finds as follows:

**FINDINGS OF FACT**

- This case is an administrative appeal of the decision of the State Health Commissioner for the Virginia Department of Health (“Department”) to deny Appellant’s 2010 request for a permit to construct an engineer-designed sewage disposal system proposed by a professional engineer, Joel S. Pinnix. Mr. Farmer did appear at the May 11, 2011 hearing, along with his attorney, Bevin R. Alexander, Jr. The Department was present with counsel. Both parties presented testimony, documentary evidence and argument.
- Mr. Farmer is and was at all times pertinent to this matter the owner of property located in Moon, Virginia (the “Property”). The property is located in Mathews County, Virginia.
- On September 21, 2010, Mr. Farmer submitted an application for a sewage disposal system to be built on the Property.
- Mr. Farmer contracted with Mr. Pinnix to design a sewage disposal system to be built on the Property.
- On September 18, 2010, Mr. Pinnix submitted to the local health department a soil evaluation report regarding the Property and a proposed design for the sewage disposal system to be constructed on the Property. These submissions were included with the September 21, 2010 permit application, and addenda that followed the application.
- On October 12, 2010, the Mathews County Health Department denied the permit request on the grounds that the proposed design did not meet standard engineering practices and did not meet the performance requirements of the Department’s emergency regulations.
- Pursuant to Va. Code § 32.1-163.6, Mr. Farmer filed an appeal of the Department’s October 12, 2010 denial letter.
- The evidence indicated that the hydraulic and loading rates of the proposed design exceeded the emergency regulations.


**CONCLUSIONS OF LAW**

- The Board is authorized to review the Commissioner’s decision to deny a sewage

- disposal permit.
- Mr. Farmer failed to provide sufficient evidence that Mr. Pinnix's proposed sewage disposal system design was compliant with the performance requirements of the emergency regulations.

**WHEREFORE**, for the foregoing reasons, the Board hereby *upholds* the decision of the State Health Commissioner to *deny* a sewage disposal system construction permit for the proposed design.

**If the Appellants wish to appeal this ORDER, they may do so pursuant to Va. Code § 2.2-4000 et seq. and the Rules of the Supreme Court of Virginia by: (1) filing a Notice of Appeal with the Secretary of the Board within thirty (30) days of service of this ORDER as required by Rule 2A:2; and (2) filing a Petition for Appeal in the Circuit Court within (30) days of filing the Notice of Appeal in accordance with Rule 2A:4 of the Rules of the Supreme Court of Virginia.**

  
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Gerald H. Johnson, Ph.D.  
Chairman

Dated: June 3, 2011

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