

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

**RE: P.J. O'DONNELL & SONS, INC.  
NOTICE OF VIOLATION OC&I/UST 00-01842**

**AAD NO. 00-059/WME**

**FINAL ORDER OF DEFAULT**

This matter came before Hearing Officer Joseph F. Baffoni on September 20, 2002, for the purpose of a prehearing conference. Respondent failed to appear or otherwise apprise the Hearing Officer of their inability to appear at said prehearing conference. On October 21, 2002, a Conditional Order of Default was issued against the Respondent affording Respondent until and including November 1, 2002 to show good cause in writing why, a final default judgement should not enter in this matter. As of the date of this order, the Respondent has not responded to the Conditional Order of Default or made any attempt to show cause why a final default judgement should not be entered against Respondent.

**FINDINGS OF FACT**

1. The Prehearing Order issued to the parties on December 4, 2001 provided that: "upon failure of a party to appear at the Prehearing Conference, the Hearing Officer shall sua sponte issue a seven (7) day Conditional Order of Dismissal/Default with prejudice which shall automatically become final unless objected to by the absent party, said objection stating the grounds for the failure to appear."
2. The prehearing conference was called on September 20, 2002.
3. Respondent failed to appear at the prehearing conference or otherwise apprise the Hearing Officer of their inability to appear.
4. A Conditional Order of Default was issued against Respondent on October 21, 2002.
5. Pursuant to the Conditional Order, Respondent had until November 1, 2002 to show good cause why a final default judgement should not enter.
6. The Respondent has not responded to the Conditional Order of Default.

CONCLUSIONS OF LAW

1. Respondent has failed to show cause that relief from the Conditional Order of Default should be granted.
2. Respondent has failed to show good cause why a Final Order of Default should not enter and the Notice of Violation issued on November 16, 2000 become a compliance order.

Wherefore, it is hereby

**ORDERED**

1. Respondent is deemed to have waived its right to an adjudicatory hearing.
2. The Notice of Violation issued on November 16, 2000 shall be final and become a compliance order immediately upon the entry of the Final Agency Order herein.

Entered as an Administrative Order this 6<sup>th</sup> day of December, 2002 and  
herewith recommended to the Director for issuance as a Final Agency Order.

---

Joseph F. Baffoni  
Hearing Officer  
Department of Environmental Management  
Administrative Adjudication Division  
235 Promenade Street, 3<sup>rd</sup> Floor  
Providence, RI 02908

Entered as a Final Agency Order this 6<sup>th</sup> day of December, 2002.

---

Jan H. Reitsma, Director  
Department of Environmental Management  
235 Promenade Street, 4<sup>th</sup> Floor  
Providence, RI 02908

**CERTIFICATION**

I hereby certify that I have caused a true copy of the within Order to be forwarded by first-class mail, postage prepaid, to Steven J. Peterson, Esquire, Law Offices of G. Chandler Beals, 1345 Westminster Street, Providence, RI 02909; via interoffice mail to Brian Wagner, esquire, DEM Office of Legal Services and Dean Albro, Chief, Office of Compliance and Inspection ("OCI"), 235 Promenade Street, Providence, RI 02908 on this \_\_\_\_\_ day of December, 2002.

---

If you are aggrieved by this final agency order, you may appeal this final agency order to the Rhode Island Superior Court within thirty (30) days from the date of the 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.