

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

**RE: JOHN LUSSIER D/B/A/ JOHN'S SALVAGE COMPANY    AAD NO. 08-005/WME  
AND LANMAR CORPORATION  
NOTICE OF VIOLATION OC&I/HW 06-067**

**ORDER OF FINAL DISMISSAL**

This matter came before Hearing Officer David Kerins on September 12, 2008 for review of Respondent Lussier's response to the Conditional Order of Default entered by Hearing Officer Mary F. McMahon on August 12, 2008.

On June 25, 2008 Respondent Lussier failed to appear or otherwise notify the hearing officer of his intent not to attend the Status Conference. On August 12, 2008 Hearing Officer Mary M. McMahon entered a Conditional Order of Default giving Respondent Lussier seven (7) days to present "good cause" why a final judgment should not be entered. On August 21, 2008 Respondent Lussier filed a response in the form of a note on an envelope stating, "I do not consent to these proceeding (sp) and do not accept this offer."

**FINDINGS OF FACT**

1. The Administrative Adjudication Division for Environmental Matters (AAD) has jurisdiction of their matter.
2. The Office of Compliance and Inspection for the Department of Environmental Management (OC&I) issued a Notice of Violation (NOV) to Respondent Lussier dated May 1, 2008.
3. On May 23, 2008 Respondent Lussier filed an appeal of the NOV to the AAD.
4. On June 2, 2008 an Order was issued setting the matter down for Status Conference on June 25, 2008.
5. On June 25, 2008 Respondent Lussier failed to appear at a Status Conference without approval by the Hearing Officer.

**RE: JOHN LUSSIER D/B/A/ JOHN'S SALVAGE COMPANY    AAD NO. 08-005/WME  
AND LANMAR CORPORATION  
NOTICE OF VIOLATION OC&I/HW 06-067  
Page 2**

6. On August 12, 2008 a Conditional Order of Default was entered against Respondent Lussier.
7. On August 21, 2008 Respondent Lussier forwarded a note to the AAD that stated, "I do not consent to these proceeding (sp) and do not accept this offer."
8. Respondent Lussier is in default and has waived his right to an appeal.

**CONCLUSIONS OF LAW**

After due consideration of the record and based upon the above findings of fact, I conclude the following as a matter of law:

1. The Administrative Adjudication Division has subject matter jurisdiction over this action and personal jurisdiction over Respondent Lussier.
2. Respondent Lussier by failing to appear at the Status Conference scheduled for June 25, 2008, is in violation of the Order entered on June 2, 2008.
3. Respondent Lussier, having been determined to be in violation of the express terms of the Order entered June 2, 2008, is hereby found to be in default.
4. Respondent Lussier by virtue of his default has waived his right to an Administrative Hearing
5. Respondent Lussier has waived his right to an Administrative Appeal.

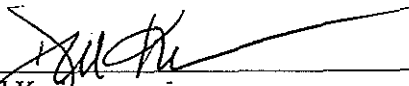
**ORDERED**

1. Respondent Lussier is in default and has waived his right to an Administrative Hearing.
2. Respondent Lussier has waived his right to an appeal.
3. Respondent Lussier's appeal is DISMISSED.
4. The terms and conditions of the NOV dated May 1, 2008 are hereby sustained.


RE: JOHN LUSSIER D/B/A/ JOHN'S SALVAGE COMPANY AAD NO. 08-005/WME  
AND LANMAR CORPORATION  
NOTICE OF VIOLATION OC&I/HW 06-067

Page 3

Entered as an Administrative Order this 18<sup>th</sup> day of September, 2008 and  
herewith recommended to the Director for issuance as a Final Agency Order.

  
\_\_\_\_\_  
David Kerins  
Acting Chief Hearing Officer  
Department of Environmental Management  
Administrative Adjudication Division  
235 Promenade Street, Third Floor  
Providence, RI 02908  
(401) 222-1357

Entered as a Final Agency Decision and Order this 18<sup>th</sup> day of  
September, 2008.

  
\_\_\_\_\_  
W. Michael Sullivan Ph.D.  
Director  
Department of Environmental Management  
235 Promenade Street, Fourth Floor  
Providence, Rhode Island 02908