

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

RE: ROLAND J. FIORE/ANTHONY J. FIORE
AAD NO. 93-012/FWE
NOTICE OF VIOLATION NO. C93-0285V

DECISION AND ORDER

This matter is before the Hearing Officer pursuant to the Freshwater Wetlands Act R.I.G.L. §2-1-18 et seq., as amended, (hereinafter "Act"), R.I.G.L. §42-17.1-2 and Chapter 42-17.6; statutes governing the Administrative Adjudication Division R.I.G.L. §42-17.7.1 et seq.; the Administrative Procedures Act R.I.G.L. §42-35-1 et seq., as amended; the duly-promulgated Rules and Regulations Governing the Enforcement of the Freshwater Wetlands Act; and the Administrative Rules of Practice and Procedure for the Administrative Adjudication Division for Environmental Matters.

The Division of Freshwater Wetlands ("Division") of the Department of Environmental Management ("DEM") issued a Notice of Violation and Order ("NOVAO") to Roland J. Fiore and Anthony J. Fiore ("Respondents") on September 21, 1993.

The NOVAO alleged a violation of §2-1-21 of the General Laws of Rhode Island, 1956, as amended, in that the respondents altered or permitted alterations of freshwater wetlands in five (5) instances without first having obtained the approval of the Director of DEM. Said NOVAO alleged specifically that an inspection of a portion of property owned by Respondent Anthony J. Fiore, and located approximately 70

feet northwest of Wordens Pond Road, approximately 2500 feet east of the intersection of Wordens Pond Road and Leisure Drive, and identified as Tax Assessor's Plat 60, Lot 19 in the Town of South Kingstown, Rhode Island ("site") on August 30, 1993, revealed that in violation of R.I.G.L. §2-1-21 and in non-conformance with Application No. 86-120F, Respondent did accomplish or permit unauthorized alterations of freshwater wetlands in five instances, specifically: (1) filling (in the form of soil and concrete blocks) and clearing into a pond complex, into land within 100 feet of a Flowing Body of Water (River Bank Wetland) less than 10 feet wide and into a Floodplain; (2) filling (in the form of soil and concrete blocks) and clearing into a pond complex and into a Floodplain; (3) filling (in the form of soil, asphalt and concrete blocks), grubbing and clearing into land within 50 feet of a pond complex (Perimeter Wetland) and into a Floodplain; (4) filling (in the form of soil and concrete blocks), construction of wooden decks, and clearing into land within 50 feet of a pond complex (Perimeter wetland), into land within 100 feet of a flowing body of water less than 10 feet wide (Riverbank Wetland) and into a Floodplain; and (5) filling (in the form of soil and concrete blocks), and clearing into land within 100 feet of a flowing body of water less than 10 feet wide (Riverbank Wetland) and into a Floodplain.

Said NOVAO ordered the Respondents (1) to cease and desist immediately from any further alteration of the said freshwater wetland(s); (2) to restore all freshwater wetlands cited in instances 1 through 5 above in accordance with the certain restoration requirements as specified in the NOVAO; (3) to comply with all conditions listed in the approval letter issued for Application No. 86-120F; (4) to contact the Division prior to the commencement of restoration in order to ensure proper supervision and to obtain required restoration details by representatives of Division; and (5) to pay an administrative penalty in the sum of One Thousand (\$1,000.00) Dollars for each instance of violation, totalling Five Thousand (\$5,000.00) Dollars, within twenty (20) days of receipt of the NOVAO. Respondent thereupon filed a timely request for an adjudicatory hearing.

The Administrative Adjudication Division conducted a Prehearing Conference ("PHC") and the requisite PHC Record was prepared by the Hearing Officer who conducted said PHC. No requests to intervene were presented.

The adjudicatory hearing was held on October 24, 25 and 26, 1994. Genevieve M. Martin, Esq. represented Division during the hearing. On February 21, 1995, she withdrew and Catherine Robinson Hall entered her appearance for Division. Catherine Robinson Hall, Esq., presented Division's Post-Hearing Memorandum. Douglas R. DeSimone, Esq. represented

Respondents at the hearing and Annette P. Jacques, Esq. of DeSimone & Leach presented Respondents' Post-Hearing Memorandum. The Hearing Officer was in receipt of the Post-Hearing Briefs on or about June 2, 1995.

Division bore the burden of proving by a preponderance of the evidence that Respondents violated the Act as alleged. Once a violation is established, Respondents bear the burden of proving by a preponderance of the evidence that Division failed to assess the penalty in accordance with the Rules and Regulations for the Assessment of Administrative Penalties.

STIPULATIONS OF FACT:

The following stipulations of fact were agreed upon by the parties at the Prehearing Conference and were incorporated in the Prehearing Conference Record:

1. A Notice of Violation and Order (the "NOVAO") was issued by the Division to Roland J. Fiore and Anthony J. Fiore on September 21, 1993.
2. The NOVAO was received by Respondents on September 23, 1993.
3. The NOVAO was recorded in the Land Evidence Records for the Town of South Kingstown, Rhode Island.
4. At the time that the NOVAO was issued, the Respondent Anthony J. Fiore was the legal owner of a parcel of property identified in the Land Evidence Records for the Town of South Kingstown, Rhode Island as Assessor's Plat 60, Lot No. 19 ("the subject site").

The Respondents, after the commencement of the hearing, stipulated to the factual allegations contained in Instances Numbers (1), (2), (3) and (5) of the NOVAO. Respondents also

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stipulated to the factual allegations contained in Instance Number (4) of the NOVAO except as to the allegation concerning "construction of wooden decks".

The Division offered twenty (20) documents as exhibits. The list of Division's Exhibits is attached as "Appendix A". Division's exhibits were all admitted as full exhibits. The list of Respondent's exhibits is attached as "Appendix B". Respondent's Exhibits 1, 2 and 6 were admitted as full exhibits. The remainder of Respondent's exhibits were marked for identification only.

W. Joseph Casey was the first witness to testify for Division. He is employed by DEM as a Senior Natural Resource Specialist and was qualified at the hearing as an expert in wetlands ecology, interpretation of aerial photographs and as a natural resource specialist. He testified that he visited the site on August 30, 1993 in response to complaints received by the Department of possible violations on the site. As a result of his inspection and observations of the site, Mr. Casey determined that certain wetlands, consisting of a pond complex, 100 foot river bank wetland, 50 foot perimeter wetland and a 100 year flood plain, were present on the site.

It was Mr. Casey's testimony that he reviewed the documents on file at Division (pertaining to the Freshwater Wetlands Alteration Permit issued by Division to Respondents

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under Application No. 91-0010F) in connection with his investigation of the subject site in this action. This witness described disturbances at the site which had gone beyond the limits of the disturbance approved under said Application. He stated that the footprint (i.e. the outer limits) of the house that was constructed on the site was the same as approved by Division; but the overhangs on the house were not approved by Division.

Mr. Casey testified that the overhangs, consisting of decks built on the south, west and north sides of the structure, (which he observed on August 30, 1993), were not in conformance with the approval granted by Application and Permit No. 86-120F.

It was Mr. Casey's opinion that the activities described in each of the five instances in the NOVAO (including the activity described in Instance 4) is considered an alteration of the freshwater wetland on the site. He explained that the placement of certain items (as listed in Instance 4 of the NOVAO) changed the physical nature of what existed therein, and altered the characteristics of wetlands on the site. It was explained by this witness that the various activities (for which Respondents were cited in Instance 1 through 5 of the NOVAO) took place between January of 1993 and August of 1993. He visited the site in January of 1993 (in response to a permit renewal request for Application 86-120F) and the

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activities for which Respondents were cited in the NOVAO had not taken place. The foundation had been constructed, but the structure had not been built on the foundation and no other activities had started prior to January of 1993.

Mr. Casey testified that once he completed his investigation and inspection of the site on August 30, 1993, he examined the records of the South Kingstown Tax Assessor and determined that Anthony J. Fiore was the owner of the subject property. During the course of his investigation, he became aware of the condition of the Permit in file 86-120F which required the original permittee to notify the Freshwater Wetlands Section in writing of any change of ownership which occurs while an original or renewed permit is in effect. He reviewed the Division's files and determined that no notice of the transfer of ownership of the subject site in 1993 was given to DEM; and based on his investigations, he determined that Anthony Fiore was also responsible for the alterations of the subject site.

Harold K. Ellis was the next witness called by Division. He is employed as Enforcement Supervisor in the Freshwater Wetlands Division in the Enforcement Section. He was qualified as an expert in the field of wetland ecology, aerial photographs and interpretation, and as a natural resource specialist.

Mr. Ellis testified that he became familiar with the site

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through Mr. Casey and as a result of complaints Division received from the public. It was his expert opinion that freshwater wetlands existed on the site; that these freshwater wetlands had been altered; and that the Respondents were responsible for said alterations as cited in the NOVAO. These determinations were based on his review of reports prepared by Mr. Casey which were part of Division's file concerning this matter.

It was Mr. Ellis's testimony that an application had been made by Respondent Roland Fiore to make certain alterations to the freshwater wetlands on the subject property, which was owned by him at that time; that Roland Fiore had the Permit issued to him; and that the Permit was never transferred to Anthony Fiore, the owner of the subject property during the period of time that the alterations had been determined to have been made.

Mr. Ellis opined that the penalty in this matter was assessed in accordance with the Rules and Regulations for the Assessment of Administrative Penalties ("Penalty Regulations"). He listed the factors considered in assessing the penalty, and he explained how he used the criteria set forth in the Penalty Regulations that best apply to Division, viz: the areal extent of the violation; how much control the violator had over the occurrence; and whether the Respondent/Violator took reasonable steps to mitigate or

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eliminate the occurrence of the violation. It was explained by this witness that an application to alter freshwater wetlands had been approved by the DEM; that clearly the Applicant/Respondents did not mitigate or eliminate the violation; that Respondents had total control over the issue; and that Respondents disregarded the permit conditions and did not construct the proposal as approved.

Mr. Ellis opined that each instance of the violations for which Respondents were cited in the NOVAO were considered to be in the major category pursuant to the Penalty Regulations and that the Five Thousand (\$5,000.00) Dollar administrative penalty assessed was appropriate.

It was Mr. Ellis's expert opinion that restoration of the subject site is necessary, and that the property should be brought into compliance with the plan approved in Application No. 86-120F.

The Division rested its case after the presentation of the two witnesses. Respondents' Exhibits 1, 2 and 6 were admitted as Full Exhibits by Agreement of the parties; however, Respondents rested their case without the presentation of any witnesses.

The Respondents have stipulated to the factual allegations contained in all five instances of the NOVAO, except as to the "construction of wooden decks"; therefore, the only issues remaining in dispute are (1) whether the

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Respondents, or their agent(s) or servant(s) altered or permitted the alteration of the wetlands on the subject site in violation of the Freshwater Wetlands Act by construction of wooden decks; (2) whether construction of said decks was performed absent a permit from the Director of DEM; (3) whether the Division's issuance of the NOVAO was proper concerning the construction of wooden decks; and (4) if the NOVAO should be affirmed as to restoration and penalty.

It is Respondents' contention that no permit is required for the construction of the wooden decks, or in the alternative, that the construction of wooden decks is within Permit No. 85-0120F issued by Division. Respondents also urge that if restoration is ordered, it should not include removal of the wooden decks, and that the penalties assessed are arbitrary and unfair because the Division failed to implement the proper policy and procedure in determining the amount assessed.

Respondents also contend that raised decks cannot physically alter areas of land; and that the failure of Division to make any finding that the decks actually altered the character of the specific wetland areas on the property, can lead only to the conclusion that no permit was required for said decks.

It is Division's contention that Respondent, Roland Fiore, failed to comply with the notification provision of the

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Division's approval of the permit by transferring the subject site to Respondent Anthony Fiore, and that the Respondents, their agents and/or servants disregarded the approved site plans and knowingly violated the Freshwater Wetlands Act.

Division maintains that the Respondents are responsible for all of the unauthorized alterations of Freshwater Wetlands on the subject site, (including the construction of the decks) in violation of R.I.G.L. §2-1-21; and that the Respondents must completely restore the subject freshwater wetlands to the approved condition in accordance with R.I.G.L. §2-1-24 and also pay an administrative penalty in the amount of Five Thousand (\$5,000.00) Dollars pursuant to R.I.G.L. §42-17.6-2.

Respondents, by stipulation, agreed that all of the alterations for which Respondents were cited in the NOVAO, except the construction of wooden decks, occurred in freshwater wetlands on the subject site, and also that said freshwater wetlands were altered or permitted to be altered by the Respondents. A review of the evidence independent of Respondents' stipulations establishes the existence of freshwater wetlands on the subject site which are subject to the jurisdiction of DEM, consisting of a pond complex, a 100-foot riverbank wetland, a floodplain and a 50-foot perimeter wetland (associated with the pond complex).

Respondents' contention that the construction of the wooden decks is within Permit No. 86-0120F is not supported by

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the evidence. The Application to alter freshwater wetlands on the subject site was approved and the Permit issued by Division conditioned on compliance with certain conditions. One of said conditions provided that "only work specifically shown on the aforementioned site plan(s) is allowed". There is no doubt that neither the site plans nor the Division's approval allowed any of the alterations including the construction of decks for which Respondents were cited in the NOVAO.

The Respondents' arguments that no permit is required for the construction of the wooden decks is not persuasive. The Respondents were cited for undertaking unauthorized activities (as described in the five Instances of the NOVAO) in violation of R.I.G.L. §2-1-21 and in non-conformance with Application No. 86-120F. The Statutes and Rules and Regulations require that a Permit be issued for such alterations, and also provide that such alterations, including construction of the wooden decks absent a permit, is a violation.

A careful reading of the Act and the pertinent regulations demonstrates that there are no provisions requiring Division to conduct an "impact analysis" study in order to prove whether an activity constitutes a violation. As pointed out by Mr. Ellis, no "impact analysis" need be conducted by Division in enforcement matters since "there is either a violation or there is not a violation". Analysis of

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impacts are required when an applicant presents a proposed project to DEM for its review as part of an application to alter freshwater wetlands. No such studies or analysis need be conducted by Division in order for it to make a finding that an alteration of freshwater wetlands has occurred.

The evidence clearly establishes that all of the alterations for which Respondents were cited including construction of the decks, occurred in an are unauthorized alterations of the freshwater wetlands located on the subject site, and that Respondents were responsible for said unauthorized alterations.

The Respondents called no witnesses, and no evidence was introduced which would support their position. Respondents relied largely on their cross-examination of Division's expert witnesses to support their contentions. However, Respondents' extensive cross-examination did not elicit any contradictions or inconsistencies in the testimony of said witnesses. No valid reason was advanced by Respondents to demonstrate why their testimony was not worthy of belief, nor why their expert opinions should not be accepted. The testimony of Division's expert witnesses was unchallenged and not discredited by other positive testimony or by circumstantial evidence extrinsic or intrinsic and is therefore deemed conclusive upon this Hearing Officer as the trier of fact. State v. A. Capuano Bros., Inc., 120 R.I. 58 (1978).

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The testimony of Mr. Ellis was uncontroverted and clearly demonstrates that the subject site should be restored to the condition as approved. The relief requested by Division appears drastic; however, it is certainly appropriate when the unauthorized alterations not only violate the pertinent statutes and Regulations, but blatantly exceed the parameters of the conditional approval.

Mr. Ellis' testimony also demonstrates that the penalty was assessed in accordance with the governing statutes and Penalty Regulations. He specifically listed the factors considered and appropriately determined that each instance of the NOVAO is considered to be in the major category. This testimony was not refuted by Respondents. Division's evidence clearly establishes that the Five Thousand (\$5,000.00) Dollar penalty is appropriate and fully warranted under the circumstances.

FINDINGS OF FACT:

After reviewing the documentary and testimonial evidence of record, I find as fact the following:

1. Respondent, Roland J. Fiore, was the legal owner of a certain parcel of property located on Wordens Pond Road in the Town of South Kingstown, Rhode Island and identified as Assessors Plat 60, Lot No. 19 ("subject Site") from the end of 1989 until March 1, 1993.
2. Respondent, Roland J. Fiore, conveyed the subject site to Respondent, Anthony J. Fiore, by Quit Claim Deed dated March 1, 1993.
3. Respondent, Anthony J. Fiore, was the owner of the subject site at the time the Notice of Violation and Order ("NOVAO") was issued by the Division of Freshwater Wetlands ("Division") of the Department of Environmental Management ("DEM"), and is presently the owner of the site.
4. State jurisdictional freshwater wetlands are present on the subject site consisting of a pond complex, its associated fifty (50') foot perimeter wetland, a one-hundred foot (100') riverbank wetland, and a floodplain.
5. On January 12, 1990, Division of Freshwater Wetlands ("Division") approved the application submitted by Respondent Roland Fiore for permission to alter freshwater wetland on the subject site, (Application No. 86-0120F) in accordance with certain plans and specifications; and the Permit for same was issued conditioned upon compliance with certain specified Permit Conditions.
6. The Permit issued by Division to Respondent Roland Fiore (pursuant to Application No. 86-0120F) authorized Roland Fiore to construct a residence, install an individual sewage disposal system, and install a gravel driveway on the subject site in accordance with an approved plan.
7. On September 1, 1992, DEM issued a permit to Respondent, Roland Fiore, under Application No. 91-0010F to construct a dock in the wetlands located on the subject site.
8. On January 8, 1993, Division acknowledged receipt of a request to renew the permit issued on January 12, 1990 to

Roland Fiore, and said permit was renewed by Division until January 12, 1994, provided Respondent continued to comply with all stipulations contained in the original permit letter dated January 12, 1990.

9. Respondent, Roland Fiore, did not notify DEM at any time that he transferred ownership of the subject site to Respondent, Anthony Fiore.
10. Division inspected the subject site on August 30, 1993 and determined that certain unauthorized alterations, consisting of filling, clearing, grubbing, construction of decks, construction of concrete blocks and fill to create a retaining wall, and installation of a paved driveway had occurred in the freshwater wetlands located on the subject site.
11. On September 21, 1993, the Division issued the Notice of Violation No. C93-0285V ("NOVAO") in the instant matter to the Respondents, Roland J. Fiore and Anthony J. Fiore.
12. The NOVAO was received by the Respondents on September 23, 1993.
13. The NOVAO was recorded in the Land Evidence Records for the Town of South Kingstown, Rhode Island.
14. Respondents filed a timely request for an adjudicatory hearing on October 1, 1993.
15. Filling and clearing occurred in a pond complex and riverbank wetland on the subject site.
16. Filling, clearing and grubbing occurred in a floodplain and perimeter wetland on the subject site.
17. Decks were constructed in freshwater wetlands on the subject site.
18. The Respondents, during the period between January 1993 and August 8, 1993, altered or permitted alterations of the freshwater wetlands on the subject site in non-conformance with the approval issued to Respondent Roland Fiore under Application No. 86-0120F. and the subject site remains in an altered state.
19. Neither the Respondents nor anyone else received a freshwater wetlands permit to perform the alterations on the subject site as cited in the NOVAO and said

alterations were therefore in violation of Section 2-1-21 of the General Laws of Rhode Island, 1956, as amended.

20. Restoration of the subject site is necessary in order to restore the freshwater wetlands on the site to the condition as approved by DEM under Application No. 86-0120F.
21. The Five Thousand (\$5,000.00) Dollar administrative penalty assessed against the respondents in connection with the unauthorized alterations performed upon the subject site is not excessive and is reasonable and warranted under the circumstances.

CONCLUSIONS OF LAW:

Based upon all of the documentary and testimonial evidence of record. I conclude as a matter of law that:

1. The Department of Environmental Management ("DEM") has jurisdiction over the freshwater wetlands located on the subject site.
2. The Division of Freshwater Wetlands ("Division") met its burden of proving by a preponderance of the evidence that the freshwater wetlands located on the subject site were altered in violation of R.I. Gen. Laws §2-1-21 and the Wetland Rules and Regulations as alleged in the Notice of Violation and Order issued to the Respondents on September 21, 1993.
3. The Division met its burden of proving by a preponderance of the evidence that the Respondents are responsible for said wetland alterations on the subject site.
4. DEM is entitled to removal of said unauthorized alterations and restoration of the freshwater wetlands on the subject site to the condition as approved through Application N. 86-0120F consistent with the Department's restoration requirements.
5. DEM is entitled to the assessment of an administrative penalty of Five Thousand (\$5,000.00) Dollars in connection with the violations which occurred on the subject site.
6. The NOVAO should be affirmed in its entirety (except as modified as to dates and times).

Wherefore, it is hereby

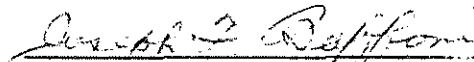
ORDERED

1. That the Notice of Violation and Order ("NOVAO") issued to the Respondents dated September 21, 1993 be and is hereby sustained.
2. That the Respondents shall restore the freshwater wetlands cited in the NOVAO within forty-five (45) days of the date of the Final Order herein in accordance with the following:
 - A. Remove all fill material including concrete blocks, asphalt driveway, soil and decks which were not authorized by the approval granted under Application No. 86-120F. All fill material must be removed down to the original grade which existed prior to filling.
 - B. Re-establish all erosion and sedimentation controls to all locations required on the approved site plans and permit letter for Application No. 86-120F.
 - C. Establish all grades required on the approved site plans for Application 86-120F after removal of all concrete blocks and associated fill.
 - D. Stabilize those areas disturbed by unauthorized alterations with a wildlife/conservation grass mix.
 - E. Revegetate the cleared area located between Wordens Pond Road and Wordens Pond extending west from the western limits of disturbance as approved under Application No. 86-120F over a distance of approximately 115 feet. Revegetation shall require the planting of interspersed shrubs and will include an equal distribution of Highbush blueberry, Vaccinium corymbosum, Sweet pepperbush, Clethra alnifolia and Pussy Willow, Salix discolor.
 - F. Contact Division prior to the commencement of restoration to ensure proper supervision and to obtain required restoration details by representatives of Division.

3. That the Respondent pay an administrative penalty in the sum of Five Thousand Dollars (\$5,000.00) for said violation no later than twenty (20) days after the date the Final Decision and Order is signed by the Director. Said payment shall be in the form of a certified check payable to the General Treasurer, State of Rhode Island and made directly to:

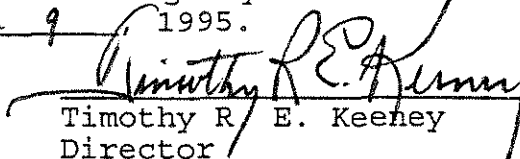
Rhode Island Department of Environmental Management
Attention: Glenn Miller
Office of Business Affairs
22 Hayes Street
Providence, Rhode Island 02908

Entered as an Administrative Order this 21ST day of November, 1995 and hereby recommended to the Director for issuance as Final Order.



Joseph F. Baffoni
Hearing Officer
Department of Environmental Management
Administrative Adjudication Division
One Capitol Hill, Third Floor
Providence, Rhode Island 02908

Entered as a Final Agency Decision and Order this _____ day of December 9 1995.



Timothy R. E. Keeney
Director
Department of Environmental Management
9 Hayes Street
Providence, Rhode Island 02908

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CERTIFICATION

I hereby certify that I caused a true copy of the within order to be forwarded, via regular mail, postage prepaid to Douglas DeSimone, Esq., and Annette P. Jacques, Esq., both of DeSimone and Licht, 49 Weybosset St., Providence, RI 02903 and via interoffice mail to Catherine R. Hall, Esq., Office of Legal Services, 9 Hayes Street, Providence, RI 02908 on this 11th day of November, 1995.

Bruce R. Stewart

APPENDIX A

DIVISION'S EXHIBITS:

- Div. 1 Full Copy of letter of Brian C. Tefft to Roland Fiore dated January 12, 1990 (4 pp.).
- Div. 2 Full Copy of letter of Charles A. Horbert to Garafalo & Associates, Inc., dated January 8, 1993, along with receipts for certified mail (2 pp.).
- Div. 3 Full Copy of Notice of Violation and Order No. C93-0285V dated September 21, 1993, along with a copy of letter of Harold K. Ellis to Roland J. Fiore and Anthony J. Fiore dated September 21, 1993 and certified mail receipts (6 pp.).
- Div. 4 Full Copy of letter of Douglas R. DeSimone to Bonnie Stewart, Clerk, dated October 1, 1993 (1 p.).
- Div. 5 Full Copy of Proposed Sewage Disposal Plan for Assessor's Plat 60, Lot 19, situated on Wordens Pond Road, South Kingstown, Rhode Island, bearing approval stamp of Department of Environmental Management, Division of Groundwater and Freshwater Wetlands, dated January 12 1990 under Application No. 86-0120F (6 pp.).
- Div. 6 Full
(a thru e)
- 6a. Certified copy of quit-claim deed from Roland J. Fiore, Jr. to Anthony J. Fiore dated March 1, 1993.
- 6b. Copy of Building Permit Application dated October 10, 1991.
- 6c. Copy of Building Permit Application dated March 16, 1993.
- 6d. Copy of Building Permit Application dated May 25, 1993.

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- 6e. Copy of South Kingstown Assessor's Tax Map.
- Div. 7 Full Copy of resume of Harold K. Ellis, III (3 pp.).
- Div. 8 Full Copy of resume of W. Joseph Casey (2 pp.).
- Div. 9 Full Copy of resume of Daniel M. Kowal (4 pp.).
- Div. 10 Full Copy of Consent Agreement for In Re: Roland Fiore, Freshwater Wetlands Formal Application No. 91-0010F, along with Appendix A and Appendix B (12 pp.).
- Div. 11 Full Copy of letter of Edward A. Thomas to Ms. Anna F. Prager dated January 18, 1993, along with copy of Firm Flood Insurance Rate Map and copy of letter of Roland Fiore to R.I. Department of Environmental Management dated June 18, 1987 (3 pp.).
- Div. 12 Full Copy of Complaint Inspection Report of Joseph Casey dated August 30, 1993, along with copy of sketch and copies of three (3) photographs (10 pp.).
- Div. 13 Full Copy of Biological Inspection Report of Joseph Casey dated August 30, 1993, Instance Nos. 1 and 2 (1 p.).
- Div. 14 Full Copy of Biological Inspection Report of Joseph Casey dated August 30, 1993, Instance Nos. 1, 4 and 5 (1 p.).
- Div. 15 Full Copy of Biological Inspection Report of Joseph Casey dated August 30, 1993, Instance Nos. 3 and 4 (1 p.).
- Div. 16 Full Copy of Biological Inspection Report of Joseph Casey dated August 30, 1993, Instance Nos. 1, 2, 3, 4 and 5 (1 p.).
- Div. 17 Full Copy of Records Research of Joseph Casey dated August 1, 1993 (1 p.).
- Div. 18 Full Copy of Full Restoration Requirements of Joseph Casey dated September 1, 1993 (1 p.).

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Div. 19 Full Copy of Enforcement Summary Sheet of Joseph Casey dated September 1, 1993 (2 pp.).

Div. 20 Full Copy of letter of Bruce S. Ahern of Garafalo & Associates, Inc., to Stephen Morin, Chief, Division of Groundwater and Freshwater Wetlands dated July 14, 1989 (3 pp.).

APPENDIX B

RESPONDENTS' EXHIBITS:

Resp. 1 Full Copy of building permit.
Resp. 2 Full Copy of Notice of permit.
Resp. 3 for Id Copy of certificate of conformance.
Resp. 4 for Id Copy of Plan of Steve Grinnell, dated March 18, 1993.
Resp. 5 for Id Resume of Steve Grinnell.
Resp. 6 Full Resume of Paul Shea.