

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

**RE: LAPIERRE, ROGER & JEANNE
NOTICE OF VIOLATION OC&I/ISDS CI00-240**

AAD NO. 02-007/IE

FINAL ORDER OF DEFAULT

This matter came before Hearing Officer Joseph F. Baffoni on March 21, 2003 for the purpose of a Prehearing Conference. Respondents failed to appear or otherwise apprise the Hearing Officer of their inability to appear at said prehearing conference. Upon oral motion of counsel for the Office of Compliance and Inspection and pursuant to the Prehearing Order entered on December 17, 2002, a Conditional Order of Default was issued against the Respondents affording Respondents until and including April 1, 2003 to show good cause in writing why a Final Default Judgement should not enter and the Notice of Violation and Order and Penalty, which was issued on June 20, 2002, become a compliance order. As of the date of this order, the Respondents have not responded to the Conditional Order of Default.

FINDINGS OF FACT

1. The Prehearing Order issued to the parties on December 17, 2002 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 held on March 21, 2003.
3. Respondents 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 Respondents on March 24, 2003.
5. Pursuant to the Conditional Order, Respondent had until April 1, 2003 to show good cause why a final default judgement should not enter and the Notice of Violation issued on June 20, 2002 become a compliance order.

6. The Respondents have not responded to the Conditional Order of Default.

CONCLUSIONS OF LAW

1. Respondents have failed to show cause that relief from the Conditional Order of Default should be granted.
2. Respondents have failed to show good cause why a Final Order of Default should not enter and the Notice of Violation issued on June 20, 2002 become a compliance order.

Wherefore, it is hereby

ORDERED

1. Respondents are deemed to have waived their right to an adjudicatory hearing.
2. The Notice of Violation issued on June 20, 2002 shall be final and become a compliance order immediately upon the entry of the Final Agency Order herein.

Entered as an Administrative Order this 3rd day of April, 2003 and herewith recommended to the Director for issuance as a Final Agency Order.

Joseph F. Baffoni
Hearing Officer
Administration Adjudication Division
235 Promenade Street, Third Floor
Providence, RI 02908
(401) 222-1357

Entered as a Final Agency Order this 4th day of April, 2003.

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

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CERTIFICATION

I hereby certify that I caused a true copy of the within Order to be forwarded by first-class mail, postage prepaid, to Roger & Jeanne Lapierre, 113 Brentwood Drive, North Smithfield, RI 02896; via interoffice mail to Timothy Pavilonis, Esquire, Office of Legal Services and Dean H. Albro, Chief, Office of Compliance and Inspection, 235 Promenade Street, Providence, RI 02908 on this 4th day of April, 2003.
