

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

RE: PETRARCA, DOMENIC
LOBSTER TRAP ALLOCATION CFL 000159

AAD No. 07-019/F&WA

FINAL ORDER OF DISMISSAL

This matter came before AAD on June 13, 2007 for prehearing conference and hearing. Applicant Domenic Petrarca failed to appear or to otherwise apprise the hearing officer of his inability to appear at the prehearing conference and hearing.

On June 13, 2007, a Conditional Order of Dismissal was entered against the Applicant. Pursuant to the Order, Applicant had up to and including June 25, 2007 to show good cause why a Final Order of Dismissal should not be entered for Applicant's failure to appear at the prehearing conference and hearing. Applicant has not responded to the Conditional Order of Dismissal.

FINDINGS OF FACT:

A review of the AAD file reveals the following:

1. The Order and Notice of Administrative Hearing and Prehearing Conference was issued to the parties at the status conference held on May 14, 2007. The Order provided that "If a party fails to appear at the hearing, the Hearing Officer will issue a seven (7) Day Conditional Order of Dismissal/Default against the absent party which shall automatically become final unless the absent party demonstrates good cause for the failure to appear. The absent party will be responsible for the payment of any stenographic costs incurred."
2. The prehearing conference and hearing were scheduled for June 13, 2007.

3. Attorney Gary Powers appeared on behalf of the Division of Fish and Wildlife on June 13, 2007.
4. Applicant Domenic Petrarca failed to appear at the prehearing conference and hearing on June 13, 2007.
5. A Conditional Order of Dismissal was entered against the Applicant on June 13, 2007.
6. Pursuant to the Conditional Order, the Applicant had until and including June 25, 2007 to show good cause why a Final Order of Dismissal should not be entered for Applicant's failure to appear at the status conference.
7. As of the date of this Administrative Order, the Applicant has not responded to the Conditional Order of Dismissal.

CONCLUSIONS OF LAW:

Based upon the above Findings of Fact, I conclude the following as a matter of law:

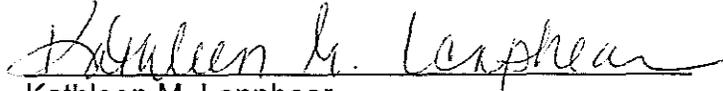
1. Applicant Domenic Petrarca has failed to show good cause why a Final Order of Dismissal should not be entered against him for his failure to appear at the status conference.
2. Applicant Domenic Petrarca is deemed to have waived his right to an adjudicatory hearing on the Lobster Trap Allocation determined by the Division of Fish and Wildlife.

Wherefore, it is hereby

ORDERED

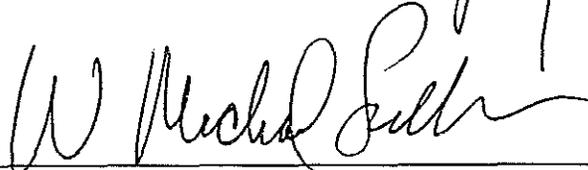
1. Applicant's request for hearing on the Lobster Trap Allocation is herewith DISMISSED.

Entered as an Administrative Order this 10th day of July, 2007 and
herewith recommended to the Director for issuance as a Final Agency Order.



Kathleen M. Lanphear
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 Order this 12th day of July, 2007.



W. Michael Sullivan, Ph.D., Director
Department of Environmental Management
235 Promenade Street, 4th Floor
Providence, Rhode Island 02908

CERTIFICATION

I hereby certify that I caused a true copy of the within Final Order of Dismissal to be forwarded, via regular mail, postage prepaid to: Domenic Petrarca, 58 Wave Avenue, Middletown, RI 02842; via interoffice mail to Gary Powers, Esquire, DEM Office of Legal Services, 235 Promenade Street, Providence, RI 02908 on this 13th day of July, 2007.



NOTICE OF APPELLATE RIGHTS

This Final Order constitutes a final order of the Department of Environmental Management pursuant to RI General Laws § 42-35-12. Pursuant to R.I. Gen. Laws § 42-35-15, a final order may be appealed to the Superior Court sitting in and for the County of Providence within thirty (30) days of the mailing date of this decision. Such appeal, if taken, must be completed by filing a petition for review in Superior Court. The filing of the complaint does not itself stay enforcement of this order. The agency may grant, or the reviewing court may order, a stay upon the appropriate terms.