

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

IN RE: John Travassos  
Application No. 90-0746F

AAD No. 91-020/FWA

DECISION AND ORDER

This matter is before the hearing officer on Applicant's request for an immediate ruling on its Motion to Compel Review of Alternative Design Proposals ("Motion to Compel") filed with the hearing officer on February 21, 1992 and deferred by Order dated March 13, 1992. Oral argument on the Motion and Objection was heard on March 6, 1992.

By letter dated March 25, 1992, Applicant requests an "immediate ruling" on its Motion citing communication from Division's counsel indicating that the Division will not voluntarily review the alternate submissions delivered to the Division on February 21, 1992. I will treat Applicant's correspondence as a renewal of its February 21, 1992 Motion to Compel.

Reduced to its essence, the Motion to Compel the Division to Review alternative design proposals is in the nature of equitable relief similar to mandamus and/or injunctive relief. Chapter 17.7 of Title 42 establishes the AAD and specifically, § 42-17.7-8 enumerates the powers of hearing officers. As a matter of law, I do not find that a hearing officer is empowered

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to order or enforce the relief sought by Applicant. Such an order requires equitable powers which the legislature has chosen not to confer upon AAD hearing officers.

Therefore, it is

**ORDERED**

That for the foregoing reasons the Motion to Compel is **DENIED.**

Entered as an Administrative Order this 27<sup>th</sup> day of March, 1992.

Kathleen M. Lanphear  
Kathleen M. Lanphear  
Chief Hearing Officer  
Department of Environmental Management  
Administrative Adjudication Division  
One Capitol Hill, 4th floor  
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