

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

IN RE: TENNESSEE GAS PIPELINE COMPANY
AAD NO. 92-044/FWE

REMAND FROM PROVIDENCE COUNTY SUPERIOR COURT
IN C. A. NO. 93-4996

DIRECTOR'S DECISION

I am in receipt of the proposed Decision in the above-entitled matter dated October 25, 1995.

I have read the Hearing Officer's Decision and familiarized myself with the record in this regard. I have carefully read the Decision of the Superior Court filed November 3, 1994 and the Decision on the Motion for Reconsideration filed January 30, 1995.

The November 3, 1994 Decision is operative in this matter. The decisions on the separate cases have been made. The remand to the Department of Environmental Management is related to the specific issues concerning the adequacy of the remedy, e.g. restoration and the imposition of a fine. The February 27, 1995 Superior Court Order which the Hearing Officer's Decision quotes reflects these facts.

The Superior Court in passing on the evidence was troubled by the information gap in the original record with respect to the above referenced issues. The Hearing Officer has engaged in a reasonable and ordered process which has already solicited input from the Division and argument from the parties relating to these issues. All of this appears to be part of the instant record. The Hearing Officer indicates that the

Court Order does not require any further Findings of Fact or Conclusions of Law and consequently does not make any.

The Administrative Procedures Act requires:

"42-35-12. Orders. -- Any final order adverse to a party in a contested case shall be in writing or stated in the record. Any final order shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings..."

There is nothing in my review of the record which would relieve this agency of this statutory responsibility.

THEREFORE, I remand this matter to the Hearing Officer to make Findings of Fact and Conclusions of Law consistent with provisions of R. I. Gen. Laws § 42-35-12 for the Proposed Amended Order And Decision.


TIMOTHY R. E. KEENEY,
Director, Rhode Island Department
of Environmental Management

CERTIFICATION

I hereby certify that I caused a true copy of the within Director's Decision to be forwarded to Clerk's Office, Providence County Superior Court, 250 Benefit Street, Providence, Rhode Island 02903; Peter V. Lacouture, Esq., Kathryn Holly, Esq., Peabody and Brown, One Citizens Plaza, Providence, RI 02903; Barbara Simons, Simons & Simons, 5025 Linnean Avenue, NW, Washington, DC 20008; Robert S. Bruzzi, 18 Imperial Place, Providence, RI 02903; Clara and Walter Lawrence, 745 Natick Ave., Cranston, RI 02921 and via interoffice mail to Catherine Robinson Hall, Esq., Office of Legal Services, 9 Hayes Street, Providence, RI 02908 on this 10th day of November, 1995.