

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

IN RE: Edmund Guglielmi AAD No. 93-040/IE
Notice of Violation No. CI92-112

ORDER OF DISMISSAL

This matter is before the hearing officer on the Motion to Dismiss filed by the Division of Groundwater and ISDS on April 1, 1993. The Motion asserts that Respondent's request for hearing was untimely, and accordingly, AAD lacks jurisdiction to entertain the appeal.

In support of its Motion, the Division has supplied a copy of the return receipt card indicating that Respondent received the Notice of Violation ("NOV") on February 19, 1993. The request for hearing was filed with the Clerk on March 25, 1993, thirty-four (34) days after receipt of the NOV.

The AAD and the Director have consistently ruled in prior matters that the ten-day appeal requirement is jurisdictional and absent a timely filing, AAD lacks jurisdiction to entertain the appeal. See Abate and Ursillo Plating Co., et al, AAD No. 91-011/AHE and Cumberland Park Homes, Inc., AAD No. 91-017/FWA. Moreover, in the instant matter, Respondent has filed no objection to the Division's Motion. Procedurally, Respondent's objection is deemed waived pursuant to Rule 8.00 a).2 of the Division's

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Edmund Guglielmi
AAD No. 93-040/IE
Notice of Violation No. CI92-112
Page 2

Administrative Rules of Practice and Procedure. Fredric Dupuis Spotless Cleaners, AAD No. 91-001/AHE, Carol Anne Mancini, AAD No. 91-039/IE.

Based on the foregoing, it is hereby

ORDERED

That the within appeal is DISMISSED.

I recommend the foregoing to the Director for adoption as a final agency order.

Entered as a Recommended Administrative Order this 28th day of April, 1993.

Kathleen M. Lanphear
Kathleen M. Lanphear
Chief Hearing Officer
Department of Environmental Management
Administrative Adjudication Division
One Capitol Hill, Third Floor
Providence, RI 02908

I adopt the within Order of Dismissal this 29th day of April, 1993.

Louise Durfee
Louise Durfee
Director
Department of Environmental Management
9 Hayes Street
Providence, RI 02908

Edmund Guglielmi
AAD No. 93-040/IE
Notice of Violation No. CI92-112
Page 3

CERTIFICATION

I hereby certify that I caused a true copy of the within Order of Dismissal to be forwarded via regular mail, postage prepaid to Edmund Guglielmi, 170 Ryan Avenue, Warwick, RI 02886 and via interoffice mail to John A. Langlois, Esq., Office of Legal Services, 9 Hayes Street, Providence, RI 02908 on this 24th day of April, 1993.

Marionne J. Ballard