

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

**RE: PLOUFFE, LEO
DAM REGISTRATION/NOTIFICATION
OF HAZARD CLASSIFICATION**

AAD NO. 09-004/DE

FINAL ORDER OF DEFAULT

This matter was scheduled for Administrative Hearing on September 9, 2015. Respondent, Leo Plouffe filed to appear or otherwise advise of the reason for its nonappearance. The Respondent had previously advised that he would not be attending the scheduled hearing. The Department of Environment Management was prepared to proceed on the Hearing date. On September 11, 2015 D ("DEM filed a Motion for Entry of Final Judgment. For the reasons set forth below, the motion for Final Order of Default is **GRANTED.**

FINDING OF FACT

1. On August 6, 2015 the AAD issued a Notice of scheduling the Administrative Hearing for September 9, 2015 at 9:30 am.
2. At the Prehearing Conference on August 8, 2015, the Respondent advised that he would not be attending the Administrative Hearing on September 9, 2015.
3. Respondent was advised by the Hearing Officer that his failure to appear would result in a default and dismissal of his appeal.
4. On August 28, 2015 AAD received an e-mail from Respondent that he would not be attending the Administrative Hearing on September 9, 2015.
5. On September 9, 2015 Respondent failed to appear for the Administrative Hearing.
6. On September 11, 2015 Counsel for DEM filed a Motion for Order of Default.
7. The Respondent did not file an Objection.

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ANALYSIS

An order dismissing a case on the grounds of default for failure to comply with court orders is within the sound discretion of the trial justice or hearing officer. Mumford v. Lewis, 681 A.2d 914 (R.I.1996); Fourcier v. Forcier, 558 A.2d 212, 1214 (R.I.1989) (citing Gray v. Stillman, White Co., 522 A.2d 737, 741 (R.I.1987)). As stated in Mumford, a party is entitled to relief if there is a "persistent failure" to comply with court orders that causes "inordinate delay, expense, and frustration for all concerned." Mumford at 691 A.2d at 916. Absent a showing of "excusable neglect...or otherwise good cause" courts will generally conclude a judicial officer was within his sound discretion in issuing the default judgment. Pirhonen v. Greene, 641 A.2d 1325, 1326 (R.I. 1994).

CONCLUSIONS OF LAW

Based on the findings of fact, legal authority, and reasoning set forth above, the undersigned concludes the Respondent is in default and his appeal is dismissed. The Notice of Dam/Registration of High Hazard issued by DEM on March 31, 2009 is a final agency action against Respondent Leo Plouffe and effective immediately upon the execution of this order.

ORDERED

1. Respondent, Leo Plouffe, is in Default and is deemed to have waived his right to an adjudicatory hearing.
2. Repondent's Appeal is **Dismissed.**

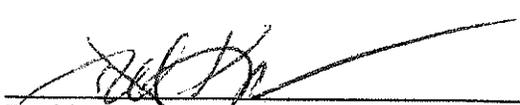
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Entered as an Administrative Order this 28th day of September, 2015.

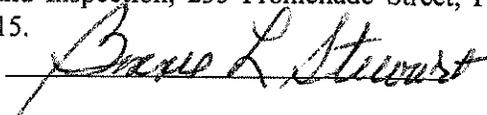


David Kerins

Chief Hearing Officer
Administrative Adjudication Division
One Capitol Hill, 2nd floor
Providence, RI 02908
(401) 574-8600

CERTIFICATION

I hereby certify that I caused a true copy of the within Order to be forwarded by first-class mail, postage prepaid to Leo Plouffe, 113 Rock Avenue, Pascoag, RI, 02859 and via interoffice mail to Christina A. Hoefsmit, Esquire, DEM Office of Legal Services David Chopy, Chief, Office of Compliance and Inspection, 235 Promenade Street, Providence, RI 02908 on this 28th day of April, 2015.



Bruce L. Stewart