

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

IN RE: Smithfield Venture/Rhode Island Central Credit Union
Notice of Violation No. 86-449F

DECISION ON DIVISION'S MOTION TO DISMISS

This matter came before Hearing Officer McMahon on July 31, 1992 for oral argument on the Motion to Dismiss or in the Alternative Schedule a Hearing filed by the Division of Freshwater Wetlands ("Division") on August 26, 1991. Richard O. Lessard, Esq., represented the Division. No other parties were present.

Background

On July 17, 1990 the Rhode Island Central Credit Union obtained the property which was the subject of the application to alter freshwater wetlands herein, from Smithfield Venture Limited Partnership through foreclosure proceedings. The credit union pursued the appeal through the prehearing conference and then, on December 26, 1990, jointly requested a continuance of the hearing scheduled for January 8, 1991 in order to submit revised plans. The continuance was granted.

On January 1, 1991 the Rhode Island Central Credit Union was closed by executive order of Governor Sundlun and later placed into receivership. By Order dated May 3, 1991, Judge Krause named the Director of the Department of Business

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FILED DEPARTMENT

Regulation permanent receiver and stayed "the commencement, prosecution, or continuance of the prosecution of any action, suit, arbitration proceeding, [or] hearing . . ."

The within Motion to Dismiss was filed on August 26, 1991 but pursuant to the stay, no action was taken. As of the date of this Order, no objections have been received by the Administrative Adjudication Division ("AAD").

On July 6, 1992 the Division obtained from Judge Needham an Order Granting Relief from Stay and this matter was thereafter scheduled for hearing on the motion.

DECISION AND ORDER

Under the provisions of Section 8.00 of the Administrative Rules of Practice and Procedure for the Department of Environmental Management Administrative Adjudication Division for Environmental Matters ("AAD Rules"), the absence of a timely objection would result in the granting of the pending motion. Carol Anne Mancini, AAD No. 91-039/IE; Fredric Dupuis Spotless Cleaners, AAD No. 92-001/AHE.

Lack of objection aside (since objections would have been due during the stayed period), applicant also failed to appear at the hearing on the motion. Having before me only the evidence presented in the Motion to Dismiss and the Division's arguments on the record, I find that there are sufficient grounds for dismissal.

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Wherefore it is hereby

ORDERED

The Division's Motion to Dismiss is herewith GRANTED.

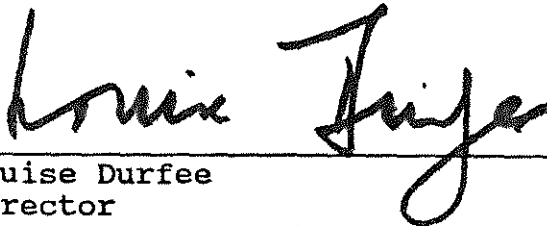
Entered as an Administrative Order this 3rd day of August,
1992.



Mary F. McMahon
Hearing Officer
Department of Environmental Management
Administrative Adjudication Division
One Capitol Hill, 4th Floor
Providence, RI 02908

Entered as a Final Order this 14th day of August,

1992.



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

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CERTIFICATION

I hereby certify that I caused a true copy of the within Final Order to be forwarded via regular mail, postage prepaid to Sheldon Whitehouse, Esq., Receiver for Rhode Island Central Credit Union, Director, Department of Business Regulation, 233 Richmond Street, Providence, RI 02903; Andrew Hodgkin, Esq., Attorney for the Receiver, BROWN, RUDNICK, FREED, & GESMER, 30 Kennedy Plaza, Providence, RI 02903; Richard O. Lessard, Esq., Marran & Lessard, Two Charles Street, Providence, RI 02904-2269 and via interoffice mail to Sandra J. Calvert, Esq., Office of Legal Services, 9 Hayes Street, Providence, RI 02908 on this 12th day of August, 1992.

