

SUPERIOR COURT

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A. INTRODUCTION

B. PARTIES

Page 1 of 7

C. JURISDICTION & VENUE

4. Subject matter jurisdiction in this case is properly conferred in the Court pursuant to R.I. Gen. Laws §§ 8-2-13 and 42-17.1-2(21)(vi).
5. Personal jurisdiction over the Defendant in this case is properly conferred in this Court based on the Defendant's operation of its business entity and ownership of real property within the State of Rhode Island.
6. Venue is properly placed in the Court pursuant to R.I. Gen. Laws § 9-4-3.

D. FACTS

7. The subject property is located at 75 Airport Road in the Town of Coventry, Rhode Island and is identified by the Town of Coventry as Assessors Plat 44, Lot 1, Unit 3 ("Property").
8. Defendant owns the Property.
9. On April 22, 2014, RIDEM issued a NOV to Defendant alleging violations of the Freshwater Wetlands Regulations for the unauthorized alteration of approximately 51,100 square feet of freshwater wetland, and Solid Waste Regulations for depositing approximately 33 cubic yards of construction and demolition debris along with approximately 648 cubic yards of "Organic Waste".
10. The NOV was delivered to Defendant's Registered Agent on or about April 23, 2014, as evidenced by the United States Postal Service.
11. The NOV ordered Defendant to:
 - a. Immediately cease and desist from any further alteration of the freshwater wetlands.
 - b. By June 1, 2014, restore all freshwater wetlands in accordance with the requirements set forth in the NOV.
 - c. Immediately cease the disposal of solid waste and the operation of a solid waste management facility, construction and demolition debris processing facility, and composting facility.
 - d. Within 60 days remove all solid waste from the Property and dispose of the solid waste at a licensed solid waste facility.
 - e. Within 10 days of the removal of all solid waste, submit disposal documentation to RIDEM.

- f. Pay an administrative penalty of Seventy-Two Thousand Two Hundred (\$72,200.00) Dollars.
12. Defendant requested an Administrative Hearing to contest the violations alleged in the NOV in accordance with R.I. Gen. Laws §§ 42-17.1-2(21)(iv), 42-17.6-4, 42-17.7. and 42-35.
13. On November 13, 2014 RIDEM re-inspected the property and determined the violations of the Solid Waste Regulations had been resolved.
14. An administrative hearing was held on October 6, 2015 and October 27, 2015, by Chief Hearing Officer David Kerins of the AAD.
15. A Decision and Order was issued by Chief Hearing Officer Kerins on April 25, 2016, upholding the NOV, and denying Defendant's appeal.
16. Defendant appealed the Decision and Order of the Chief Hearing Officer to Superior Court in accordance with R.I. Gen. Laws § 42-35-15 on May 24, 2016.
17. On June 23, 2017 the Court upheld the Decision of AAD and Defendant's appeal was dismissed. See Case No. KC-2016-0496.
18. Defendant submitted a proposed restoration plan for the freshwater wetlands on or about September 28, 2023. On or about November 14, 2023, RIDEM notified Defendant that the proposed restoration plan was inadequate, and a revised plan needed to be submitted. Defendant submitted a revised restoration plan to RIDEM on February 2, 2024. On March 6, 2024, RIDEM informed Defendant that the revised restoration plan was adequate, but required some revisions and clarifications before the plan could be formally approved. On April 3, 2024, Defendant submitted a revised restoration plan to RIDEM.
19. On June 24, 2024, RIDEM informed Defendant that the revised restoration plan was acceptable and requested a proposed schedule for the restoration to begin.
20. On July 7, 2024, Defendant indicated reluctance to move forward and asked RIDEM to "pause" all work on this plan.
21. To date, Defendant has failed to comply with the NOV as restoration of freshwater wetlands has not taken place, and the administrative penalty of Seventy-Two Thousand Two Hundred (\$72,200.00) Dollars has not been paid.
22. Defendant's appeal of the final Decision and Order was dismissed by the court, as such the NOV and associated administrative penalty contained within became a Final

Compliance Order enforceable in Superior Court pursuant to R.I. Gen. Laws §§ 42-17.1-2(21)(vi) and 42-17.6-4.

23. As of the date of this Complaint, Defendant has failed to fully comply with the terms of the Compliance Order. Such non-compliance continues to be a threat to the environment.

COUNT I

(Violation of Final Compliance Order)

24. Plaintiff hereby restates and incorporates by reference the allegations contained in paragraphs 1 through 23 above.
25. The NOV issued to Defendant by RIDEM on April 22, 2014 was issued pursuant to R.I. Gen. Laws. § 42-17.1-2(21).
26. In accordance with R.I. Gen. Laws § 42-17.1-2(21)(i), the NOV issued on April 22, 2014 notified Defendant of the facts that gave RIDEM reasonable grounds to believe that a violation had occurred, of the statutes and/or regulations violated, and of the Defendant's right to request an administrative hearing before AAD by filing a request for hearing within twenty (20) days of service of the NOV.
27. The violations alleged in the NOV, after an administrative hearing, have been upheld in the Decision and Order of AAD. The Decision and Order issued by the Chief Hearing Officer upholding the NOV became a Final Compliance Order.
28. Defendant's appeal of the Decision and Order of AAD was dismissed by the Superior Court and AAD's Decision upheld.
29. Pursuant to R.I. Gen. Laws § 42-17.1-2(21)(vi), a Final Compliance Order is enforceable in Superior Court through injunctive proceedings wherein the burden of proving error in the Final Compliance Order rests with Defendant.
30. As of the date of this Complaint, Defendant has failed to restore the freshwater wetlands in accordance with the NOV.

COUNT II

(Violation of a Compliance Order Administrative Penalty)

31. Plaintiff hereby restates and incorporates by reference the allegations contained in Paragraphs 1 through 30 above.

32. The NOV issued to Defendant on April 22, 2014, was issued pursuant to R.I. Gen. Law § 42-17.1-2(21).
33. The administrative penalty assessed in the NOV issued to Defendant was assessed pursuant to R.I. Gen. Law § 42-17.6-3.
34. In accordance with R.I. Gen. Laws § 42-17.6-3(a) the aforementioned NOV notified Defendant of the facts giving rise to the alleged violations, of the statutes and/or regulations violated, the amount of the assessed administrative penalty for each violation, of Defendant's right to request an administrative hearing before AAD by filing a request for hearing within twenty (20) days of service of the NOV.
35. The assessed administrative penalty stated in the NOV was deemed to have been properly calculated as ordered in the Decision and Order of the AAD. The AAD Decision and Order was subsequently upheld by the Court.
36. The final Decision and Order issued by the Chief Hearing Officer upholding the NOV and associated administrative penalty contained within became a Final Compliance Order enforceable in Superior Court pursuant to R.I. Gen. Laws §§42-17.1-2(21)(vi) and 42-17.6-4.
37. Pursuant to R.I. Gen. Laws § 42-17.1-2(21)(vi), a Final Compliance Order is enforceable in Superior Court through injunctive proceedings wherein the burden of proving error in the Final Compliance Order rests with Defendant.
38. As of the date of this Complaint Defendant has failed to pay the administrative penalty assessed.

WHEREFORE, Plaintiff, Terrence Gray, in his capacity as Director of the Rhode Island Department of Environmental Management, hereby requests that this Honorable Court enter judgment in favor of the Plaintiff and that the Plaintiff be granted the following relief.

- (a) Preliminary and Permanent Injunctive Relief, ordering Defendant to restore all freshwater wetlands in accordance with the NOV issued by the Department dated April 22, 2014 and that said Restoration must be completed by October 31, 2025.

(b) Award of Administrative Penalty, ordering Defendant to immediately pay Seventy-Two Thousand Two Hundred (\$72,200.00) Dollars to Plaintiff which is the amount of the administrative penalty assessed in the NOV.

(c) Such further relief as this Court deems just and equitable in accordance with the facts of this case.

VERIFICATION

I, _____ of the Rhode Island Department of Environmental Management Office of Compliance and Inspection and an authorized representative of the Director, first being duly sworn upon oath, hereby state that the facts contained in this Complaint are to the best of my knowledge and belief, true and accurate.

For the Director,

By: _____
Bruce Ahern
Environmental Scientist III
Office of Compliance and Inspection
Dated: May __, 2025.

**STATE OF RHODE ISLAND
PROVIDENCE COUNTY**

Subscribed and sworn to before me this ____ day of May, 2025.

NOTARY PUBLIC
My commission expires:

Submitted by:
Terrence Gray,
in his capacity as Director,
RHODE ISLAND DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

By his attorneys,

/s/ Tricia Quest

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