

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

**RE: FARRAR, DOUGLAS H.  
NOTICE OF VIOLATION OC&I/SW 02-015**

**AAD NO. 02-011/WME**

**DECISION AND ORDER**

This matter came before the Department of Environmental Management, Administrative Adjudication Division for Environmental Matters ("AAD") pursuant to Douglas Farrar's request for hearing on the Notice of Violation and Order ("NOV") issued by the DEM Office of Compliance and Inspection ("OCI") on July 8, 2002. Mr. Farrar ("Respondent") represented himself. The OCI was represented by Timothy W. Pavilonis, Esq.

The hearing was held on June 23, 2003. No post-hearing briefs were filed and the hearing was considered closed on June 23, 2003.

The within proceeding was conducted in accordance with the statutes governing the Administrative Adjudication Division for Environmental Matters (R.I. GEN. LAWS § 42-17.7-1 *et seq.*); Chapter 17.6 of Title 42 entitled "Administrative Penalties for Environmental Violations"; the Administrative Procedures Act (R.I. GEN. LAWS § 42-35-1 *et seq.*); the Administrative Rules of Practice and Procedure for the Department of Environmental Management, Administrative Adjudication Division for Environmental Matters ("AAD Rules"); and the Rules and Regulations for Assessment of Administrative Penalties ("Penalty Regulations").

**PREHEARING CONFERENCE**

A prehearing conference was conducted on February 10, 2003 and a Prehearing Conference Record and Order was issued on February 17, 2003. There

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were no stipulations of fact by the parties. A list of the exhibits, marked as they were admitted at the hearing, is attached to this Decision as Appendix A.

**HEARING SUMMARY**

At the hearing, the OCI called four (4) witnesses: **Christopher Shafer**, a Senior Environmental Scientist in the DEM Office of Waste Management ("OWM") but formerly in the Division of Waste Management until 1997; **Richard S. LeFebvre**, an Environmental Scientist in OCI's Underground Storage Tank ("UST") Compliance Program but formerly an Environmental Quality Technician in the Division of Waste Management from January 1993 until August 1998; **Donald R. Squires**, an Engineering Technician IV in the OCI's Solid Waste Section from July 1999 until March 2003; and **James M. Ashton**, a Principal Environmental Scientist and the supervisor of the OCI's Solid Waste Section.

Respondent presented one (1) witness: **Douglas H. Farrar**.

**I. The Notice of Violation**

The NOV issued to Respondent on July 8, 2002 concerns property located on Farrar Lane, Smithfield, Rhode Island, otherwise identified as Assessor's Plat 46, Lot 151 (the "Property"). The NOV cites Respondent for violating R.I. GEN. LAWS § 23-18.9-5 relating to disposal of solid waste at other than a licensed solid waste management facility. That section provides as follows:

**23-18.9-5. Disposal of refuse at other than a licensed facility.** -- (a) No person shall dispose of solid waste at other than a solid waste management facility licensed by the director.

(b) The phrase "dispose of solid waste", as prohibited in this section, refers to the depositing, casting, throwing, leaving or abandoning of a quantity greater than three (3) cubic yards of solid waste. Used asphalt, concrete, Portland concrete cement, and tree stumps, and solid waste temporarily in a vehicle or proper receptacle at a licensed place of business of a licensed solid waste hauler for a period not to exceed seventy-two (72) hours shall not be considered solid waste for purposes of this chapter.

R.I. GEN. LAWS § 23-18.9-7 provides the following definition of solid waste:

**“Solid Waste”** means garbage, refuse and other discarded solid materials generated by residential, institutional, commercial, industrial and agricultural sources, but does not include solids or dissolved material in domestic sewage or sewage sludge, nor does it include hazardous waste as defined in chapter 19.1 of this title, nor does it include used asphalt, concrete, Portland concrete cement, or tree stumps.

As a consequence of Respondent's alleged violation of R.I. GEN. LAWS § 23-18.9-5, the NOV ordered Respondent to immediately cease the disposal of solid waste on his property; to remove the solid waste and dispose of it at a licensed solid waste management facility within ninety (90) days; and to submit to the OCI documentation of the disposal at a licensed solid waste management facility within ten (10) days of the completion of the solid waste removal. The NOV also ordered Respondent to pay an administrative penalty in the amount of Two Thousand Five Hundred (\$2,500.00) Dollars.

## **II. Disposal of Solid Waste**

Christopher Shafer was OCI's first witness. Mr. Shafer testified that he is a Senior Environmental Scientist in the OWM, involved with the solid waste and hazardous waste programs and in regulation development since 1997. Prior to that year, Mr. Shafer had conducted approximately 300-500 inspections for the solid waste program. Mr. Shafer has issued Letters of Deficiency and Notices of Intent to Enforce, all notifications that are preliminary to the issuance of a Notice of Violation.

Following *voir dire* by Respondent, Mr. Shafer was qualified as an expert in the investigation of solid waste violations and enforcement of R.I. GEN. LAWS § 23-18.9-5 (also referred to herein as the “Refuse Disposal Act”).

Mr. Shafer testified that on June 27, 1996 he visited Mr. Farrar's property in response to a complaint received by the DEM. He observed various types of solid

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waste on the property, including scrap metal, a used fuel tank, wood waste, a leaf pile, construction and demolition debris, used tires, carpeting and unregistered vehicles. Based upon his observations, Mr. Shafer concluded that there was well in excess of three (3) cubic yards of solid waste on the property. Mr. Shafer proceeded to the Town Hall to obtain the plat and lot numbers and determined that the property was owned by Douglas H. Farrar, III<sup>1</sup>. On June 28, 1996, a Letter of Deficiency ("LOD") was issued to Mr. Farrar. The LOD required Respondent to submit a remediation plan that would specify the initiation and completion dates for the cleanup and the name and location of the approved solid waste facility for the waste disposal. Respondent was also required to provide documentation and receipts for the disposal. No burning or burying on site would be allowed. OCI 3 at 1-2.

In response to the LOD's requirements, Respondent sent a letter to Mr. Shafer dated July 6, 1996. The letter included a plan for removal of the materials and specified an immediate start date for proper disposal. Cleanup would be completed in September 1996. OCI 4.

In cross-examination, Mr. Shafer was questioned by Respondent about whether the Town of Smithfield allowed unregistered vehicles on the property. Mr. Shafer stated that he had not checked with the Town regarding the vehicles.

Under later questioning by OCI counsel, the witness explained that he had determined the vehicles were unregistered because of the original complaint and from their location on the property. Even excluding the vehicles, however, Mr. Shafer concluded that there was in excess of three (3) cubic yards of solid waste on the property. He also testified that Douglas Farrar had not applied for a license to dispose of solid waste. He did not recall receiving any disposal receipts.

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<sup>1</sup> When Mr. Farrar was sworn in, he identified himself as Douglas H. Farrar and indicated that that was the name he uses.

OCI's next witness was Richard S. LeFebvre. Mr. LeFebvre, an Environmental Scientist for OCI's UST Compliance Program since December 1998, had worked for the Division of Waste Management from January 1993 through August 1998. As an Environmental Quality Technician with the Solid Waste Enforcement Program at the Division of Waste Management, he had conducted solid waste inspections, including those of transfer stations and landfills. Mr. LeFebvre estimated that he had performed at least 500 inspections. He stated that he was familiar with the Solid Waste Regulations and with the Refuse Disposal Act. As part of his job, he would prepare reports and draft enforcement actions for review by his supervisor, James Ashton.

Without objection, Mr. LeFebvre was qualified as an expert in the investigation of solid waste violations and enforcement of R.I. GEN. LAWS § 23-18.9-5.

Mr. LeFebvre testified that on October 23, 1996 he conducted a follow-up inspection of the property. During this visit, the inspector noted a stockpile of tree trunks, processed wood, a stockpile of brush, tree limbs and scrap metal. He also observed a steel fuel tank, a refrigerator, a stockpile of sheet metal and other metal items. All of the above items were considered solid waste, according to the witness. When questioned about his photographs, Mr. LeFebvre also noted the presence of a pickup truck and another vehicle body. Because of the condition and location of the vehicles, Mr. LeFebvre had assumed they were discarded solid waste. OCI 7, photos #9162 and #9160. Another photograph shows a pile of used tires and the remains of a school bus. OCI 7, photo #9159. He concluded in his report that most of the solid waste remained on site, approximately 80 cubic yards, and that "minimal remedial activity was evident". OCI 7 at 1.

Mr. LeFebvre conducted a further inspection on December 17, 1997. In his report he noted that the solid waste, including the bus, tires, processed wood, metal scrap, two fuel tanks, tree waste and other mixed solid waste, remained on the

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property; "No remedial activity was evident." Approximately 80 cubic yards of solid waste remained on the property. OCI 9. This witness also did not believe that he had received any disposal receipts from Mr. Farrar.

Under cross-examination the witness agreed that if the wood were stockpiled for use as firewood, then it would not be considered solid waste. He had determined that the brush and tree trunks were solid waste in this instance because Mr. Farrar's July 6, 1996 response to the LOD had stated that the tree trunks would be removed to the Smithfield Peat Company for disposal. Yet the waste was still on site during his inspection on December 17, 1997.

OCI's third witness, Donald Squires, testified that although he presently works in the OCI's Emergency Response Above-Ground Tank Section, he had worked in OCI's Solid Waste Section from July 1999 until March 2003. His duties had included the investigation of improper handling and dumping of solid waste. He considered that he had conducted close to 2,000 inspections during that period. He stated that he was familiar with the Solid Waste Regulations and the Refuse Disposal Act and applied the provisions during his inspections. He had testified as an expert witness before the AAD and in Superior Court on other solid waste matters.

Without objection, Mr. Squires was qualified as an expert in the investigation of solid waste complaints and enforcement of the R. I. Refuse Disposal Act.

On January 9, 2002, Donald Squires conducted an inspection of Mr. Farrar's property to confirm whether the solid waste had been removed and disposed of. Mr. Squires took photographs that are part of his Field Inspection Report. Those photographs contain his notations: scrap metal (photo #P1090010); 275-gallon above-ground tank (photo # P1090011); six cubic yards of yard waste (photo #P1090012); seven cubic yards of scrap metal (photo #P1090013); the "junk bus" (photo

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#P1090014); three cubic yards of wood waste (photo #P1090015); and eight cubic yards of tree waste (photo #P1090016). OCI 11 at 3-6.

Mr. Squires had concluded that the 275-gallon above-ground home heating oil tank was solid waste because it was discarded, out in the field, and not being used for its intended purpose. He considered the bus solid waste because it was in poor shape, unlikely to have passed inspection, and not on a roadway. He calculated that 36 cubic yards of solid waste remained on the property. He conceded that in his review of the file, he had not looked for receipts for disposal.

The witness agreed under cross-examination that no one had answered the doors when he had approached the cottages on the property. He had then conducted his inspection in the open field. He had not made any telephone call nor sent any letter to Mr. Farrar prior to his visit.

The OCI's final witness was James M. Ashton. Mr. Ashton is a Principal Environmental Scientist and is the supervisor of OCI's Solid Waste Section. He has served in a supervisor capacity dealing with solid waste for fifteen years. He stated that his duties were to oversee compliance issues dealing with solid waste and medical waste and to prepare Notices of Violation and letters of noncompliance. He stated that he has been involved in approximately 800 to 1000 solid waste investigations and is familiar with the Department's Solid Waste Regulations and the R.I. Refuse Disposal Act. He has been qualified and testified as an expert witness in the field of solid waste before the AAD and in Superior Court.

Without objection, Mr. Ashton was qualified as an expert in the areas of solid waste management and the enforcement of the R. I. GEN. LAWS § 23-18.9-5.

Mr. Ashton testified that he was familiar with the disposal of solid waste on Mr. Farrar's property through his review of the inspectors' reports and the 1996 LOD sent to Mr. Farrar. He stated that he had also reviewed Respondent's plan of remediation

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for the proper removal and disposal of the material. Although another individual on the OCI staff had drafted the NOV, Mr. Ashton stated that he oversaw its preparation and reviewed its contents for accuracy.

Under cross-examination, the witness was questioned about the disposal weight slips that Respondent presented as an exhibit. See Resp 1. Mr. Ashton stated that although he had heard there were weight slips, he did not recall seeing them prior to the day of the hearing. He was also asked about the various materials on the site. Mr. Ashton stated that leaves were solid waste under Rhode Island law. Tree trunks and limbs, but not stumps, were solid waste by definition of law; but that wood, if it was cut to be used as firewood, would probably not be a problem. Scrap metal, by law, was also deemed solid waste, according to the witness.

During the questioning of this witness, the OCI stipulated that, after the NOV had been issued, an inspection determined that Respondent had removed most of the material from the site.

The witness was shown OCI 15, a Field Inspection Report for the inspection of the property on March 3, 2003, after the issuance of the NOV (the issuance date was not established in evidence). James Ashton confirmed that Donald Squires had performed the inspection pursuant to ongoing settlement negotiations and to determine the current conditions on site. The report noted that a partial cleanup had taken place: the scrap metal and wood waste had been removed. Waste remaining on site included the "junk school bus" and a pile of tree waste. Donald Squires had estimated the volume of waste material to be "approximately six cubic yards and the junk bus." at 1.

Respondent's only witness was Douglas H. Farrar. Mr. Farrar presented his evidence in narrative form. He explained that when he purchased the property in 1983, it had been "a disaster". He had had to use seven 40-yard roll-offs in the first two years and has been cleaning the property since he bought it. He cited his history with DEM

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that included problems with DEM on the installation of a septic system in 1990; problems with DEM handling a third party's oil spill on the property; and problems with DEM in applying for a change in use from a house to apartment units. In 1995, he also had to deal with confusion between the town's requirement for a certificate of conformance for the 1990 septic system's installation, and the ISDS Section's position that one is not issued for what was considered a repair application. His list of grievances concluded with the statement that an unruly tenant, in an effort at some sort of retaliation against Mr. Farrar, had made complaints to the building inspector about building damage and to the DEM about the brush and other materials on the property.

According to Mr. Farrar, this tenant had not only added two tires to the pile of ten that had already accumulated on the property, but was also responsible for the same property damage that he had complained about to the building inspector.

Mr. Farrar stated, as he had done so previously, that DEM's entry on his land for the original solid waste inspection had made him feel like it was Nazi Germany in 1939. On other occasions, when he had been asked, he had never refused access to the property.

The witness testified that he had been cleaning the property ever since he bought it, but that he did it in his "own time and fashion." He had removed material. He had burned brush as allowed by the Town and by fire permit. Mr. Farrar stated that the scrap wood was from work being done on a building and that when a "substantial amount" had accumulated, he would have it trucked to the landfill. He argued that the Town allowed each household to have one unregistered vehicle, which he acknowledged he had. He also argued that the body of the bus had not been cited "in the first violation".<sup>2</sup>

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<sup>2</sup> The LOD references two unregistered trucks but is silent regarding any bus on the property; the NOV speaks more generally to "unregistered vehicles".

Respondent's single exhibit contains six weight slips, from the period August 10, 1996 through April 23, 1997, as well as a copy of the DEM Permit to Kindle Fire issued by the Town of Smithfield. Resp 1.

The OCI waived cross-examination of the witness.

During the hearing, Respondent made several efforts to offer into evidence the substance of settlement negotiations between the parties. Respondent had been told at the prehearing conference, and was advised again at the hearing, that he would be held to the same standards as if he had been represented by an attorney; that is, he is held to the requirements of the Rules of Evidence and of the rules of procedure for conduct of the hearing. Settlement evidence was ruled inadmissible pursuant to Rule 408 of the Rhode Island Rules of Evidence. Notwithstanding the ruling, the witness proceeded to testify about OCI's proposed terms for settlement. As was fully explained on the record, that evidence must be considered inadmissible in order to allow parties to freely participate in fruitful settlement negotiations. Although Respondent ignored the ruling, his testimony regarding settlement negotiations is not discussed and is not considered in this Decision.

**Conclusion**

R.I. GEN. LAWS § 23-18.9-5 prohibits the disposal of solid waste at other than a licensed solid waste management facility. That statute defines "dispose of solid waste" to mean the depositing, casting, throwing, leaving or abandoning of a quantity greater than three (3) cubic yards of solid waste. The substantial evidence on the record supports a finding that an amount of solid waste in excess of three cubic yards had been deposited on Respondent's property on or before June 27, 1996. By letter dated July 26, 1996, Mr. Farrar proposed to clean up the site by removing carpeting, wood waste, tires and demolition debris to the landfill; by having tenants remove unregistered trucks; by recycling scrap metal; by using the old fuel tanks; and by

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mulching the leaves. He agreed to begin immediately and intended to have the remediation completed by September 1996.

The substantial evidence on the record supports a finding that an amount of solid waste in excess of three cubic yards remained on Respondent's property on October 23, 1996. Minimal cleanup had been accomplished. The evidence supports a finding that on December 17, 1997, solid waste deposits in excess of three cubic yards continued on Respondent's property. No remedial activity was evident. The evidence supports a finding that on January 9, 2002, although a partial cleanup had occurred, an estimated 36 cubic yards of solid waste remained on the property.

I conclude that the OCI has proved by a preponderance of the evidence that Respondent violated R.I. GEN. LAWS § 23-18.9-5 as set forth in the NOV.

**III. Assessment of an Administrative Penalty**

As indicated in the NOV, the OCI seeks the assessment of an administrative penalty in the amount of Two Thousand Five Hundred Dollars (\$2,500.00) against Respondent. The NOV states that the penalty was assessed pursuant to R.I. GEN. LAWS § 42-17.6-2 and was calculated pursuant to the Penalty Regulations.

§ 12(c) of the Penalty Regulations provides the following:

In an enforcement hearing the Director must prove the alleged violation by a preponderance of the evidence. Once a violation is established, the violator bears the burden of proving by a preponderance of the evidence that the Director failed to assess the penalty and/or the economic benefit portion of the penalty in accordance with these regulations.

The Department's interpretation of this provision requires the OCI to prove the alleged violation by a preponderance of the evidence and "includes establishing, in evidence, the penalty amount and its calculation." The violator then bears the burden of proving that the penalty and/or economic benefit portion of the penalty was not assessed in

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accordance with the Penalty Regulations. In Re: Richard Fickett, AAD No. 93-014/GWE, Final Decision and Order issued by the Director on December 9, 1995.

Section 10 of the Penalty Regulations provides for the calculation of the penalty through the determination of whether a violation is a Type I, Type II or Type III violation and whether the Deviation from Standard is Minor, Moderate or Major. Once the Type and Deviation from Standard are known, a penalty range for the violation can be determined by reference to the appropriate penalty matrix.

The penalty amount and its calculation were established in evidence through the testimony of James Ashton. He stated that he had calculated the penalty and that the penalty was assessed in the amount of \$2,500.00. He testified that this violation had been calculated to be a Type I violation because it was directly related to the protection of health, safety and the environment and has the potential to cause environmental harm. The witness stated that this classification was consistent with the designation in other solid waste enforcement cases.

Mr. Ashton also testified that in determining that the violation was a Minor Deviation from Standard, several factors had been considered. Those factors included that the Respondent had failed to dispose of solid waste at a licensed solid waste management facility; the environmental conditions on the property, including the potential for leachate to threaten groundwater and surface waters in the area; the potential for harboring vectors; the potential for causing odors; and the amount of solid waste, 36 cubic yards. This amount was based upon Donald Squires' January 9, 2002 inspection report. Also considered were the circumstances that the violation had existed since June 27, 1996; that Respondent had been formally notified of the violation; and that in 2002, there continued to be a violation of the statute. The OCI had also considered that Respondent had full control over the property and failed to dispose of all of the solid waste on the property.

Although Respondent cross-examined Mr. Ashton about the weight slips and other issues, he did not question the witness regarding the administrative penalty. In Mr. Farrar's own testimony, the matter of the penalty was not addressed.

**Conclusion**

The OCI established in evidence the penalty amount and the violation's calculation to be a Type I Minor Deviation from Standard. Respondent has failed to prove by a preponderance of the evidence that the assessment of an administrative penalty in the amount of \$2,500.00 was not in accordance with the Penalty Regulations.

Wherefore, after considering the testimonial and documentary evidence of record, I make the following:

**FINDINGS OF FACT**

1. Douglas H. Farrar (the "Respondent") is the owner of real property located on Farrar Lane in Smithfield, Rhode Island otherwise identified as Assessor's Plat 46, Lot 151 (the "Property").
2. On June 27, 1996, a DEM employee conducted an inspection on the Property and observed scrap metal, a used fuel tank, wood waste, a leaf pile, construction and demolition debris, old used tires and carpeting in excess of three (3) cubic yards.
3. Douglas H. Farrar does not have a license to dispose of solid waste on the Property.
4. On June 28, 1996, a Letter of Deficiency ("LOD") was issued to Mr. Farrar that required the submission of a remediation plan that would specify the initiation date and the date for completion of the removal of the materials. The LOD also required that Mr. Farrar identify the name and location of the approved solid waste facility where the waste would be disposed of. He was required to provide documentation and receipts for the disposal.
5. On July 6, 1996, Mr. Farrar responded to the LOD with a remediation plan that called for an immediate start to the cleanup and set a completion date of September 1996.
6. On October 23, 1996, December 17, 1997 and January 9, 2002, DEM personnel conducted inspections on the Property.

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7. On October 23, 1996, approximately 80 cubic yards of material, including a stockpile of tree trunks, processed wood, a stockpile of brush, tree limbs and scrap metal, a used fuel tank, a stockpile of sheet metal, used tires and the remains of a school bus and a refrigerator, was present on the Property.
8. On December 17, 1997, approximately 80 cubic yards of material, including a bus, tires, processed wood, metal scrap, two fuel tanks and tree waste, was present on the Property.
9. On January 9, 2002, approximately 36 cubic yards of material, including scrap metal, a used fuel tank, a bus, yard, wood and tree waste, was present on the Property.
10. The OCI established in evidence that Respondent's violation of R.I. GEN. LAWS § 23-18.9-5 was determined to be a Type I Minor Deviation from Standard.
11. The OCI established in evidence that the amount of the penalty for disposing of solid waste at other than a licensed solid waste management facility was \$2,500.00.
12. An administrative penalty in the amount of \$2,500.00 for disposing of solid waste at other than a licensed solid waste management facility is not excessive.

**CONCLUSIONS OF LAW**

After due consideration of the documentary and testimonial evidence of record and based upon the above findings of fact, I conclude the following as a matter of law:

1. The OCI has proved by a preponderance of the evidence that an amount of solid waste greater than three (3) cubic yards had been deposited on the Property.
2. The OCI has proved by a preponderance of the evidence that Respondent was disposing of solid waste at other than a licensed solid waste management facility in violation of R.I. GEN. LAWS § 23-18.9-5.
3. The OCI established in evidence the penalty amount and its calculation.
4. Respondent has failed to prove by a preponderance of the evidence that OCI's determination of the violation as a Type I Minor Deviation from Standard was not in accordance with the Penalty Regulations.
5. Respondent has failed to prove by a preponderance of the evidence that the assessment of an administrative penalty in the amount of \$2,500.00 is not in accordance with the Penalty Regulations.
6. The assessment of an administrative penalty against Respondent in the amount of \$2,500.00 is in accordance with the Penalty Regulations.

Wherefore, based upon the above Findings of Fact and Conclusions of Law, it is hereby

**ORDERED**

1. Respondent shall immediately cease the disposal of solid waste on the Property.
2. Within ninety (90) days of the date of this Final Agency Order, Respondent shall complete the removal of all solid waste from the Property and dispose of said waste at a licensed solid waste management facility.
3. Within ten (10) days of completion of the solid waste removal, documentation of disposal (receipts, bills, weight slips, etc.) at a licensed solid waste management facility shall be submitted to the RIDEM Office of Compliance and Inspection, 235 Promenade Street, Room 220, Providence, RI 02908-5767, ATTN: James M. Ashton.
4. An administrative penalty in the amount of Two Thousand Five Hundred (\$2,500.00) Dollars is hereby ASSESSED against Respondent.
5. Respondent shall make payment of the administrative penalty within thirty (30) days from the date of entry of the Final Agency Order in this matter. Payment shall be in the form of a certified check or money order made payable to the "General Treasury -- Environmental Response Fund Account," and shall be forwarded to:

R.I. Department of Environmental Management  
Office of Management Services  
235 Promenade Street, Room 340  
Providence, RI 02908  
Attn: Glenn Miller

Entered as an Administrative Order this 4<sup>th</sup> day of September, 2003 and herewith recommended to the Director for issuance as a Final Agency Order.

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Mary F. McMahon  
Hearing Officer  
Department of Environmental Management  
Administrative Adjudication Division  
235 Promenade Street, Third Floor  
Providence, Rhode Island 02908  
401-222-1357

Entered as a Final Agency Order this 8<sup>th</sup> day of September, 2003.

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Jan H. Reitsma  
Director  
Department of Environmental Management  
235 Promenade Street, Fourth Floor  
Providence, Rhode Island 02908

**CERTIFICATION**

I hereby certify that I caused a true copy of the within Decision and Order to be forwarded, via regular mail, postage prepaid to Douglas Farrar, P.O. Box 201, North Scituate, RI 02857; via interoffice mail to Gregory Schultz, Esquire, Office of Legal Services and Dean H. Albro, Chief, Office of Compliance and Inspection, 235 Promenade Street, Providence, RI 02908 on this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

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If you are aggrieved by this final agency order, you may appeal this final order to the Rhode Island Superior Court within thirty (30) days from the date of mailing of this notice of final decision pursuant to the provisions for judicial review established by the Rhode Island Administrative Procedures Act, specifically, R.I. Gen. Laws §42-35-15.

**APPENDIX A**

**LIST OF EXHIBITS**

**OCI'S EXHIBITS**

- |                  |   |
|------------------|---|
| OCI 1<br>Full    | Resume of Christopher Shafer, P.E. (1 page)   |
| OCI 2<br>Full    | Original Site Inspection Report with plastic sleeve of 6 photographs attached - dated 06/27/96, Christopher Shafer. (2 pages) |
| OCI 3<br>Full    | Letter of Deficiency - 06/28/96, Christopher Shafer. (2 pages)  |
| OCI 4<br>Full    | Letter from Douglas H. Farrar to Christopher Shafer - dated 07/06/96. (1 page)  |
| OCI 5<br>Full    | Letter from Christopher Shafer to Douglas H. Farrar - 07/12/96. (1 page)  |
| OCI 6<br>Full    | Resume of Richard LeFebvre (1 page)   |
| OCI 7<br>Full    | Original Site Inspection Report with plastic sleeve of 6 photographs attached - dated 10/23/96, Richard LeFebvre. (3 pages)   |
| OCI 8<br>for Id  | Site Inspection Report - dated 11/07/96, Paul Dutra. (1 page)   |
| OCI 9<br>Full    | Site Inspection Report - dated 12/17/96, Richard LeFebvre. (1 page)   |
| OCI 10<br>Full   | Resume of Donald R. Squires (2 pages)   |
| OCI 11<br>Full   | Original Site Inspection Report with color prints of 7 photographs attached - dated 01/09/02, Donald R. Squires. (6 pages)    |
| OCI 12<br>Full   | Resume of James M. Ashton (2 pages)   |
| OCI 13<br>for Id | Notice of Violation No. OC&I/SW 02-015, with two cover letters - dated 07/08/02. (8 pages total)                              |
| OCI 14<br>for Id | Letter from Respondent - Request for hearing - dated 07/26/02. (1 page)   |

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OCI 15      Original Field Inspection Report with color prints of 5 photographs  
Full          attached - dated 03/03/03. (5 pages)

**RESPONDENT'S EXHIBITS**

Resp 1      Invoices and/or receipts from RI Solid Waste Management  
Full          Corporation, Stateline Scrap Co., Inc. and NEED; Permit to  
Kindle Fine issued by the DEM Division of Forest Environment.