

Department of Environmental Management
Administrative Adjudication Division
State of Rhode Island
Re: Thomas Doyle III
AAD No.07-039/F&WA
Lobster Trap Allocation
MPURP 000310
May, 2008

FINAL ORDER OF DISMISSAL

On April 1, 2008 Hearing Officer David Kerins issued an Order Requiring Applicant's Response to determine whether Applicant would proceed with his hearing request or if he had waived his right to a hearing. Applicant Thomas Doyle III failed to respond or otherwise inform the Hearing Officer of his intentions in this matter.

On April 25, 2008 a Conditional Order of Default was entered against the Applicant. Pursuant to the Order, Applicant had until and including May 5, 2008 to show good cause why a Final Order of Default should not be entered for Applicant's failure to comply with the Order Requiring Applicant's Response. Applicant has not responded to the Conditional Order of Default.

FINDINGS OF FACT

A review of the AAD file reveals the following:

1. The Order Requiring Applicant's Response was issued on April 1, 2008 providing that: **Applicant shall have until and including April 18, 2008 to file at the AAD one of the following written responses:**
 - A. A request that this matter be assigned a hearing date; or
 - B. A withdrawal of the request for hearing.”
2. The Order further advised Applicant that “If Applicant has not filed a written response by April 18, 2008, then a Conditional Order of Default will be entered against the Applicant for his failure to pursue his appeal.”
3. Applicant has not filed a response to the Order Requiring Applicant's Response.
4. On April 25, 2008 a Conditional Order of Default was entered against the Applicant advising him that he had “until May 5, 2008 to a show good cause in writing why a Final Default should not enter”.
5. To date Applicant has not complied with the Conditional Order of Default.
6. Applicant is in Default.

CONCLUSION OF LAW

Based upon the above Findings of Fact, I conclude the following as a matter of law:

1. Applicant Thomas Doyle, III has failed to show good cause why a Final Order of Default should not be entered against him for his failure to pursue his appeal.
 2. Applicant Thomas Doyle, III is deemed to have waived his right to an adjudicatory hearing on the Lobster Trap Allocation determined by the Division of Fish and Wildlife.
- Wherefore, it is hereby

ORDERED

1. Applicant is in Default and his request for hearing on the Lobster Trap Allocation is herewith DISMISSED.

Entered as an Administrative Order this _____ day of May, 2008 and herewith recommended to the Director for issuance as a Final Agency Order.

David Kerins
Hearing Officer

Entered as a Final Agency Order this _____ day of May, 2008.

W. Michael Sullivan, Ph.D.,
Director

NOTICE OF APPELLATE RIGHTS

This Final Order constitutes a final order of the Department of Environmental Management pursuant to RI general Laws § 42-35-12. Pursuant to R.I. Gen. Laws § 42-35-15, a final order may be appealed to the Superior Court sitting in and for the County of Providence within thirty (30) days of the mailing date of this decision. Such appeal, if taken, must be completed by filing a petition for review in Superior Court. The filing of the complaint does not itself stay enforcement of this order. The agency may grant, or the reviewing court may order, a stay upon the appropriate terms