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Deputy Commissioner

June 3, 2016

Thomas D. Williams.
112 Elm Street
Scituate, MA 02066

Re: FINAL DECISION AND FINAL AGENCY ACTION

Matter of Williams, Case No. CLP-1892-16-DM

Dear Mr. Williams:

Please find attached the Magistrate's **RECOMMENDED FINAL DECISION OF JUDGMENT BY DEFAULT** in the above referenced proceeding.

Upon review of the administrative record and after reading the Magistrate's discussion, order and decision I have decided to adopt it as my **FINAL DECISION** in this proceeding.

The record in this case shows that you did not participate in the adjudicatory process, which is your right. At no stage of the process did you deny or otherwise challenge the charges brought against you by the Massachusetts Environmental Police. You did not appear on the day of your hearing. *Marine Fisheries* received no written or electronic communication requesting a continuance in a timely fashion. Although you received a written **NOTICE OF DEFAULT** you did not take advantage of the ten day period to ask that it be set aside or vacated. This record clearly shows a decision not to contest or otherwise defend against the charges brought by the Environmental Police, which again is your right.

Based on all of the above I have decided to revoke and not renew your coastal commercial lobster permit #1892 including all regulated fishery permit endorsements as the **FINAL AGENCY ACTION**.

Pursuant to G.L. c.30A, §14 you have thirty days from the date of this letter to file an action for judicial review of my decision and agency action in a court of competent jurisdiction.

Regards,

A handwritten signature in cursive script that reads "David E. Pierce".

David E. Pierce, PhD
Director

RECOMMENDED FINAL DECISION

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF FISH AND GAME
DIVISION OF MARINE FISHERIES

SUFFOLK, SS.

ADJUDICATORY PROCEEDING
DOCKET NO. CCL-1892-16-LE

IN THE MATTER OF:

THOMAS D. WILLIAMS AND
COASTAL LOBSTER PERMIT
ID NO. 1892 and ALL REGULATED
FISHERY PERMIT ENDORSEMENTS

**RECOMMENDED FINAL DECISION
NOTICE OF JUDGMENT BY DEFAULT**

I. BACKGROUND

On December 19, 2015 the Massachusetts Environmental Police (MEP) filed a Notice of Claim for an Adjudicatory Proceeding alleging that on or about September 9, 2015, the respondent Thomas D. Williams (Mr. Williams) violated G.L. c.130, §31, taking, using, destroying or molesting the lobster gear of another person without that persons consent and other multiple charges of violating relevant provisions of the lobster conservation and management laws at 322 CMR 6.00, including possessing v-notched lobsters, possessing undersized lobsters, and possessing egg-bearing lobsters. On March 13, 2016 a *Marine Fisheries*' Order to Show Cause was delivered in-hand to Mr. Williams by MEP Officer David Marrocco¹. This document informed Mr. Williams that MEP had filed charges against him, what those charges were and included copies of the MEP reports, photos, documents and witness statements to support the charges which, if true, would constitute grounds for the revocation of coastal commercial lobster permit #1892 (lobster permit) and all special fishery permit endorsements. The Order informed Mr. Williams that he had a right to an evidentiary hearing on the record before an administrative law magistrate scheduled by *Marine Fisheries* for Friday, April 15, 2016 at 2:00 p.m. in the Hearings Room of the Department of Fish and Game, 251 Causeway Street, Suite 400, Boston, MA.

The record shows no action or response being taken by Mr. Williams or an authorized representative from March 13th through April 15th.

The hearing was held as scheduled on Friday, April 15, 2016 at 2:00 p.m. in the Hearings Room of the Department of Fish and Game, Suite 400, 251 Causeway Street, Boston, MA. In attendance were MEP Sgt. Peter Gamache, MEP Officer David

¹ See Return Certificate of Delivery.

Marrocco and four witnesses for the petitioner. Mr. Williams was not present.²

II. DISCUSSION

Based on Mr. Williams failure to appear at the hearing I found him in Default and on April 22, 2016 issued a Notice of Default for Failure to Appear and Defend. On April 26, 2016 MEP Sgt. Peter Gamache hand delivered the Notice of Default on Mr. Williams.³ The Notice of Default informed Mr. Williams that he had could file with the clerk a written request to have the Default set aside or dismissed for good cause and included the *Marine Fisheries* contact information if he had any questions about the Default or requesting that it be set aside. There was no follow-up by Mr. Williams and he did not file a written request with the clerk.

The record shows the following.


1. A docket sheet that contains no filings from Mr. Williams.
2. The presence of MEP and their four witnesses at the April 15, 2016 hearing prepared to present their case.
3. The telephone call from Mr. Williams at the ninth hour of the hearing with his statement made to the clerk that he would not be attending the hearing because he missed the MBTA Greenbush inbound train and the inaccurate statement that were no other Boston trains stopping at N. Scituate that day.
4. Mr. William's decision not to file within the ten day period prescribed by the rules a written request that the Default Judgment issued on April 22, 2016 be set aside or dismissed.⁴

III. DECISION AND ORDER

Based on all of the above, my decision is that Mr. Williams has no interest in taking advantage of the hearing to challenge the petitioner's case or any of the specific issues to be adjudicated. He has filed no answer; no pleadings; no written request for a continuance; and no written request that the Default Judgment be set aside.

Therefore, I Order the clerk to enter on the docket Judgment by Default in favor of the petitioner MEP.

Date: May 31, 2016

By: 
David C. Hoover, Esq.
Administrative Law Magistrate

² My colloquy with the administrative law clerk concerning the substance of his conversation with Mr. Williams is on the record.

³ See Return Certificate of Delivery.

⁴ It has been 36 days since the in-hand delivery of the Default Judgment to Mr. Williams providing him with an extra 26 days, which I would have accepted, beyond the 10 day rule to file a written request to set aside the Default Judgment. There has been no rush to judgment in this case.