COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
ONE WINTER STREET, BOSTON, MA 02108 617-292-5500

THE OFFICE OF APPEALS AND DISPUTE RESOLUTION

June 13**, 2008**

In the Matter of L. Moulis. & In the Matter of G. Zygouras	OADR Docket No. WET-2008-039 DEP File No. 46-303 Milton OADR Docket No. WET-2008-040 DEP File No. 46-304 Milton

RECOMMENDED FINAL DECISION

On April 29, 2008, the Office of Appeals and Dispute Resolution ("OADR") of the Massachusetts Department of Environmental Protection ("MassDEP" or "the Department") received two appeals regarding adjacent lots in Milton, Lot 15 of Herrick Drive, DEP File number 46-304 ("Lot 15") and Lot 16 of Herrick Drive, DEP File No. 46-303 ("Lot 16") (collectively the "Property"). George Zygouras ("Lot 15 Petitioner") and Leonides Moulis ("Lot 16 Petitioner") (collectively the "Petitioners") filed two appeals of denials of Superseding Orders of Conditions ("SOCs") issued by the Northeast Regional Office of the Department in regards to the Property. Petitioners have appealed two denials of requests for SOCs. On May 23, 2008, two abutters and a group of ten citizens ("Potential Intervenors") filed motions to

This information is available in alternate format. Call Donald M. Gomes, ADA Coordinator at 617-556-1057. TDD Service - 1-800-298-2207.
DEP on the World Wide Web: http://www.mass.gov/dep
Printed on Recycled Paper

intervene and to dismiss the case on the grounds of mootness. A Pre-Screening Conference with the parties to this appeal was conducted on Tuesday, May 27, 2008 in the Department's Northeast Regional Office. At that Conference a schedule was set for the response of all parties to the Potential Intervenors' motions, as well as a schedule for further proceedings.

On June 3, 2008, Petitioners, who are pro se, filed a motion entitled "Motion to Dismiss" that asked the Department to dismiss the appeal but reserved "the right to Alternative Dispute Resolution to any issues raised during these appeals in the future." Because Petitioners are not represented by legal counsel, I asked them to clarify their request. Petitioner did file a clarification stating that they fully "understand that this [motion to dismiss] will end our appeals and there will be 'no opportunity for alternative dispute resolution on the current proposed (sic) and rejected by the department." Therefore, since the Petitioners have moved to dismiss their own claims and fully understand that a dismissal will end their case, this appeal is now moot. Therefore, I recommend that the appeal be dismissed as moot. As a result, the denial of the Superseding Order of Conditions will become a final decision of the agency. See, *Matter of Osmun*, Docket No. DEP-04-958, 2005 Mass. Env. LEXIS 45 (Final Decision – Order of Dismissal, Silverstein, J., May 12, 2005).

NOTICE

This decision is a Recommended Final Decision of the Presiding Officer. It has been transmitted to the Commissioner for her Final Decision in this matter. This decision is therefore not a Final Decision subject to reconsideration under 310 CMR 1.01(14)(e), and may not be appealed to Superior Court pursuant to M.G.L. c. 30A. The Commissioner's Final Decision is subject to rights of reconsideration and court appeal and will contain a notice to that effect.

Because this matter has now been transmitted to the Commissioner, no party shall file a motion to renew or reargue this Recommended Final Decision or any part of it, and no party shall communicate with the Commissioner's office regarding this decision unless the Commissioner, in her sole discretion, directs otherwise.

This final document copy is being provided to you electronically by the Department of Environmental Protection. A signed copy of this document is on file at the DEP office listed on the letterhead.

_____
Laurel A. Mackay
Presiding Officer