



Commonwealth of Massachusetts  
Executive Office of Energy & Environmental Affairs

## Department of Environmental Protection

One Winter Street Boston, MA 02108 • 617-292-5500

DEVAL L. PATRICK  
Governor

RICHARD K. SULLIVAN JR.  
Secretary

KENNETH L. KIMMELL  
Commissioner

September 27, 2013

In the Matter of  
Community of Khmer  
Buddhist Monks, Inc.

OADR Docket No. WET-2013-001  
Lowell, MA

### FINAL DECISION

I have reviewed the Recommended Final Decision issued on September 20, 2013 and the Settlement Agreement and proposed Final Order of Conditions and revised plans (dated June 23 and July 23, 2013) that were filed on July 25, 2013 with the Office of Appeals and Dispute Resolution. The Settlement Agreement was executed by Eric Worrall on behalf of MassDEP on July 5, 2013, and by Samkhann Khoeun on behalf of the Community of Khmer Buddhist Monks, Inc. on July 13, 2013. As the only parties who opposed the Settlement Agreement, the Lowell Conservation Commission and the Interveners were required by 310 CMR 1.01(8)(c) to demonstrate that the Settlement Agreement “is inconsistent with law” and should not be approved by the Department’s Commissioner. I adopt the Recommended Final Decision of the Presiding Officer, which found that the Lowell Conservation Commission and the Interveners failed to demonstrate that the Settlement Agreement is “inconsistent with law” under 310 CMR 1.01(8)(c). Accordingly, I issue this Final Decision approving the Settlement Agreement and

proposed Final Order of Condition, with the caveat that MassDEP submit a Final Order of Conditions that includes the additional condition discussed by the Presiding Officer on pages two and twelve of the Recommended Final Decision.

Under the terms of 310 CMR 1.01(8)(c), these proceedings are dismissed as to MassDEP and the Community of Khmer Buddhist Monks who have waived whatever rights they may have had to further administrative review before the Department as well as appeal to court.

The proceedings are also dismissed as to the Lowell Conservation Commission and the Interveners because they failed to demonstrate that the Settlement Agreement is “inconsistent with law” under 310 CMR 1.01(8)(c). The Commission and the Interveners are notified of their rights to file a motion for reconsideration of this Final Decision, pursuant to 310 CMR 1.01(14)(d). The motion must be filed with the Case Administrator and served on all parties within seven business days of the postmark date of this Final Decision. The Commission and the Interveners are also notified of their rights to seek judicial review of this Final Decision by appealing to the Superior Court pursuant to M.G.L. c. 30A, §14(1). The complaint for judicial review must be filed in the Court within thirty days of the receipt of this Final Decision by the Commission’s or the Interveners’ representatives.



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Kenneth Kimmell  
Commissioner

**SERVICE LIST**

In The Matter Of:

Community of Buddhist  
Monks, Inc.

Docket No. WET-2013-001

File No. 206-0685  
Lowell

Representative

Party

Michael G. Furlong, Esq.  
Deschenes & Farrell, P.C.  
515 Groton Road  
Westford, MA 01886  
[mike@dfpclaw.com](mailto:mike@dfpclaw.com)

APPLICANT/PETITIONER  
Khon Sao, c/o Community of  
Buddhist Monks, Inc.

Elizabeth Kimball  
MassDEP/Office of General  
Counsel  
One Winter Street  
Boston, MA 02108  
[elizabeth.kimball@state.ma.us](mailto:elizabeth.kimball@state.ma.us)

DEPARTMENT

Cc:  
Jill Provencal  
MassDEP-Northeast Regional  
Office  
205B Lowell Street  
Wilmington, MA 01887  
[jill.provencal@state.ma.us](mailto:jill.provencal@state.ma.us)

DEPARTMENT

Lowell Conservation Commission    CONCOM  
Aaron Clausen  
375 Merrimack Street  
Lowell, MA 01854  
[aclausen@lowellma.gov](mailto:aclausen@lowellma.gov)

Ms. Debora Forgione  
97 Townsend Ave.  
Lowell, MA 01854  
[dafcoravos@aol.com](mailto:dafcoravos@aol.com)

SOC Requestors

John Hamblet  
495 Varnum St.  
Lowell, MA 01854  
[John.hamblet@usa.net](mailto:John.hamblet@usa.net)

Date: September 27, 2013



office, the Northeast Regional Office, located at 205B Lowell Street, Wilmington MA 01887.

3. The Town of Lowell Conservation Commission (the "Commission") is a duly appointed commission of the City of Lowell, with an address of 375 Merrimack Street, Lowell, MA 01852.
4. The 10 Citizen Group is represented in this matter by John Hamblet, with an address of 495 Varnum Street, Lowell, MA 01854.
5. The Abutters Group is represented in this matter by Debora Forgione, with an address of 97 Townsend Avenue, Lowell, MA 01854.
6. The Assenting to Parties acknowledge that they are voluntarily entering into this Settlement Agreement because each has determined and agrees that settlement of this matter without costly and protracted litigation is in the best interest of the citizens of the Commonwealth, and of the Parties, and that execution of this Agreement without such litigation, is the most appropriate means of resolving this matter. Further, because the proposed FOC complies with the requirements of 310 CMR 10.00, environmental protection is achieved.

## II. SETTLEMENT AGREEMENT

7. Pursuant to M.G.L. c.30A and 310 CMR 1.01 (8)(c), the Assenting to Parties hereby agree to the issuance of a Final Decision incorporating this Settlement Agreement (the "Agreement"), and the amended Special Conditions for a Final Order of Conditions for the Property attached hereto and made a part hereof as Exhibit A. This Agreement settles and releases all claims of the Parties raised in this adjudicatory proceeding. Upon the issuance of the Final Decision, the Assenting to Parties hereby agree that any right to further administrative review before the Department and to appeal to any court shall be waived.

8. The Assenting to Parties understand that any Final Decision incorporating this Agreement and the Final Order of Conditions attached hereto shall not be subject to 310 CMR 1.01(14)(b) and 1.01 (14)(d).
9. No provision of this Agreement shall be construed as or operate as barring, diminishing, adjudicating, or in any way affecting any legal or equitable right of the Department to enforce this Agreement, or in any way affecting any other claim, action, suit, cause of action, or demand which that the Department may initiate regarding any act or omission not addressed in this Agreement.
10. This Agreement shall be construed and interpreted in accordance with the laws of the Commonwealth of Massachusetts.
11. This Agreement constitutes the entire understanding and agreement between the Parties with respect to the subject matter of this Agreement.
12. The terms and conditions of this Agreement and any amendments hereto shall be binding upon the Parties and their respective successors and assigns.
13. This Agreement may be executed in counterparts, each of which when executed and delivered to the Department shall be an original. All counterparts shall constitute one and the same instrument.
14. The signatories to this Agreement attest that they are duly authorized to execute this Agreement and bind the respective Parties, that they have had an opportunity to review this agreement and that their signature is their voluntary act and not as a result of any coercion.

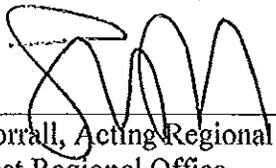
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IN WITNESS WHEREOF the parties have duly executed this Agreement.

**1. The Department of Environmental Protection**

Assented to :

By \_\_\_\_\_

  
Eric Worrall, Acting Regional Director  
Northeast Regional Office

Date: \_\_\_\_\_

7/5/13

**2. Applicant, Community of Khmer Buddhist Monks, Inc.  
by Samkham Khoeun**

Assented to :

By \_\_\_\_\_

Date: \_\_\_\_\_

**3. Town of Lowell Conservation Commission**

Assented to by The Lowell Conservation Commission

\_\_\_\_\_  
Date:

By: \_\_\_\_\_

Or

Declined by the Lowell Conservation Commission

\_\_\_\_\_  
Date:

By: \_\_\_\_\_

IN WITNESS WHEREOF the parties have duly executed this Agreement.

1. The Department of Environmental Protection

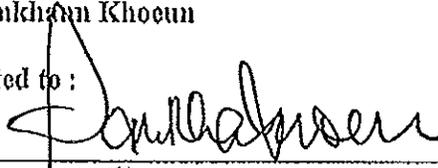
Assented to :

By \_\_\_\_\_  
Eric Worrell, Acting Regional Director  
Northeast Regional Office

Date: \_\_\_\_\_

2. Applicant, Community of Khmer Buddhist Monks, Inc.  
by Samkhaun Khoeun

Assented to :

By  \_\_\_\_\_

Date: July 10, 2013

3. Town of Lowell Conservation Commission

Assented to by The Lowell Conservation Commission

\_\_\_\_\_  
Date:

By: \_\_\_\_\_

Or

Declined by the Lowell Conservation Commission

\_\_\_\_\_  
Date:

By: \_\_\_\_\_

**4. For the Abutters Group,**

**Assented to by The Abutters Group  
Represented by Ms. Debora Forgione**

\_\_\_\_\_  
**Date:**

**By:** \_\_\_\_\_

**Or**

**Declined by the Abutters Group  
Represented by Ms. Debora Forgione**

\_\_\_\_\_  
**Date:**

**By:** \_\_\_\_\_

**5. Assented to, by The Ten Residents' Group  
Represented by John Hamblet**

\_\_\_\_\_  
**Date:**

**Or**

**Declined by the Ten Residents Group  
Represented by John Hamblet**

\_\_\_\_\_  
**Date:**