

COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION

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THE OFFICE OF APPEALS AND DISPUTE RESOLUTION

December 27, 2023

In the Matter of
BE RE, LLC

OADR Docket No. WET-2022 014; 018
MassDEP SE-File 76-2683
Wareham, MA

RECOMMENDED FINAL DECISION

INTRODUCTION

This matter involves consolidated appeals by the Wareham Conservation Commission (“WCC”) (OADR Docket No. WET-2022-014), Save the Pine Barrens, Inc./Community Land & Water Coalition (“STPB”), and a Ten Residents Group (OADR Docket No. WET-2022-018) (collectively “the Petitioners”) of a Superseding Order of Conditions (“SOC”) that the Massachusetts Department of Environmental Protection’s Southeast Regional Office (“MassDEP”) issued to BE RE, LLC, c/o Adam Schumaker (the “Applicant”). The SOC authorizes the Applicant’s construction of a solar-energy facility (“the Project”) on approximately 28 acres of existing, active cranberry bog off North Carver Road in Wareham owned by the Rocky Maple Cranberry Co. The SOC was issued as a result of the Applicant’s request for review of the Denial of the proposed Project by the WCC.

In this appeal before OADR, the STPB and the Ten Residents Group requests that MassDEP’s Commissioner issue a Final Decision vacating the SOC and rejecting the proposed

Project because according to the Petitioners the SOC fails to satisfy the performance standards for Bordering Vegetated Wetland (“BVW”) and Riverfront Area (“RA”). The WCC argues that the SOC is arbitrary and capricious and will result in the placement of industrial type structures into environmentally sensitive areas. The Petitioners also contend that the SOC incorrectly applies an agricultural standard. The Applicant contends, and MassDEP agrees, that the WCC’s appeal should be dismissed because it has failed to state a claim and that STPB and the Ten Resident’s Group appeals should be dismissed for lack of standing.

As discussed below, the WCC’s statement of claim is insufficient, and it failed to file a more definite statement when offered the opportunity to do so. The STPB and the Ten Residents Group have failed to demonstrate standing. Accordingly, I recommend that MassDEP’s Commissioner issue a Final Decision dismissing their appeals and affirming the SOC.

A. Background

The Applicant initially filed the Project application with the Wareham Planning Board in December 2020, and the Wareham Planning Board opened a public hearing on January 25, 2021. During this hearing, on March 8, 2021, STPB emailed a letter (the “March 2021 letter”) to the Wareham Planning Board discussing various details of the Project. The WCC was included in the “CC” list on the email. The March 2021 letter did not mention any member of the Ten Residents Group by name, although one member, Kathleen M. Pappalardo, was also included in the “CC” list. The Applicant filed a Notice of Intent (“NOI”) with the WCC on May 12, 2021 seeking approval of the Project under the Wetlands Protection Act, G.L. c. 131, § 40, the Department’s Wetlands Regulations, 310 CMR 10.00, and Wareham’s local wetlands protection bylaw. The Petitioners did not resubmit the March 2021 letter to the WCC after the NOI was filed and the hearing was opened.

The WCC closed the hearing on September 15, 2021, and issued a Denial on October 5, 2021. The WCC’s Denial was issued pursuant to the Wetlands Protection Act, G.L. c. 131, § 40,

the Department's Wetlands Regulations, 310 CMR 10.00, and Wareham's local wetlands protection bylaw. On October 18, 2021, the Applicant sent a request for a SOC to MassDEP seeking to overturn the WCC's denial of the Project under Wetlands Protection Act, G.L. c. 131, § 40 and the Department's Wetlands Regulations, 310 CMR 10.00. On December 3, 2021, the Applicant appealed the WCC's local wetlands bylaw Denial of the Project to the Superior Court under G.L. c. 249, § 4.¹ After reviewing the matter, MassDEP issued a SOC overturning the WCC's Denial and approving the Project on June 1, 2022 under Wetlands Protection Act, G.L. c. 131, § 40 and the Department's Wetlands Regulations, 310 CMR 10.00.

The WCC appealed the SOC to this forum, MassDEP's Office of Appeals and Dispute Resolution ("OADR"), on June 13, 2022, and STPB and the Ten Residents Group also filed separate appeals of the SOC with OADR on June 14, 2022.² The appeal resolution proceedings in these consolidated appeals were stayed by Order on August 3, 2022, pending the result of the Applicant's wetlands bylaw appeal in Superior Court. See 310 CMR 1.01(6)(h). The Applicant's January 3, 2023 Status Report included a copy of the Superior Court's Memorandum of Decision and Order on Plaintiff's Motion for Judgment on the Pleadings, allowing the Motion. The Order reads,

"The WCC's October 5, 2021 Decision is preempted by the determinations made by the DEP's June 1, 2022 Superseding Order of Conditions; and to the limited extent that the WCC asserted reliance on the more protective terms of the Wareham Bylaw, its Decision is hereby ANNULLED."

On January 12, 2023, MassDEP responded to the Applicant's Status Report indicating that

¹ See BE RE, LLC v. Sandy Slavin, Chair, Elissa Heard, Carol Malonson, Ron Besse, Kwame Bartie, Michael Mercier, and Denise Schultz, as they are members of the Town of Wareham Conservation Commission, and not individually, and the Town of Wareham Conservation Commission, Civil Action No. 21830V00951, Plymouth County Superior Court ("BE RE, LLC v. Wareham Conservation Commission").

² The Ten Residents Group failed to include the filing fee with its Notice of Claim and was ordered to pay the fee, by Order issued on February 28, 2023, or have its appeal dismissed. It paid the fee on March 7, 2023.

it had no objection to lifting the stay but requested a deadline for the Parties to file responses to the Applicant's pending Omnibus Motion to Show Cause; Dismiss All Requests for Adjudicatory Hearing, and in the Alternative, Request a Simplified Hearing ("Applicant's Motion").

Thereafter the Stay was lifted on March 7, 2023. Order Lifting Stay, page 3. Subsequently, the Department submitted a Response joining the Applicant's Motion in part and the WCC, STPB, and the Ten Residents Group submitted responses opposing the Applicant's Motion.

On September 19, 2023, I issued a ruling ordering the WCC to file a more definite statement by October 3, 2023 providing more specificity regarding its grounds for appealing the SOC; ordering STPB to provide evidence by October 3, 2023 that the March 2021 letter was made a part of the WCC's record at some point during the permit proceedings before the WCC; and deferring ruling on the standing of the Ten Residents Group. Neither the WCC nor STPB met their respective deadlines for responding to my September 19, 2023 orders. On October 5, 2023, the Applicant filed a Renewed Motion to Dismiss. On October 6, 2023, STPB filed a Motion for Enlargement of Time to respond to my September 19, 2023 order. I granted STPB's motion and allowed STPB to file a response opposing the Applicant's Renewed Motion to Dismiss on or before October 20, 2023.

B. Statutory and Regulatory Framework

Regarding a More Definite Statement, 310 CMR 1.01(5)(a)15.d. authorizes the Presiding Officer to issue an Order for a More Definite Statement to a party to provide a more definite statement of their claims, and to show cause why an appeal should not be dismissed. 310 CMR 1.01(5)(a)15.f.vi. authorizes the Presiding Officer to dismiss appeals for failure to comply with an order. Pursuant to 310 CMR 1.01(10):

When a party fails to file documents as required, respond to notices, correspondence or motions, comply with orders issued and schedules established in orders or otherwise fails to prosecute the adjudicatory appeal; demonstrates an intention not to proceed; demonstrates an intention to delay the proceeding or resolution of the proceedings; or

fails to comply with any of the requirements set forth in 310 CMR 1.01; the Presiding Officer may impose appropriate sanctions on that party.

Among the sanctions authorized by this regulation is the sanction of dismissal. See 310 CMR 1.01(10)(e).

Regarding standing, “[S]tanding to pursue a legal claim ‘is not simply a procedural technicality’ . . . but rather, it ‘is a jurisdictional prerequisite to being allowed to press the merits of any legal claim.’” In the Matter of Thomas Vacirca, Jr., OADR Docket No. WET-2016-017, Recommended Final Decision (April 11, 2017), 2017 MA ENV LEXIS 22, *18, adopted by Final Decision (April 18, 2017), 2017 MA ENV LEXIS 28; In the Matter of Webster Ventures, LLC, OADR Docket No. 2015-014 (“Webster Ventures II”), Recommended Final Decision (June 3, 2016), 2016 MA ENV LEXIS 27, at 19-20, adopted as Final Decision (June 15, 2016), 2016 MA ENV LEXIS 32; In the Matter of Onset Bay II Corp., OADR Docket No. 2012-034 (“Onset Bay II Corp.”), Recommended Final Decision (August 28, 2020), 2020 MA ENV LEXIS 79, at 40-41, adopted as Final Decision (September 23, 2020), 2020 MA ENV LEXIS 82, affirmed, Norfolk Superior Court (June 8, 2022).³ To have standing to appeal a SOC, a party must “demonstrate that [it] ‘previously participat[ed] in the permit proceedings.’” Id. at *19. A ten Residents Group has standing “if at least one resident was previously a participant in the permit proceeding.” 310 CMR 10.05(7)(j)2.a. The regulations define “previously participating in the permit proceeding” as “the submission of written information to the conservation commission prior to close of the public hearing, requesting an action by the Department that would result in a Reviewable Decision, or providing written information to the Department prior to issuance of a Reviewable Decision.” 310 CMR 10.05(7)(j)2.a.

³ See Tramontozzi v. Massachusetts Department of Environmental Protection, Norfolk Superior Court, C.A. No. 2082CV01007.

C. Standard of Review

As previously noted above, 310 CMR 1.01(5)(a)15.d. authorizes the Presiding Officer to issue an Order for a More Definite Statement to a party to provide a more definite statement of their claims, and to show cause why an appeal should not be dismissed. 310 CMR 1.01(5)(a)15.f.vi. authorizes the Presiding Officer to dismiss appeals for failure to comply with an order. Among the sanctions authorized by this regulation is the sanction of dismissal. See 310 CMR 1.01(10)(e).

A party to an appeal “may move to dismiss where another party fails to file documents as required . . . [or] for lack of standing [or for] lack of jurisdiction.” 310 CMR 1.01(11)(d)1. As well, a party may move to dismiss an appeal “for failure to state a claim upon which relief can be granted.” 310 CMR 1.01(11)(d)2. “In deciding the motion, the Presiding Officer shall assume all the facts alleged in the notice of claim to be true. Such assumption shall not apply to conclusions of law.” Id. An appeal may also be dismissed when “a party fails to . . . comply with orders issued and schedules established in orders or otherwise fails to prosecute the adjudicatory appeal; . . . demonstrates an intention to delay the proceeding or a resolution of the proceedings; or fails to comply with any of the requirements set forth in 310 CMR 1.01” 310 CMR 1.01(10) and (11)(d)1.

D. Petitioners’ Burden of Proof

Standing “is not simply a procedural technicality.” Save the Bay, Inc. v. Department of Public Utilities, 366 Mass. 667, 672 (1975); In the Matter of Webster Ventures, LLC, OADR Docket No. 2015-014 (“Webster Ventures II”), Recommended Final Decision (June 3, 2016), 2016 MA ENV LEXIS 27, at 19-20, adopted as Final Decision (June 15, 2016), 2016 MA ENV LEXIS 32; In the Matter of Onset Bay II Corp., OADR Docket No. 2012-034 (“Onset Bay II Corp.”), Recommended Final Decision (August 28, 2020), 2020 A ENV LEXIS 79, at 40-41, adopted as

Final Decision (September 23, 2020), 2020 MA ENV LEXIS 82.⁴ Rather, it “is a jurisdictional prerequisite to being allowed to press the merits of any legal claim.” R.J.A. v. K.A.V., 34 Mass. App. Ct. 369, 373 n.8 (1993); Ginther v. Commissioner of Insurance, 427 Mass. 319, 322 (1998) (“[w]e treat standing as an issue of subject matter jurisdiction [and] . . . of critical significance”); see also United States v. Hays, 515 U.S. 737, 115 S.Ct.2431, 2435 (1995) (“[s]tanding is perhaps the most important of the jurisdictional doctrines”); Webster Ventures II, 2016 MA ENV LEXIS 27, at 19; Onset Bay II Corp., 2020 MA ENV LEXIS 79, at 41. As a jurisdictional prerequisite, a party’s standing to maintain an appeal can be raised at any time during the appeal. In the Matter of Town of Brewster, OADR Docket No. WET-2012-006, Recommended Final Decision (August 10, 2012), 2012 MA ENV LEXIS 97, at 34-35, adopted as Final Decision (August 16, 2012), 2012 MA ENV LEXIS 99 (appellant’s standing to appeal a Wetlands Permit challenged at conclusion of Hearing because of appellant’s damaging cross-examination testimony).

“To show standing, [however,] a party need not prove by a preponderance of the evidence that his or her claim of particularized injury is true.” Webster Ventures II, 2016 MA ENV LEXIS 27, at 39, citing, Butler v. Waltham, 63 Mass. App. Ct. 435, 441 (2005); Onset Bay II Corp., 2020 MA ENV LEXIS 79, at 42. As the Massachusetts Appeals Court explained in Butler:

[t]he “findings of fact” a judge is required to make when standing is at issue . . . differ from the “findings of fact” the judge must make in connection with a trial on the merits. Standing is the gateway through which one must pass in route to an inquiry on the merits. When the factual inquiry focuses on standing, therefore, a plaintiff is not required to prove by a preponderance of the evidence that his or her claims of particularized or special injury are true. “Rather, the plaintiff must put forth **credible evidence** to substantiate his allegations. [It is i]n this context [that] standing [is] essentially a question of fact for the trial judge.”

⁴ The Final Decision in Onset Bay II Corp. was appealed in the Norfolk Superior Court pursuant to G.L. c. 30A, § 14(7). See Tramontozzi v. Massachusetts Department of Environmental Protection, Norfolk Superior Court, C.A. No. 2082CV01007. On June 8, 2022, after hearing the appeal was dismissed and the Final Decision was affirmed.

63 Mass. App. Ct. at 441 (emphasis supplied); Webster Ventures II, 2016 MA ENV LEXIS 27, at 39-40; Onset Bay II Corp., 2020 MA ENV LEXIS 79, at 42-43. This “credible evidence” standard to demonstrate standing “has both a quantitative and a qualitative component.” Butler, 63 Mass. App. Ct. at 441. Specifically:

[q]uantitatively, the evidence must provide specific factual support for each of the claims of particularized injury the [party seeking to establish standing] has made[,] . . . [and] **[q]ualitatively**, the evidence must be of a type on which a reasonable person could rely to conclude that the claimed injury likely will flow from the [challenged governmental] action. **Conjecture, personal opinion, and hypothesis are therefore insufficient [to establish standing]** [If] the judge determines that the evidence is both quantitatively and qualitatively sufficient . . . [to] establis[h] standing, the inquiry [regarding whether the party has standing] stops [and the party is not] required to persuade the judge that [the party’s] claims of particularized injury are, more likely than not, true.

Id., at 441-42 (emphasis supplied); Onset Bay II Corp., 2020 MA ENV LEXIS 79, at 43-44.

To summarize, in order to demonstrate that he is a person aggrieved the Petitioners are required to put forth a minimum quantum of specific factual evidence that qualitatively a reasonable person could rely upon to conclude that the proposed Project authorized by the Draft License will or might cause the Petitioner to suffer an injury in fact, which will be different either in kind or magnitude from any injury, if any, that the general public could suffer and which is within the scope of the public interest protected by G.L. c. 91. Butler, 63 Mass. App. Ct. at 441-42; 310 CMR 9.02; 310 CMR 9.17(1)(b); Webster Ventures II, 2016 MA ENV LEXIS 27, at 40-41; Onset Bay II Corp., 2020 MA ENV LEXIS 79, at 43-44. If the Petitioner meets this threshold, he can proceed through the “[s]tanding . . . gateway . . . to [the] inquiry on the merits” regarding whether the Department properly issued the Draft License to the Applicants. Butler, 63 Mass. App. Ct. at 441-42; Webster Ventures II, 2016 MA ENV LEXIS 27, at 41; Onset Bay II Corp., 2020 MA ENV LEXIS 79, at 43-44.

E. Discussion

1. The WCC's appeal should be dismissed for failure to file a more definite statement

“Where a notice of claim for adjudicatory appeal is so vague or ambiguous that it does not provide adequate notice of the issues to be addressed and the relief sought . . . the Presiding Officer may order a more definite statement.” 310 CMR 1.01(11)(b). The Department’s Rules for Adjudicatory Proceedings at 310 CMR 1.01(6)(b) state that a notice of claim (Appeal Notice) “shall state specifically, clearly and concisely the facts which are grounds for the appeal, the relief sought, and any additional information required by applicable law or regulation.” Where an Appeal Notice does not meet the requirements of 310 CMR 1.01 and other applicable regulations, 310 CMR 1.01(6)(b) provides that the Presiding Officer “shall dismiss the appeal or require a more definite statement.” In the event the Petitioners fail to file a more definite statement within the required time, the appeal “shall be dismissed.” Id. See also 310 CMR 10.05(7)(j)2.c.

The provisions of the wetlands regulations governing the appeal of a SOC, 310 CMR 10.05(7)(j)2.b., clearly specify the pleading requirements in such an appeal. For a party claiming error in the Reviewable Decision, the Appeal Notice must include:

a clear and concise statement of the alleged errors contained in the Reviewable Decision and how each alleged error is inconsistent with 310 CMR 10.00 and does not contribute to the protection of the interests identified in the Wetlands Protection Act, M.G.L. c. 131, § 40, including reference to the statutory or regulatory provisions the Party alleges has been violated by the Reviewable Decision, and the relief sought, including specific changes desired in the Reviewable Decision.

310 CMR 10.05(7)(j)2.b.v. If the Appeal Notice does not contain this required information the appeal may be dismissed. 310 CMR 10.05(7)(j)2.c.

The WCC's Appeal Notice does not comport with the requirements of 310 CMR

10.05(7)(j)2.b.v because it is too vague or ambiguous to give notice of the issues to be adjudicated.

The Statement of Errors contained in the WCC's Appeal Notice reads, in its entirety, as follows:

The agency decision is arbitrary and capricious and unsupported by fact. The agency decision will result in damage to areas protected by the Wetlands Protection Act and other applicable law. The agency decision will result in the introduction of industrial type structures into environmentally sensitive areas. The agency decision applies an agricultural standard of review and deference to an industrial activity.

The first and second sentences make no reference to any specific errors in the SOC, and the third and fourth sentences do not explain which statutes or regulations were violated or how the alleged errors violated them. Accordingly, I ordered the WCC to file a more definitive statement by October 3, 2023. The WCC did not do so and still has not done so. Therefore, I recommend that the WCC's appeal be dismissed.

2. The Ten Residents Group's appeal should be dismissed for lack of standing

The Ten Residents Group argues that it has standing because some of its members spoke at public hearings and the March 2021 letter was sent on behalf of STPB, and some members of the Ten Residents Group are members of STPB. The Ten Residents Group avers that these actions constitute the submission of written information to the conservation commission prior to close of the public hearing. The comments made at the public hearings plainly do not meet the requirements of 310 CMR 10.05(7)(j)2.a, as the regulation specifies that it only applies to written information. As for the March 2021 letter, that letter states that it was written by STPB and does not mention any member of the Ten Residents Group by name. This precise situation was addressed in In the Matter of Brian Corey, OADR Docket No. WET-2016-023, Recommended Final Decision (February 28, 2018), 2018 MA ENV LEXIS 10, *41, adopted by Final Decision (March 15, 2018), 2018 MA ENV LEXIS 9. In that case, the hearing officer noted that the letter "did not identify any of the . . . residents by name" and held that "[t]he filing of comments by [an organization] on behalf of . . .

residents in a representative capacity does not provide standing to any of the residents in their individual capacities.” Id. Likewise, the March 2021 letter does not identify any member of the Ten Residents Group by name and was filed by STPB, not the residents themselves.

The Ten Residents Group attempts to distinguish Brian Corey with the fact that in the present case, a member of the Ten Residents Group, Kathleen M. Pappalardo, was included in the “CC” list on the email sending the March 2021 letter to the WCC. This merely demonstrates that the letter was sent *to* Ms. Pappalardo; it does not indicate that Ms. Pappalardo wrote, contributed to, signed onto, or took any other action that would qualify as “submitting” the letter as required by the regulation. Because no member of the Ten Residents Group meets any of the regulatory criteria for previously participating in the permit proceedings, the Ten Residents Group does not have standing. Therefore, I recommend that the Ten Residents Group’s appeal be dismissed.

Written information submitted to a public body during a hearing is automatically made a part of the record of the proceedings by operation of law. See G.L. c. 30A, § 22(d) (“Documents and other exhibits, such as photographs, recordings or maps, used by the body at an open or executive session shall, along with the minutes, be part of the official record of the session.”). Written information submitted prior to the hearing, however, is not.

3. STPB’s appeal should be dismissed for lack of standing

STPB asserts that it has standing because it sent the March 2021 letter to the WCC. It contends that this qualifies as “the submission of written information to the conservation commission prior to close of the public hearing.” However, the Applicant filed its Notice of Intent on May 12, 2021, meaning that the public hearing was not yet open when the March 2021 letter was sent. Information received prior to the hearing being opened is normally not made a part of the record, and government agencies generally cannot consider information outside the record. See Craft Beer Guild, LLC v. Alcoholic Beverages Control Commission, 481 Mass. 506, 524 (2019)

(“facts that an agency relies upon in reaching its decision must be established by the record”).

Accordingly, I ordered STPB to provide evidence that the March 2021 letter was made a part of the WCC’s record at some point. STPB has not done so. It points to the fact that it specifically requested that the March 2021 letter be included in the record, and claims that if the March 2021 letter was not included in the record, it was due to “administrative oversight, sloppy recordkeeping, neglect or an abuse discretion.” Having been submitted before the hearing commenced, however, the March 2021 letter was not legally required to be included in the WCC’s record. STPB argues that “[a]n administrative body does not have the discretion to omit from the record relevant, material and substantive information that was submitted to it with the specific request that it be included in the record,” but provides no support for this claim.

Nonetheless, STPB raises two arguments for why it is irrelevant that the March 2021 letter was not included in the WCC’s record. First, it argues that 310 CMR 10.05(7)(j)(2) only requires the submission of written information “prior to close of the public hearing” to confer standing, and does not mandate a start date for the submission of evidence. However, the use of the definite article “the” in the phrase “the public hearing” suggests that the regulation contemplates the existence of a public hearing at the time the written information is submitted. If I were to accept STPB’s argument that there is no start date for the submission of evidence, it would mean that standing could be conferred by the submission of information months or even years prior to the opening of the hearing, and would require conservation commissions to search their archives for potentially relevant information every time a notice of intent is filed. This cannot be the intent of the regulations.

STPB’s other argument is that requiring information to be included in the record to confer standing would set a negative precedent. It argues that “a commission could pick and choose what it wants to include in the record and ignore information at its whim. This would . . . reward sloppy

paperwork and neglectful procedures at the local level and reward those who seek to take advantage of such deficiencies. . . . [It] would set a negative precedent whereby public comments could be ignored entirely due to the whim, oversight or neglect of the conservation commission.” However, written information submitted during the public hearing is made a part of the record by operation of law. See G.L. c. 30A, § 22(d) (“Documents and other exhibits, such as photographs, recordings or maps, used by the body at an open or executive session shall, along with the minutes, be part of the official record of the session.”). Even if a conservation commission fails to physically include such information in its record, it would still be considered part of the record and would still confer standing upon the submitter. By contrast, the March 2021 letter was not legally a part of the WCC’s record in this case. STPB was represented in this matter by an experienced and competent attorney who is fully aware of the requirements for a document to be included in the record; it has no excuse for failing to meet those requirements. Having failed to previously participate in the permit proceeding, STPB does not have standing. Therefore, I recommend that STPB’s appeal be dismissed.

CONCLUSION

For the above reasons, I recommend that the Commissioner issue a Final Decision affirming the SOC and dismissing the appeal of the WCC for failing to file a more definite statement and dismissing the appeals of the STPB and the Ten Residents Group for lack of standing.

Date: December 27, 2023



Margaret R. Stolfa
Presiding Officer

NOTICE of RECOMMENDED FINAL DECISION

This decision is a Recommended Final Decision of the Presiding Officer. It has been transmitted to MassDEP's 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)(d) 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 may file a motion to renew or reargue this Recommended Final Decision or any part of it, and no party may communicate with the Commissioner's office regarding this decision unless the Commissioner, in her sole discretion, directs otherwise.

SERVICE LIST

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