



Commonwealth of Massachusetts  
Executive Office of Energy & Environmental Affairs

## Department of Environmental Protection

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Charles D. Baker  
Governor

Karyn E. Polito  
Lieutenant Governor

Matthew A. Beaton  
Secretary

Martin Suuberg  
Commissioner

August 9, 2018

In the Matter of  
Don Perry and Pinnacle Site Contractors, LLC

OADR Docket No. WET-2016-019  
DEP File No. SE-7-1915  
Bourne, MA

### **FINAL DECISION**

The Town of Bourne and its Conservation Commission (collectively “the Petitioners”) brought this appeal challenging a Superseding Order of Conditions (“SOC”) that the Southeast Regional Office of the Massachusetts Department of Environmental Protection (“MassDEP” or “the Department”) issued to Don Perry and Pinnacle Site Contractors, LLC (collectively “the Applicants”) on July 28, 2016 pursuant to the Massachusetts Wetlands Protection Act, G.L. c. 131, § 40 (“MWPA”) and the Wetlands Regulations, 310 CMR 10.00 et seq. (“the Wetlands Regulations”). The SOC reversed an Order of Conditions (“OOC”) that the Bourne Conservation Commission (“BCC”) had issued rejecting the Applicants’ proposed construction of a 540 linear foot stone revetment (“the proposed Project”) along the base of a Coastal Bank at 0 Crab Rock Way in Bourne (“the Property”) to protect five homes that were purportedly

This information is available in alternate format. Contact Michelle Waters-Ekanem, Director of Diversity/Civil Rights at 617-292-5751.

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constructed prior to August 10, 1978. Department's SOC Transmittal Letter, at p. 1.

The Applicants have given notice that they have withdrawn the Notice of Intent ("NOI") that they filed pursuant to the MWPA and the Wetlands Regulations seeking approval of the Project that lead to the BCC's issuance of the OOC and the Department's issuance of the SOC. The Applicants' withdrawal of their NOI for the proposed Project has rendered the Petitioners' appeal of the SOC moot because the SOC was vacated when the Applicants withdrew their NOI for the proposed Project. As a result, the parties have stipulated to dismissal of the appeal. The parties' stipulation constitutes a waiver by all parties to any further administrative review before the Department as well as appeal to court of the SOC. Accordingly, the Department issues this Final Decision: (1) incorporating the parties' Stipulation of Dismissal of the appeal and (2) vacating the SOC.



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Salvatore M. Giorlandino  
Chief Presiding Officer<sup>1</sup>

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<sup>1</sup> The Chief Presiding Officer of the Department's Office of Appeals and Dispute Resolution ("OADR") is authorized by the Department's Commissioner to issue this Final Decision.

## **SERVICE LIST**

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