

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

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THE OFFICE OF APPEALS AND DISPUTE RESOLUTION

April 8, 2026

**In the Matter of
Elio Younes**

**OADR Docket No. WET-2026-002
MassDEP Fil No. SE 72-1863
Swansea, MA**

RECOMMENDED FINAL DECISION

Stephen and Ann Seery (the “Petitioners”), on January 21, 2026 filed an appeal with the Office of Appeals and Dispute Resolution (“OADR”) to challenge a Superseding Order of Conditions (“SOC”) issued by the Massachusetts Department of Environmental Protection’s Southeast Regional Office of the Massachusetts Department of Environmental Protection (“MassDEP” or the “Department”) on January 9, 2026. The SOC was issued to the Petitioners affirming the Order of Conditions (“OOC”) issued by the Swansea Conservation Commission (“Commission”) which approved the proposal of Elio Younes (the “Applicant”) at 15 Bayside Avenue, Swansea, Massachusetts (the “Property”) to construct a pier, ramp and float over and into the waters of the Lees River (“proposed Project”). While the Notice of Claim (“Appeal Notice”) was timely filed, it failed to comply with the rules for filing an appeal of a wetlands permit decision. Specifically, the Petitioners fail to allege facts sufficient to establish that they have standing to bring the appeal as persons aggrieved, a prerequisite to maintaining this administrative appeal. See 310 CMR 1.01(6)(b) and 310 CMR 1.01(11)(b).

On February 20, 2026 I issued an Order for a More Definite Statement (“the Order”) to the Petitioners so that they could provide a more definite statement of their claim that they are aggrieved.¹ The deadline for their response to the Order was March 13, 2026; they did not file a response. On March 20, 2026 the Applicant filed a Motion for summary dismissal due to the Petitioners’ failure to respond to the Order. The Petitioner did not file a response to the Applicant’s Motion.²

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). Because the Petitioners failed to respond to the Order, they have demonstrated an intention not to pursue their appeal and a sanction of dismissal is appropriate. I recommend that MassDEP’s Commissioner issue a Final Decision dismissing the appeal and affirming the SOC.

Date: April 8, 2026



Margaret R. Stolfa
Presiding Officer

¹ See, Order for More Definite Statement, February 20, 2026.

² Nor did the Department file a response to the Applicant’s Motion.

NOTICE- RECOMMENDED FINAL DECISION

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)(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 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.

SERVICE LIST

In the Matter of Elio Younes
OADR Docket No. WET 2026-002

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