

Commonwealth of Massachusetts
Executive Office of Energy and Environmental Affairs
Department of Environmental Protection
100 Cambridge Street, Boston, MA 02114 (617) 292-5500

The Office of Appeals and Dispute Resolution

April 27, 2026

In the Matter of
Hawthorne Point Condo Assoc.

OADR Docket No. WET-2024-032
DEP File No. 28-2968
Gloucester, Massachusetts

Recommended Final Decision

On November 18, 2024, Max Arai (the “Petitioner”) submitted this appeal concerning an Order of Conditions (“OOC”) issued on August 27, 2024, by the Town of Gloucester Conservation Commission (the “GCC”), pursuant to the Massachusetts Wetlands Protection Act, G.L. c. 131, § 40 (“MWPA”), and the Wetlands Regulations, 310 CMR 10.00, *et seq.* The OOC approved the Hawthorne Point Condominium Association’s (the “Applicant”) proposal to repair an existing sea wall at 22 Raven Lane, Gloucester, MA. The Petitioner’s Notice of Claim alleges that the Petitioner requested a Superseding Order of Conditions (“SOC”) from the Northeast Regional Office (“NERO”) of MassDEP (the “Department”), but that the Department failed to provide a written response to the Petitioner’s request within 35 days.¹

I reviewed the administrative record which includes the Department’s August 8, 2025, Motion to Dismiss this matter as moot (the “Motion”). The Motion referred to a July 29, 2024,

¹ I note that the Wetlands regulations, at 310 CMR 10.05(7)(e), state that, “Within 35 days from receipt of such a request [for the Department to act], the Department shall issue a Superseding Determination of Applicability (Form 2) or a Notification that an area is not significant to any interest identified in M.G.L. c. 131, § 40 (Form 6).” 310 CMR 10.05(7)(e). The Petitioner did not request a Superseding Determination of Applicability in this matter, but rather a SOC. The subsequent provision in the regulations, which concerns Superseding Orders, would therefore apply to this matter where the Petitioner was requesting review of an OOC. See 310 CMR 10.05(7)(f) (“Within 70 days from receipt of such a request, the Department shall issue a Superseding Order...”).

letter the Department received from a representative of the Applicant, withdrawing the Notice of Intent which was the basis of the OOC for which the Petitioner sought the Department's review by requesting an SOC. The Department attached the letter to its Motion as an exhibit. The record shows that neither the Petitioner nor the Applicant responded to the Department's Motion.

Because the Applicant withdrew the Notice of Intent which was the basis of the August 27, 2024, OOC and the Petitioner's subsequent request for an SOC, this appeal is now moot. Accordingly, I recommend that the Department's Commissioner issue a Final Decision pursuant to 310 CMR 1.01(5)(a)2.² dismissing this appeal as moot.



Date: April 27, 2026

Ian Leson
Presiding Officer

² "The Presiding Officer may, on the Presiding Officer's own initiative or on a party's motion where appropriate, without limitation . . . dismiss appeals for . . . mootness."

NOTICE OF 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 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.

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