



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

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Commissioner

In the Matters of
Liatsos, Pinchin, and Southwick

Docket Nos. WET-2016-005, 006, 007
File Nos. SE 043-2787, SE 043-2786,
SE 043-2785
Mashpee, MA

February 25, 2022

FINAL DECISION AFTER REMAND FROM SUFFOLK SUPERIOR COURT

Bethany A. Card, Undersecretary of Environmental Policy and Climate Resilience for the Massachusetts Executive Office of Energy and Environmental Affairs (“the EEA Undersecretary”), has appointed me, the Chief Presiding Officer of MassDEP’s Office of Appeals and Dispute Resolution (“OADR”)¹, as the Alternative MassDEP Final Agency Decision-Maker in these consolidated appeals (collectively “this appeal”).² In accordance with

¹ OADR is an independent, quasi-judicial office at MassDEP which advises the Commissioner in the adjudication of all MassDEP Permit Decisions and Enforcement Orders. In the Matter of Onset Bay II Corporation, OADR Docket No. 2012-034, Recommended Final Decision (August 28, 2020), 2020 MA ENV LEXIS 79, at 17, n. 16, adopted as Final Decision (September 23, 2020), 2020 MA ENV LEXIS 82.

² See Notice of Appointment of Alternative MassDEP Final Agency Decision-Maker in Consolidated Appeals, and Orders Implementing Suffolk Superior Court’s Remand Order, issued in this matter on January 18, 2022 (“the Jan. 2022 Orders”).

the Jan. 2022 Orders, at pp. 7-10, I have reviewed the following recent filings that the Massachusetts Department of Environmental Protection (“the Department” or “MassDEP”), the Applicants, and the Petitioners³ (collectively “the Parties”) have made in this appeal:

- (1) MassDEP’s Findings Regarding Project IV, filed February 16, 2022 (“MassDEP’s Findings”);
- (2) Proposed Final Order of Conditions for Kenneth and Gloria J. Liatsos, filed February 16, 2022 (“the Liatsos Property FOC”);
- (3) Proposed Final Order of Conditions for David and Glenys Pinchin, filed February 16, 2022 (“the Pinchin Property FOC”);
- (4) MassDEP’s Proposed Final Order of Conditions for Michael J. and Dawn M. Southwick, filed February 16, 2022 (“the Southwick Property FOC”);
- (5) Project IV Plans, filed February 16, 2022 (“the Project IV Plans”); and
- (6) the Parties’ Joint Motion for Final Decision After Remand from Suffolk Superior Court, filed on February 23, 2022 (“Parties’ Joint Motion”).

Based on my review of the recent filings set forth above, the Parties’ Joint Motion **is** **allowed** and on behalf of MassDEP, I issue this Final Decision After Remand From Suffolk Superior Court incorporating the following:

- (1) the Jan. 2022 Orders;
- (2) the Parties’ Joint Motion;
- (3) MassDEP’s Findings;
- (4) the Liatsos Property FOC;
- (5) the Pinchin Property FOC;

³ The Applicants are Michael and Dawn Southwick; Kenneth Liatsos Trust and Gloria Liatsos Trust; and David and Glenys Pinchin. The Petitioners who initially filed this appeal are twelve (12) residents of Mashpee, Massachusetts and the trustees of the New Seabury Condominium Trust 1A, the association of unit owners of the Tidewatch Condominiums located at 94 Shore Drive West in Mashpee, Massachusetts.

- (6) the Southwick Property FOC; and
- (7) the Project IV Plans.

In accordance with the Adjudicatory Proceeding Rules at 310 CMR 1.01(8)(c), the Jan. 2022 Orders, at p. 9, and the Parties' Joint Motion, at pp. 3-4, the Parties waive whatever rights they have to further administrative review before MassDEP as well as an appeal to Court regarding Projects I, II, III, and IV, and as a result, each of the appeals that have been consolidated in this appeal, specifically, OADR Docket Nos. WET-2016-005, 006, and 007, are dismissed with prejudice.

In accordance with the Jan. 22 Orders, at pp. 9-10, and the Parties' Joint Motion, at p. 4, I have executed in my capacity as the Alternative MassDEP Final Agency Decision-Maker in this appeal: (1) the Liatsos Property FOC, (2) the Pinchin Property FOC, and (3) the Southwick Property FOC (collectively "the FOCs"). In accordance with the Jan. 22 Orders, at pp. 9-10, **within five (5) business days** after the issuance of this Final Decision After Remand From Suffolk Superior Court, the Applicants shall record the FOCs with the appropriate Registry of Deeds in accordance with the requirements of Wetlands Protection Act ("MWPA"), G.L. c. 141 § 30, and the Wetlands Regulations, 310 CMR 10.00. **Within the same five (5) business day time period**, the Parties shall file with the Suffolk Superior Court a Joint Stipulation of

Dismissal with Prejudice of Pinchin, et al. v. Massachusetts Department of Environmental Protection, C.A. No. 1984CV02833A.

Salvatore M. Giorlandino

Date: February 25, 2022

Salvatore M. Giorlandino
Chief Presiding Officer, MassDEP OADR
and Alternative MassDEP Final Agency
Decision-Maker in OADR Docket Nos.
WET-2016-005, 006, and 007

In the Matter of Liatsos, Pinchin and Southwick,
OADR Docket Nos. WET-2016-005, 006, 007
Final Decision After Remand From Suffolk Superior Court

SERVICE LIST

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In the Matter of Liatsos, Pinchin and Southwick,
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