

COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
ONE WINTER STREET, BOSTON, MA 02108 617-292-5500

THE OFFICE OF APPEALS AND DISPUTE RESOLUTION

September 23, 2021

In the Matter of
Michael C. Coakley, Trustee
Michael C. Coakley Living Trust

OADR Docket Nos. WET-2015-028,
2015-026 (UAO) Consolidated
Woburn, MA

RECOMMENDED FINAL DECISION

Michael C. Coakley, Trustee of the Michael C. Coakley Living Trust (“Petitioner”), appealed a Unilateral Administrative Order (“UAO”) and a Superseding Order of Conditions (“SOC”) issued by the Massachusetts Department of Environmental Protection’s Northeast Regional Office (“MassDEP”) concerning certain work at the Petitioner’s residential property located at 5 Packard Street, Woburn, MA (“the Property”). The SOC and UAO were issued pursuant to the Wetlands Protection Act, G.L. c. 131 § 40, and the Wetlands Regulations, 310 CMR 10.00. The appeals concern work associated with an alleged intermittent stream on the Property.

On April 7, 2016, after holding a status conference with the parties and reviewing the administrative record, I issued a Ruling and Order Staying Appeals. The appeals were stayed because Mr. Coakley, the Petitioner and a witness, had recently died, and thus several estate related issues had to be resolved before the appeals could continue. The issues included identification of the new real party in interest and whether there was sufficient authorization from a court or the estate to proceed with the appeals. The appeals were therefore stayed until

the outstanding issues were resolved and “there [was] sufficient authorization from an appropriate court to proceed with the appeals.” Ruling and Order Staying Appeals. Thereafter, the parties filed joint monthly status reports.

On May 28, 2020, MassDEP requested a status conference because the appeals had been stayed for approximately four years with no progress in obtaining court authorization concerning the estate and its interest or any other interested party’s interest in proceeding with the appeals. Based upon the parties’ agreement at the status conference, I entered an order staying the appeals for another six months, or until January 9, 2021.

On December 16, 2020, counsel for the Petitioner withdrew from the appeals, stating that there was “good cause” to withdraw and all future correspondence should be sent to Ana Duarte, Trustee, The Michael C. Coakley Living Trust, 5 Packard Street, Woburn, MA 01801; email - adck7753@outlook.com.

After that, the additional six-month stay period lapsed as of January 9, 2021, without any activity in the appeals.

Given the above, on August 12, 2021, I issued an Order For Ms. Ana Duarte and/or the Michael C. Coakley Living Trust To Show Cause Why Appeals Should Not Be Dismissed (“Order”) for failure to prosecute. See 310 CMR 1.01(5). I established a deadline of August 27, 2021. I stated that at a minimum, the showing must include evidence that an individual or an entity will soon have the desire and authorization to proceed promptly with these appeals. I added that absent that showing, the appeals would likely be dismissed.

Since issuing the Order, there has been no activity in the appeals, including any filings from Ms. Duarte or the Michael C. Coakley Living Trust. For all the above reasons, I recommend that MassDEP’s Commissioner issue a Final Decision dismissing the appeals for failure to prosecute and failure to comply with the Order. See 310 CMR 1.01(5).

NOTICE- RECOMMENDED FINAL DECISION

This decision is a Recommended Final Decision of the Presiding Officer. It has been transmitted to the Commissioner for his 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 his sole discretion, directs otherwise.

Date: September 23, 2021



Timothy M. Jones
Presiding Officer

SERVICE LIST

In The Matter Of:

**Michael C. Coakley, Trustee
The Michael C. Coakley Living Trust**

Docket Nos. WET-2015-028 & 2015-026

**File No. UAO-15-6W003-NT
File No. 348-0736
New Salem, MA**

Representative

Party

Ana Duarte, Trustee
The Michael C. Coakley Living Trust
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PETITIONER

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DEPARTMENT

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DEPARTMENT