

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

100 CAMBRIDGE STREET, BOSTON, MA 02114 617-292-5500

THE OFFICE OF APPEALS AND DISPUTE RESOLUTION

September 28, 2023

**In the Matter of
Ree-Ran-An, LLC, d/b/a
Fred's Friendly Sunoco**

**OADR Docket Number: 2022-008
RPAN-BO-22-U-21
Raynham, MA**

RECOMMENDED FINAL DECISION

On March 21, 2022, the Office of Appeals and Dispute Resolution ("OADR")¹ received an appeal from Ree-Ran-An, LLC, d/b/a Fred's Friendly Sunoco ("Petitioner") appealing RPAN-BO-22-U-21, a Reporting Penalty Assessment Notice ("RPAN") issued by the Massachusetts Department of Environmental Protection ("Department") for an alleged failure to submit a Third Party Inspection Return-to-Compliance Plan Completion Report in violation of 310 CMR 80.49(7)(c)3.f. I am recommending that the Commissioner or her designee enter a Final Order dismissing this appeal and affirming the RPAN pursuant to 310 CMR 1.01(3)(e), (10)(g), (11)(d)1., and (11)(a)2.f. for failure to prosecute and failure to comply with orders issued.

On June 23, 2023, I ordered the parties to attend an alternative dispute resolution information session. The first information session was held July 12, 2023. The Petitioner did not

¹ OADR is an independent quasi-judicial office in MassDEP which is responsible for advising MassDEP's Commissioner in resolving all administrative appeals of MassDEP Permit Decisions, Environmental Jurisdiction Determinations, and Enforcement Orders. A detailed description of OADR is set forth in Addendum No. 1, below.

appear. The information session was then rescheduled for August 9, 2023. Again, the Petitioner did not appear. The Petitioner provided no justification for its failure to appear.

I issued a scheduling order on August 21, 2023, requiring, among other things, that the parties "confer and file a joint status report (1) proposing three dates for a Simplified Hearing and (2) including a statement of the Parties' positions whether the hearing should be conducted in person or via the Zoom Internet platform" by September 11, 2023. On September 8, 2023, the Department filed a motion to dismiss, stating, in part,

Since initiating this appeal, Petitioner has not responded to any electronic or paper correspondence sent by Department personnel and Petitioner has not taken any action indicating an intent to continue to prosecute this appeal. All correspondence to Petitioner has been sent to the email address provided by Petitioner in its appeal. This email address was also on record with the UST Program when the Petitioner owned the premises containing the underground storage tank at issue. Petitioner sold the premises in October 2022. Petitioner has not provided the Department or, upon information and belief, OADR with a new mailing or email address.

Motion to Dismiss, p. 3. The Petitioner had seven business days to respond. 310 CMR 1.01(11)(a)1.. The Petitioner did not respond.

On September 19, 2023, I issued the following order: "The Petitioner is ordered to show cause in writing on or before September 26, 2023, why this matter should not be dismissed for failure to prosecute pursuant to 310 CMR 1.01(3)(e) and (11)(a)2.f.." The Petitioner did not respond to the order to show cause.

Given the Petitioner's numerous failures to comply with my orders and those of the mediator, and given its lack of response to any of the Department's filings or communications, I therefore recommend that the Commissioner enter a Final Order dismissing this appeal and affirming the RPAN.



Date: September 28, 2023

Patrick M. Groulx
Presiding Officer

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.

SERVICE LIST

Ree-Ran-An, LLC
c/o Hussein A. Zaiter
165 New State Highway
Raynham, MA 02767
hazaiter@gmail.com

Petitioner

Richard Blanchet, Deputy Division Director
Department of Environmental Protection
Bureau of Air and Waste
100 Cambridge Street, 8th Floor
Boston, MA 02114
Richard.Blanchette@mass.gov

Department Program Chief

Peter Tison, Counsel
Jakarta Childers, Program Coordinator
MassDEP/Office of General Counsel
100 Cambridge Street
Boston, MA 02114
Peter.Tison@mass.gov
Jakarta.Childers@mass.gov

Department Legal Representative
Department Legal Staff