

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 30, 2019

In the Matter of the
Town of Chatham

OADR Docket No. WET-2019-018
Chatham, MA

RECOMMENDED FINAL DECISION

Gerald Milden (“Petitioner”) filed this appeal concerning the real property at North Harbor Inlet, Chatham, Massachusetts (“the Property”). The Petitioner challenges the Superseding Amended Order of Conditions (“SAOC”) that the Department’s Southeast Regional Office issued to the Applicant, the Town of Chatham (“Chatham”). The Petitioner’s appeal is focused solely on the SAOC’s approval of dredging at the North Harbor Inlet.

Chatham’s Board of Selectman recently voted not to pursue the portion of the town’s dredging permit approved in the SAOC which authorized dredging at the North Harbor Inlet. Consequently, the Town filed a motion to dismiss this appeal for mootness. MassDEP assented to the motion. The Petitioner opposes the motion unless upon dismissal MassDEP’s Commissioner issues a Final Amended Order of Conditions (“FAOC”) that withdraws authorization for dredging at the North Harbor Inlet. MassDEP has filed with the Office of Appeals and Dispute Resolution (“OADR”) a proposed FAOC that provides the relief requested by the Petitioner. The FAOC states: “The proposal to dredge the North Harbor Inlet (item 4 in the GEI 10/16/2018 Request to Amend Order of Conditions / DEP File #SE 10-2759 / CWP15-241N) has been withdrawn and is not authorized under this Final Order. Any future dredging

proposed in the North Harbor Inlet area will require the filing of a new Notice of Intent or Request to Amend the current Order of Conditions.” Issuance of the FAOC would leave no issues to adjudicate in this appeal, rendering it moot. I therefore recommend that MassDEP’s Commissioner issue the proposed FAOC and a Final Decision dismissing this appeal as moot. See Matter of Wilkinson Excavating, Inc., Docket No. 2010-064, Recommended Final Decision (March 8, 2011), adopted by Final Decision (April 5, 2011).

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.



Timothy M. Jones
Presiding Officer

SERVICE LIST

In The Matter Of:

Town of Chatham

Docket No. WET-2019-018

File No. SE 10-2759
Chatham

Representative

Party

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Date: September 30, 2019