



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

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Martin Suuberg
Commissioner

December 15, 2021

In the Matter of
Town of Foxborough DPW

OADR Docket Nos. 2021-007 & 2021-014
Water Quality Certification Transmittal No.
X282211
Waterways License Application No. W20-
5898
Foxborough, MA

FINAL DECISION

Martin Suuberg, the Commissioner of the Massachusetts Department of Environmental Protection (“MassDEP” or “the Department”) has designated me as the Final Decision Maker in these consolidated appeals.

Philip A. McNulty and MaryEllen Gilmore (collectively “the Petitioners”) challenged a Combined 401 Water Quality Certification/c. 91 Dredge Permit and License (“Combined Permit”) issued to the Town of Foxborough Department of Public Works (“DPW”) by the Massachusetts Department of Environmental Protection (“MassDEP”) on February 26, 2021 and May 7, 2021, respectively. The Combined Permit authorized the DPW’s project entitled “West Street Dam Spillway Removal, Culvert and Water Main Replacement Project”. The project involves the repair of the West Street Dam, which has been classified by the Department of

Conservation and Recreation's ("DCR") Office of Dam Safety ("ODS") as a small-size, Significant Hazard Potential structure in poor condition.

The Petitioners are direct abutters to the project site. They alleged that the project would dry up the West Street Pond and negatively impact the value of wetlands resources and alter the navigability and existing human and habitat uses.

On December 10, 2021, the parties jointly filed a stipulation of dismissal and moved that the appeals be dismissed with prejudice and that the Combined Permit be made final. The Applicant and the Petitioners have reached an agreement outside the scope of these appeals that disposes of the matters and does not require approval by the Commissioner as part of these appeals. The parties' stipulation of dismissal of the appeals constitutes a waiver by the parties to any further administrative review before the Department as well as appeal to court of the Combined Permit that was at issue in these appeals. Accordingly, the Department issues this Final Decision dismissing the appeals.



Salvatore M. Giorlandino
Chief Presiding Officer

SERVICE LIST

IN THE MATTER OF:

Town of Foxborough DPW

Docket Nos. 2021-007 & 2021-014

File No. W20-5898/Tr. No. X282211

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