

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

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THE OFFICE OF APPEALS AND DISPUTE RESOLUTION

January 7, 2026

**In the Matter of
Manchester-by-the-Sea**

**OADR Docket No. 2025-020
MassDEP Fil No. 321-0174
Manchester-by-the-Sea, MA**

RECOMMENDED FINAL DECISION

Maryann A. Wood, the Petitioner, on May 27, 2025 filed an appeal with Office of Appeals and Dispute Resolution (“OADR”) to challenge a Draft License issued by the Massachusetts Department of Environmental Protection (“MassDEP” or the “Department”) on May 9, 2025. pursuant to G.L. c. 91 and the Waterways Regulations at 310 CMR 9.00, *et seq.* The Draft License was issued to the Town of Manchester-by-the-Sea for the replacement of the Central Street Bridge over Sawmill Brook and Central Pond Restoration which includes dredging and stabilization within the filled and flowed tidelands of Sawmill Brook and Central Pond in the Town of Manchester-by-the-Sea on the following properties: 10 Central Street (45-0-23), 0 Elm Street (53-0-24 & 53-0-28), 12 School Street (53-0-36), 0 off Knight Street (54-0-28), 3 Powderhouse Lane (42-08), 26 Central Street (45-03), 1 Elm Street (54-0-23), 5 Elm Street (53-0-25}, 17-23 Elm Street (53-0-26), 18 School Street (53-0-38), 20 School Street (53-0-39), 13 Elm Street (53- 0-47) ("proposed Project"). The Petitioner is an owner of land which is part of the proposed Project and submitted comments during the public comment period. Petitioner contends that the proposed Project will encroach on and damage her property located at 26 Central Street

including by damage to the seawall in violation of 310 CMR 9.36(3) and contends that the proposed Project relies on plans not signed or stamped by a Registered Professional Engineer as required by 310 CMR 9.37.

I issued a Scheduling Order on June 11, 2025 which, among other things, directed the Petitioner to initiate settlement discussions. The Parties filed a Joint Status Report on July 11, 2025 requesting an extension to July 25, 2025 to continue settlement discussions, which I granted. The Parties filed a joint extension request on July 25, 2025 indicating that the Petitioner and the Applicant had reached impasse and I granted the requested extension to August 1, 2025 to file a Joint Status Report including issues for adjudication and proposed schedule. The Parties' August 1, 2025 Joint Status Report indicated that the Parties did not have agreement on the issues and I scheduled a Pre-Hearing Conference for August 12, 2025.

At the Pre-Hearing Conference the Parties indicated that settlement was unlikely and that they would like to proceed with the appeal, but that they would also continue settlement discussions, which is encouraged. The issues for adjudication and the remaining schedule were discussed and then adopted in the Pre-Hearing Conference Report and Order issued on August 13, 2025. Under this schedule the Petitioner was to file her Pre-Filed Testimony ("PFT") and memorandum of law by September 12, 2025.

On September 8, 2025 the Petitioner sought an extension of her September 12, 2025 filing due date and on September 26, 2025 filed a second request for an extension, stating that settlement discussions are ongoing and requesting an extension to November 26, 2025. I directed the Applicant and MassDEP to respond and both objected to the extension.¹

¹ The Applicant indicated that they had objected to the Petitioner's first request stating that settlement discussions could continue while the appeal proceeds and suggested that if granted, the extension apply to their filing as well.

I conducted a Status Conference on Thursday October 9, 2025 via the Zoom internet platform for discussion of the Petitioner's Motion and the Applicant's and the Department's opposition. Following the Status Conference the Parties proposed a revised schedule which I adopted on October 16, 2025.

On October 23, 2025 Petitioner's counsel notified OADR and the Parties that they had resigned as counsel. On October 24, 2025 the Service List was revised to reflect this change and to include the Petitioner's address and email and was circulated by OADR to the Parties. Pursuant to the revised evidentiary adjudicatory Hearing schedule the Petitioner was to file her PFT and memorandum of law on or before November 7, 2025. No filing was made by the Petitioner.

On November 14, 2025 the Department filed a Motion to Dismiss for failure to prosecute.² The Department's Motion states as grounds that the Department's counsel emailed the Petitioner to inquire whether she would be retaining new counsel or proceeding pro se, and received no response. Thereafter the Petitioner did not file PFT, after which the Department moved to dismiss. No response to the Department's Motion has been filed by the Applicant or the Petitioner. Thereafter, on December 4, 2025 I issued an Order for the Petitioner, pursuant to 310 CMR 1.01(5) and 310 CMR 1.01(6)(d), to show cause why this appeal should not be dismissed for failure to prosecute.³ This Order was sent to all Parties via email in the ordinary course of business. In an abundance of caution the Order was also sent by first class mail to the Petitioner. Thereafter, OADR received the green card documenting that Petitioner received the Order on

² 310 CMR 1.01(11)(d)1. provides that "[a] party may move to dismiss where another party fails to file documents as required, respond to notices, correspondence or motions, comply with orders issued and schedules established in orders, otherwise fails to prosecute the case or demonstrates an intention not to proceed..."

³ See Order to Show Cause, December 4, 2025.

December 8, 2025. The Petitioner's response was due to be filed on December 15, 2025. No filing has been received by the Petitioner.

The regulations at 310 CMR 1.01(5)(a)15.d. authorize the Presiding Officer to issue an Order to show cause why an appeal should not be dismissed. Further, 310 CMR 1.01(5)(a)15.f.vi. authorizes the Presiding Officer to dismiss appeals for failure to comply with an order. Pursuant to 310 CMR 1.01(10):

When a party fails to file documents as required, respond to notices, correspondence or motions, comply with orders issued and schedules established in orders or otherwise fails to prosecute the adjudicatory appeal; demonstrates an intention not to proceed; demonstrates an intention to delay the proceeding or resolution of the proceedings; or fails to comply with any of the requirements set forth in 310 CMR 1.01; the Presiding Officer may impose appropriate sanctions on that party.

Among the sanctions authorized by this regulation is the sanction of dismissal. See 310 CMR 1.01(10)(e). Because the Petitioner failed to respond to the Order, she has demonstrated an intention not to pursue her appeal and a sanction of dismissal is appropriate. I recommend that MassDEP's Commissioner issue a Final Decision dismissing the appeal and affirming the Draft License.

Date: January 7, 2026



Margaret R. Stolfa
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

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