



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

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Governor

TIMOTHY P. MURRAY
Lieutenant Governor

RICHARD K. SULLIVAN JR.
Secretary

KENNETH L. KIMMELL
Commissioner

June 6, 2013

In the Matter of
M.G. Hall Company

Docket No. WET-2012-023
File No. 245-1365
North Reading

REMAND DECISION

I support the concept that the Department is entitled to the “tolling” of the ten day period for intervention when the Department does not receive an order of conditions. Tolling ensures that the Department is not disabled from protecting the environment and ensuring compliance with the Wetlands Protection Act in those rare instances in which it does not timely receive an Order of Conditions from the local Conservation Commission.

However, in this case the Department is relying on tolling to review an Order of Conditions that had been in effect for approximately one and half years before the Department moved to intervene. Such a long tolling period frustrates the applicant’s legitimate expectation that once the ten day period runs, the applicant may pursue the project. And even though it is not the applicant’s fault that the Department did not receive notice from the Conservation Commission, the applicant is subject to delay and uncertainty.

I will continue to weigh these competing considerations, as well as the other issues raised by the Recommended Decision, and withhold issuing a ruling on this case for thirty days. I instruct the Department and the applicant to make every effort to resolve the issues in dispute. The parties shall issue a joint or individual status report(s) at the end of this thirty day period to the Presiding Officer indicating that a) the case has settled; b) the case is likely to settle in which case I will further withhold ruling for an appropriate period of time; or c) the case is unlikely to settle, in which case I will issue a ruling.

A handwritten signature in black ink, appearing to read 'Kenneth Kimmell', written over a horizontal line.

Kenneth Kimmell
Commissioner

SERVICE LIST

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Representative

Party

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M. G. Hall Company

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DEPARTMENT

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DEPARTMENT

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Date: June 6, 2013