

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**

June 13, 2014

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In the Matter of  
Michael Prentice and William Harmon on  
behalf of themselves and all other members of  
the Westfield Camping Club, an  
Unincorporated Association

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OADR Docket Nos. 2013-26, 27, & 29  
DEP Waterways License No. 13537  
Otis, MA

**FINAL DECISION**

This case involves three consolidated appeals that challenged in whole or in part a Chapter 91 License that the Western Regional Office of the Massachusetts Department of Environmental Protection (“MassDEP” or “the Department”) issued in July 2013 to the Westfield Camping Club (“WCC”) pursuant to G.L. c. 91 (“Chapter 91”) and the Waterways Regulations at 310 CMR 9.00 (“the Chapter 91 Regulations”). The Chapter 91 License authorized WCC’s maintenance of an existing marina and private recreational boating facility (“the proposed Dock”) “in and over the waters of Big Pond at Lion Hill Road in the Town of Otis[,] [Massachusetts]” (“Big Pond”). Chapter 91 License, at p. 1.<sup>1</sup>

Brad A. Whitaker (“Mr. Whitaker”) and the Smith Family (Lisa E. Smith, Christine E.

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<sup>1</sup> “Big Pond is a 310 acre great pond located in East Otis that offers swimming and boating, as well as trout and bass fishing.” [http://www.townofotisma.com/Pages/OtisMA\\_Rec/noticeotis/bigpond?textPage=1](http://www.townofotisma.com/Pages/OtisMA_Rec/noticeotis/bigpond?textPage=1).

Smith, and Brian L. Smith), who are abutters to the proposed Dock, filed separate appeals challenging the Chapter 91 License on various grounds. WCC also brought an appeal challenging Condition No. 6 in the Chapter 91 License.

As a result of the parties' good faith settlement efforts that took place over the course of several months, the parties have reached a settlement of the case that is set forth in a written Settlement Agreement that they have submitted to me for my review and approval as the Department's Commissioner and Final Decision maker in this case. The Settlement Agreement has been executed by Michael Gorski, Regional Director of the Department's Western Regional Office; Michael Prentice and William Harmon, on behalf of themselves and all other Members of WCC; Brad A. Whitaker; Christine A. Smith; Lisa E. Smith; Brian L. Smith; and William Harmon on behalf of the Big Island Partnership.

I have reviewed the Settlement Agreement, and issue this Final Decision approving and incorporating the Settlement Agreement because the parties' settlement is in the public interest in that it furthers Chapter 91 statutory and regulatory interests. Under the Settlement Agreement:

- (1) the structure of the proposed Dock has been modified to satisfy the concerns of the abutters, Mr. Whitaker and the Smith Family (see ¶¶ 3, 3A-3D of the Settlement Agreement, at pp. 1-2);
- (2) Condition No. 6 has been modified to satisfy WCC's concerns (first numbered ¶ 4 of the Settlement Agreement, at p. 2); and
- (3) additional conditions have been included in the Final Chapter 91 License in order to minimize interference with water-related public rights pursuant to 310

CMR 9.35 and to protect water-dependent uses pursuant to 310 CMR 9.36 (second numbered ¶¶ 3, 3A, and 3B of the Settlement Agreement, at p. 2).

Within seven (7) business days after the issuance of this Final Decision, the Department shall prepare and provide me for my signature a Final Chapter 91 License approving the proposed Dock in accordance with the parties' Settlement Agreement. In accordance with 310 CMR 1.01(8)(c), these three appeals (Docket Nos. 2013-026, 027, & 029) are dismissed with the parties waiving whatever rights they may have to further administrative review before the Department as well as any appeal to Court.

A handwritten signature in cursive script, appearing to read "D. W. Cash", written in black ink over a horizontal line.

David W. Cash  
Commissioner

**SERVICE LIST**

**Applicant/Petitioner:** Michael Prentice and William Harmon on behalf of themselves and all other members of the Westfield Camping Club, an Unincorporated Association (Docket No. 2013-029);

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**Petitioner:** The Smith Family (Lisa E. Smith, Christine E. Smith, and Brian L. Smith) (Docket No. 2013-027);

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