

## DECOULOS & COMPANY

ENVIRONMENTAL ENGINEERING & LAND PLANNING

---

*VIA FEDERAL EXPRESS*  
*TRACKING #7970 9916 3818*

Friday, November 7, 2008

Tena J. Davies, Bureau of Resource Protection  
MassDEP – Southeast Regional Office  
20 Riverside Drive  
Lakeville, MA 02347

*RE: Request for Extension of Superseding Order of Conditions;*  
*DEP File No. SE-237; Docket No. 2001-114; Aquinnah*

Dear Ms. Davies:

Pursuant to the above referenced Superseding Order of Conditions (SOC) issued on July 12, 2001, which was subsequently appealed and upheld by Commissioner Robert W. Golledge, Jr. on November 10, 2005, we respectfully request an additional three year extension to complete the work described in the SOC. The SOC was issued to Paul D. Pettegrove as trustee of Gorda Realty Trust. Maria A. Kitras and I have succeeded Mr. Pettegrove as trustees.

Prior to the issuance of the Final Decision from Commissioner Golledge, the Aquinnah Conservation Commission (ACC) alleged that the local wetland by-law permit we held for the same work approved in the SOC had expired. We were unable to toll the local permit, which was issued as part of a settlement agreement with the town of Aquinnah at the Essex County Superior Court.<sup>1</sup> The trial court's decision was upheld by the Massachusetts Appeals Court (Docket No. 2005-P-1028).

Three additional Notice of Intent applications have been filed to the ACC to reclaim this expired local wetland by-law permit and all the applications have been denied. A complaint has been filed by attorneys Scott F. Lacy and Arthur P. Kreiger in Middlesex Superior Court to overturn the last denial under the Aquinnah Wetlands By-Law (Docket No. 2008-2585 H).

Due to the unanticipated delays in processing this appeal between 2001 and 2005, and the significant additional efforts necessary to secure local permits, we respectfully request a three year extension to the SOC.

---

<sup>1</sup> Maria A. Kitras and I reached a settlement agreement with the Town anticipating that the "mandatory 12 month case flow timeline" set forth in the "Commissioner's Directive on Time Limits and Timelines for Adjudicatory Appeals" from Lauren A. Liss dated December 29, 2000 would be honored. Instead of a 12 month case resolution, this administrative appeal took 52 months to resolve.

Page 2 of 2

Tena J. Davies, MassDEP Bureau of Resource Protection

Friday, November 7, 2008

Please feel free to contact me if you have any questions or concerns. Thank you.

Very truly yours,

A handwritten signature in black ink, appearing to read 'James J. Decoulos', written in a cursive style.

James J. Decoulos, PE, LSP

[jamesj@decoulos.com](mailto:jamesj@decoulos.com)

cc: Laurie Burt, MassDEP Commissioner  
Christopher F. Connolly, Chief Magistrate, Division of Administrative Law Appeals  
Will Brownsberger, State Representative of the 24<sup>th</sup> Middlesex District