

**STATE OF NEW YORK  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

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In the Matter of the Application for a  
Freshwater Wetlands Permit Pursuant to  
Article 24 of the Environmental  
Conservation Law (ECL) and Part 633 of  
Title 6 of the Official Compilation of  
Codes, Rules and Regulations of the  
State of New York (6 NYCRR),

**ORDER OF DISPOSITION**

DEC Permit  
Application No.  
1-4736-07478/00001

April 20, 2012

- by -

**GARY FELDBAU,**

Applicant.

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Appearances of Counsel:

-- Steven C. Russo, Deputy Commissioner and General  
Counsel (Kari E. Wilkinson of counsel), for staff of the  
Department of Environmental Conservation

-- Twomey, Latham, Shea, Kelley, Dubin & Quartararo, LLP  
(Christopher D. Kelley of counsel), for applicant Gary  
Feldbau

**ORDER OF DISPOSITION OF THE CHIEF ADMINISTRATIVE LAW JUDGE**

Proceedings

Applicant Gary Feldbau is the owner of a parcel of  
real property located at 87 Mill Pond Lane, Watermill, Town of  
Southampton, Suffolk County. Applicant filed an application for  
a freshwater wetlands permit to construct a new single family  
dwelling on the parcel. Staff of the Department of  
Environmental Conservation (Department) denied the application  
and, in July 2011, applicant requested a hearing.

The matter was referred to the Department's Office of  
Hearings and Mediation Services (OHMS) and an adjudicatory  
hearing was scheduled for March 6-7, 2012. The hearing was  
adjourned prior to notice publication pending settlement  
discussion between the parties.

By letter dated April 11, 2012, Department staff filed a stipulation executed by applicant and the Department. Staff asserts that the stipulation resolves all outstanding issues between the parties. Pursuant to the stipulation, Department staff will issue a freshwater wetlands permit in the form attached to the stipulation as Exhibit C within 30 days of the issuance of an order of disposition from OHMS.

Order of Disposition

Pursuant to 6 NYCRR 624.13(d) and Organization and Delegation Memorandum 94-13, Effect of Stipulations on Decision-Making in Permit and Enforcement Proceedings, where a permit application has been referred for an adjudicatory hearing and the parties reach a stipulation that resolves any or all of the issues in dispute, the agreement eliminates the need for the permit hearing and any substantive involvement of the Administrative Law Judge or the Commissioner with respect to the stipulated issues.

Accordingly, pursuant to the stipulation of the parties, the permit hearing is cancelled, and the hearing file maintained by OHMS is closed. The matter is remanded to Department staff for issuance of a permit consistent with the stipulation.

FOR THE NEW YORK STATE DEPARTMENT  
OF ENVIRONMENTAL CONSERVATION

/s/

by:

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James T. McClymonds  
Chief Administrative Law Judge

Dated: April 20, 2012  
Albany, New York