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THE CAPE COD COMMISSION

CAPE COD PLANNING AND ECONOMIC DEVELOPMENT COMMISSION  
1ST DISTRICT COURT HOUSE, BARNSTABLE, MASSACHUSETTS 02630  
TELEPHONE: 508-362-2511

CCC # TR90045

DATE: July 16, 1990  
TO: Board of Selectmen, Town of Wellfleet  
FROM: Cape Cod Commission  
RE: Hardship Exemption Request  
Cape Cod Commission Act, Section 23  
APPLICANT: Town of Wellfleet  
PROJECT: Wellfleet Transfer Station  
MAP/PARCEL #: Lot 3, Assessor's Map 204-25 (7)

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DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (Commission) hereby approves the application of the Town of Wellfleet for a hardship exemption under Section 23 of the Cape Cod Commission Act (Act), c. 716 of the Acts of 1989, as amended, for the proposed Wellfleet Transfer Station. The decision is rendered pursuant to the vote of the Commission on June 7, 1990.

PROJECT DESCRIPTION

This application is for a proposed municipal solid waste transfer station. The transfer station would be a permanent facility located east of the southeast corner of the existing Sanitary Landfill site, which is approximately 1/2 mile from Route 6 on Coles Neck Road. It will serve the municipal and private trash pick ups from the Town of Wellfleet. The transfer station facility is designed to collect up to 30 tons per day of solid waste on a peak month, and will provide the Town of Wellfleet with the means to consolidate waste material for transport to the SEMASS Resource

Recovery Facility in Rochester, MA. The site will include a permanent recycling drop-off center.

Review of the proposed development by other agencies occurred as follows: (1) No filing was required under the Massachusetts Environmental Policy Act, Chapter 30, Sections 61-62H. (2) Site assignment was granted by the Wellfleet Board of Health on July 7, 1988. (3) The Massachusetts Department of Environmental Protection (DEP) approved the proposed development by failing to issue an appeal and gave verbal design approval under M.G.L., Chapter 111, Sec. 150A in February of 1990.

### PROCEDURAL HISTORY

This application for a Hardship Exemption under section 23 of the Act was filed with the Commission on May 10, 1990. A duly noticed public hearing on the application was conducted by the Commission pursuant to Section 5 of the Act on June 7, 1990, at 3:10 p.m. in Rooms 11-12 in the Barnstable County Superior Court House, Route 6A, Barnstable, MA.

Materials submitted for the record include: Plans entitled "Town of Wellfleet, Massachusetts, Solid Waste Transfer Station, Construction Drawings" numbered one (1) through seven (7), by Clark Engineers and Associates, One Harris Street, Newburyport, MA, dated February 27, 1990; a letter from Attorney Michael Ford to the Wellfleet Town Administrator, dated May 9, 1990, containing an opinion as to Commission jurisdiction over the proposed project; a letter to Chairman Armstrong from the Wellfleet Town Administrator, dated May 10, 1990, seeking a clarification of Commission jurisdiction over the project and requesting a timely review; a letter of referral of the proposed project to the Cape Cod Commission from Commission member David Ernst dated May 10, 1990; a history of the proposed development including a list of pertinent dates, received June 7, 1990; memoranda from the Wellfleet Health Agent dated August 4, 1988 and December 21, 1988 pertaining to DEP site assignment; Copies of public notice and minutes of the Wellfleet Board of Health site assignment hearing.

### JURISDICTION

The proposed Wellfleet Solid Waste Transfer Station qualifies as a Development of Regional Impact under Section 12(c)(8) of the Act. Section 12(c)(8) requires review of "any development the proposed construction or expansion of which will provide facilities for transportation to or from Barnstable County". The application was referred to the Commission by the Wellfleet Board of Selectmen. The application and notice of public hearing relative thereto, the Commission staff's notes and exhibits and all written submissions received in the course of our proceedings are incorporated into the record by reference.

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FINDINGS

The Commission has considered the hardship exemption application of the Town of Wellfleet for the proposed Wellfleet Transfer Station, and based on consideration of such application and upon the information presented at the public hearing, makes the following findings pursuant to section 23 of the Act:

1. Wellfleet is approaching the end of the useful life of its landfill.
2. Any delay in starting operation of the transfer station will result in permanent loss of remaining reserve space in the landfill.
3. Under current and proposed state regulations, it will become increasingly more difficult to expand existing landfills and to site new landfills.
4. The design of the transfer station was initiated before the passage of the Cape Cod Commission Act. The Town of Wellfleet has obtained all necessary permits from local, state and federal agencies for completion of the transfer station.
5. Performance by Wellfleet under a valid contract between SEMASS and the Town of Wellfleet is pending completion of construction of the facility.
6. The Cape Cod Sole Source Aquifer, because of its hydrogeologic conditions, is particularly sensitive to landfill uses. Because of the Cape's Sole Source Aquifer designation, transfer to an off-cape waste to energy facility is preferable to disposal of solid waste in landfills.
7. The proposed facility will relieve the existing groundwater impacts at the Wellfleet landfill, which has been studied under section 201 of the Federal Water Pollution Control Act and the Mass. DEP Construction Grants Program. The collection facility is sheltered from the elements and surface water run-off will be diverted to vegetative swales.
8. The increase in site traffic will be a maximum of four trucks per day, averaging two trucks per day. The preferred route will be Coles Neck Road to Route 6.

CONCLUSION

Based upon the findings above, the Cape Cod Commission hereby concludes:

1. that a literal enforcement of the terms and provisions of this Act with respect to the Wellfleet Solid Waste Transfer Station would involve substantial hardship, financial or otherwise, to the Town of Wellfleet. This hardship is supported by evidence that Wellfleet is approaching the end of the useful life of its landfill and delays in starting operation of the transfer station will result in permanent loss of remaining reserve space in the landfill; and Wellfleet initiated design of the facility prior to enactment of the Cape Cod Commission Act and has obtained all necessary state and local permits required for completion of the transfer station.

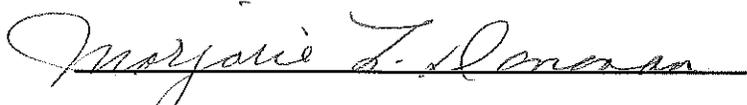
2. that desirable relief may be granted without substantial detriment to the public good. This conclusion is supported by evidence that the Cape Cod Sole Source Aquifer, because of its hydrogeologic conditions, is particularly sensitive to landfill uses in general and the Wellfleet landfill may be contributing to groundwater pollution. Transfer of solid waste to an off-Cape waste-to-energy facility will promote the public interest by mitigating groundwater contamination from the Wellfleet landfill.

3. that desirable relief may be granted without nullifying or substantially derogating from the intent or purposes of the Act. This conclusion is supported by evidence that the proposed transfer station facility will provide for adequate capital facilities including solid waste disposal facilities; that the proposed facility will mitigate potential groundwater contamination resulting from landfilling; and that traffic impacts from the proposed facility will be minimal.

The Commission hereby grants the Wellfleet Transfer Station a hardship exemption from the terms and provisions of the Act, pursuant to Section 23 of the Act.

  
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Richard S. Armstrong, Chairman

7/20/90  
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Date

  
\_\_\_\_\_  
Notary

7-20-90  
\_\_\_\_\_  
Date

MY COMMISSION EXPIRES  
NOV 5, 1993