



CAPE COD COMMISSION

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DATE: April 13, 2000

TO: Dr. Len Alberts, Chair, Provincetown Airport Commission

FROM: Cape Cod Commission

RE: Development of Regional Impact
Cape Cod Commission Act, Sections 12 and 13

APPLICANT: Dr. Leonard Alberts, Chair
Provincetown Airport Commission
Town Hall
260 Commercial Street
Provincetown, MA 02657

OWNER: Cape Cod National Seashore
National Park Service
U.S. Department of the Interior

PROJECT #: TR93007

PROJECT: Provincetown Airport Short-Term Improvements

BOOK/PAGE: Book 1106, Page 458

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (Commission) hereby approves with conditions the application of Dr. Leonard Alberts, Chair of the Provincetown Airport Commission as a Development of Regional Impact (DRI) pursuant to Sections 12 and 13 of the Cape Cod Commission Act (Act), c. 716 of the Acts of 1989, as amended, for the proposed Provincetown Airport Short-Term Improvements. The decision is rendered pursuant to a vote of the Commission on April 13, 2000.



PROJECT DESCRIPTION

Provincetown Airport is located in a low-lying area surrounded by sensitive resources including fresh, brackish, and salt water marsh, barrier beach and dunes. The entire facility is located within the 100 year floodplain and is within Cape Cod National Seashore on land subject to special permit for airport purposes. The proposed project consists of the following short-term airport improvements: construction of runway safety areas, turf and general aviation aprons, and the construction of an access road to the runway approach lights and replacement of the lights.

Turf/General Aviation Aprons – These areas provide parking for visiting aircraft. The project will create 23 designated turf parking spaces that previously did not exist on the turf aprons. Also, an additional 12,750 sq. ft. of paving will be added to the existing paved apron to provide for improved aircraft circulation. No new paved parking spaces will be created. This will result in filling of approximately 2800 sq. ft. (0.06 acres) of two isolated scrub shrub wetlands, as well as alteration of approximately 73,824 sq. ft. (1.7 acres) of wetland buffer. Of this buffer area, approximately half an acre is currently undisturbed; the remainder is grassed and mowed.

Runway Safety Areas – The runway safety areas are 150' wide x 300' long "strengthened turf" areas to be located at the two ends of the runway. These areas provide an added safety margin for arriving and departing aircraft and for firefighting equipment and are required by the FAA. No such safety areas are currently provided at the airport. No wetlands will be altered for construction of the safety areas. Approximately 16,000 sq. ft. of wetland buffer, which is grassed and mowed, will be disturbed at the western end of the runway. The safety area at the eastern end of the runway will include 200' of new pavement which results from a slight shift of the runway to avoid wetland alteration.

MALS Access Road/Replacement of Lights – In conjunction with the Runway Safety Areas, the FAA is proposing replacement of the existing approach lights and construction of a gravel and catwalk access way leading from the runway safety area to the lights to allow regular maintenance and inspection of the light system. There is currently no access road to the lights. The 800' long roadway is proposed to have sloped shoulders for a total footprint of 14 feet in width. A 400' long, five-foot wide "catwalk" will be constructed at the end of the road to reach the last two sets of lights. This is the maximum amount of catwalk that can be constructed without encroaching on the Obstruction Free Area at the end of the runway. Construction of this portion of the project will result in the alteration of approximately of 10,200 sq. ft. (0.23 acres) of wetland that is currently mowed. The amount of buffer impact for this part of the project is 1400 sq. ft. (.03 acres).

PROCEDURAL HISTORY

Pursuant to a Memorandum of Understanding between the Cape Cod Commission and the Executive Office of Environmental Affairs, the applicant elected to participate in a joint Cape Cod Commission/MEPA review process designed to address the concerns of both agencies and to expedite project review. The following details the chronology of this project, not including

Provincetown Airport--Short Term Improvements
Provincetown, MA
TR-93007
Decision

November 9, 1995	Certificate of the Secretary of Environmental Affairs on NPC. Terminal building project allowed to proceed without further review
November 13, 1996	Extension of decision deadline to February 6, 1998
December 19, 1997	Extension of decision deadline to December 4, 1998
May 1998	Notice of Project Change/Draft Environmental Impact Report (NPC/DEIR) submitted to MEPA and Cape Cod Commission. Proponent requests approval to proceed with construction of fire equipment garage at this time without further environmental review since federal funding is available in the short term for this project.
May 4, 1998	CCC subcommittee meets to receive update on proposed project from staff in light of filing of NPC/DEIR.
May 19, 1998	CCC subcommittee conducts site visit at Airport and attends FAA public hearing on the NPC/DEIR
May 26, 1998	CCC holds subcommittee meeting to finalize comments on NPC/DEIR. Subcommittee submits comments dated 5/28/98.
June 9, 1998	Secretary issues NPC/DEIR Certificate allowing proponents to move forward with a Final Environmental Impact Report providing more specific information on wetlands impacts and mitigation. It is noted in the Certificate that wetland alteration has been reduced from 16.9 acres to 1.86 acres for the project (including a future possible runway extension). Secretary approves construction of fire garage without further review.
June 15, 1998	CCC staff letter to proponents noting that since no further MEPA review is needed for fire garage, no CCC review is necessary for this building.
October 27, 1998	Extension of decision deadline to December 3, 1999
April 14, 1999	Notice of Project Change filed with MEPA to expand project to include new roadway to approach lights resulting in additional wetland alteration.
May 14, 1999	CCC staff submits comments to MEPA recommending further analysis of project and alternatives through either a separate ENF or Supplemental Draft EIR. MEPA allows project to include analysis of alternatives and impacts in the Final Environmental Impact Report.
October 20, 1999	Extension of DRI decision date to July 31, 2000.
December 1, 1999	Final Environmental Impact Report filed with MEPA and Cape Cod Commission.
January 3, 2000	Subcommittee meeting to review Final EIR. Subcommittee submits comments on Final EIR dated 1/3/2000

Provincetown Airport--Short Term Improvements
 Provincetown, MA
 TR-93007
 Decision

January 14, 2000 MEPA Certificate on Final Environmental Impact Report finding that project adequately and properly complies with MEPA requirements.

February 24, 2000 Development of Regional Impact Public Hearing in Provincetown.

March 27, 2000 DEP issues denial of Superceding Order of Conditions

April 3, 2000 Subcommittee meets to review draft decision and votes 4-0 to recommend to the full Commission that the project be approved as a Development of Regional Impact subject to conditions.

April 13, 2000 Full Commission hearing and final decision. Commission votes to approve the project as a Development of Regional Impact subject to conditions.

MATERIALS SUBMITTED FOR THE RECORD

From the applicant:

Standards for the Construction of Airports/FAA Circular	1/9/91
Provincetown Municipal Airport 1991 Master Plan	6/5/92
Letter from Stan Humphries to Dennis Finn re: beacon replacement (w/ supp. materials)	2/9/93
Joint Review Submittal (ENF/DRI application, master plan and supporting materials),	4/93
Letter from Stan Humphries to Dennis Finn re: ENF Transmittal	4/15/93
Scoping Session Materials	5/11/93
Letter from Stan Humphries to Dennis Finn re Notice of Project Change	6/14/93
Environmental Scoping Meeting/Review Materials Report	8/6/93
Revised Scope of Work from Fugro McClelland and TRA Ltd.	9/9/93
Technical Advisory Committee Project Notebook	2/94
Summary of TAC Meeting of 2/16/94	3/15/94
Letter to D. Finn transmitting revised "Purpose and Need" study from Joanne B. Crowe	7/19/94
Summary of TAC Meeting of 10/13/94	10/13/94
Affected Environment/Environmental Impact Study Report, Fugro	6/95
Summary of TAC Meeting of 5/12/95	6/12/95
Revised Draft Analysis of Alternatives Report	7/14/95
Summary of TAC Meeting of 9/26/95	8/28/95
Letter from David Fish to Trudy Coxe re Terminal Building Replacement	9/29/95
Letter from Jeff O'Connell to Kathy Sferra re terminal project change	10/3/95
Memo from David Fish to Sarah Korjeff and others re: terminal replacement	10/31/95
Letter from David Fish, TRA-BV to Sarah Korjeff re: terminal replacement with mtg. schedules and summaries	11/24/95
P'town Airport, Terminal Replacement Project	6/17/96
Summary of Minutes of TAC Meeting of 2/26/97	4/9/97
Memo from Don Schall, ENSR to TAC regarding wetland mitigation	4/18/97
Summary of Minutes of TAC Meeting of 4/29/97	7/11/97
Draft Environmental Impact Statement/Env. Impact Report	4/3/98
Letter from Jeff O'Connell to Trudy Coxe, EOE, requesting Project Change	6/8/98
Letter from Jeff O'Connell to Robert Durand, EOE, requesting Project Change	4/14/99
Memo from Jeff O'Connell to Sarah Korjeff transmitting Notice of Project Change	4/28/99
Letter from Jeff O'Connell to Len Alberts re: status of permitting	9/24/99
Letter from Jeff O'Connell to Kathy Sferra transmitting FEIR	11/30/99

Provincetown Airport--Short Term Improvements
 Provincetown, MA
 TR-93007
 Decision

Final Env. Impact Statement/Env. Impact Report	12/1/99
MALSF Access Road Plan Alternatives, submitted by Edwards & Kelcey, Inc.	2/22/00
Final Environmental Impact Statement, dated February 2000	3/16/00
Draft Stormwater Pollution Prevention Plan	3/2000
Memo from Kathryn Barnicle to Kathy Sferra re: staff report responses w/ attached mitigation proposal, habitat assessment, Hatches Harbor information and plans	3/20/00
Memo from Jeff O'Connell to Kathy Sferra re: comments on draft decision	3/31/00

From Cape Cod Commission:

Letter from Dennis Finn to Keith Bergman re: DRI application submittal	4/20/93
Staff Report	5/6/93
Letter from Kathy Sferra to Lealdon Langley, DEF transmitting staff report	5/9/93
Letter from Margo Fenn to Trudy Coxe transmitting ENF comments w/ attachment	5/13/93
Letter from Armando Carbonell to Trudy Coxe with comments on NPC	6/29/93
Letter from Dennis Finn to John Silva, FAA re: project concerns	8/26/93
Letter from Margo Fenn to Trudy Coxe with comments on notice of project change	11/3/95
Letter from Sarah Korjeff to David Fish re: terminal project	1/17/96
Letter from Sarah Korjeff to Len Alberts re extension agreement	11/13/96
Letter from Armando Carbonell to Trudy Coxe with Hatches Harbor ENF comments	8/5/97
Memo to File from Kathy Sferra re: Draft EIR/EIS	3/3/97
Memo to file from Kathy Sferra re: wetlands mitigation	5/7/97
Memo to file from Kathy Sferra re wetlands mitigation	10/16/97
Letter from Sarah Korjeff to Len Alberts re extension agreement	12/19/97
Memo from Sarah Korjeff to subcommittee on project history	4/30/98
Staff Report	5/18/98
Subcommittee comments to MEPA on Draft EIR/EIS	5/28/98
Letter from Sarah Korjeff to Jeff O'Connell re further review of fire garage	6/15/98
Letter from Sarah Korjeff to Len Alberts re extension agreement	10/27/98
Subcommittee comments to MEPA on Notice of Project Change for access rd.	5/14/99
Letter from Kathy Sferra to Len Alberts re extension agreement	10/20/99
Letter from Kathy Sferra to Jeff O'Connell re local permitting	10/20/99
Email from Kathy Sferra to Rich Doucette, MAC re local permitting	12/6/99
Email from Kathy Sferra to Rich Doucette, MAC re local permitting	12/7/99
Memo from Sarah Korjeff and Kathy Sferra to subcommittee with project history	12/29/99
Subcommittee comments to MEPA on Final EIR	1/3/00
Letter from Kathy Sferra to Richard Doucette re: wetlands mitigation w/ attachment	1/18/00
Staff Memo summarizing MEPA comments from CCC and DEP	2/15/00

From federal/state/local officials:

Letter from Andy Ringgold, NPS to P'town Airport Commission re: Master Plan	4/15/92
Letter from V. Scarano, FAA to Marie Rust re General Management Plan	5/12/92
Letter from Len Alberts to John Silva re: Hatches Harbor funding	6/7/92
Minutes of Meeting concerning project	7/1/92
Letter from V. Scarano, FAA to Board of Selectmen re proposed project	9/1/92
Letter from Andy Ringgold to V. Scarano re: proposed project	9/23/92
Letter from Jane Mead re CZM consistency review	10/19/92
Letter from Andy Ringgold, CCNS commenting on ENF	5/11/93
Letter from Gwen Bloomingdale to David Shepardson re: extension for project review	5/24/93
Letter from V. Scarano, FAA to Marie Rust, NPS re: interagency communication	6/4/983
Letter from Marie Rust, NPS to Arlene Feldman, FAA re: interagency communication	7/6/93

MEPA Certificate on ENF and Notice of Project Change	7/8/93
Letter from Andy Ringgold, CCNS to John Silva, FAA re: EIS	8/25/93
Letter from Maria Burks, CCNS to L. Alberts, PAC regarding runway alternatives	5/25/95
Letter from Crystal Johnson, MAC to S. Korjeff re: terminal building replacement	11/2/95
Letter from Maria Burks to Trudy Coxe re: Terminal Building	11/8/95
MEPA Certificate on Notice of Project Change	11/9/95
Letter from Maria Burks to Leonard Alberts re project status	3/29/96
Letter from John Silva, FAA to Maria Burks re DGMP	10/18/96
Letter from Jeffrey Gould, DEP re: Disposal System Permit	4/15/97
Letter from John Silva, FAA re: Comments on Draft EIS	4/2/98
Letter from John Silva, FAA re: Comments on Draft EIS	5/26/98
Letter from Robert Fagan, DEP to MEPA with concerns about project	6/9/98
MEPA Certificate on Draft EIR	6/9/98
Letter from Frank Smigelski, FAA to Maria Burks, CCNS regarding need for access road	4/15/99
Email from Richard Doucette, MAC to Kathy Sferra re: local permitting	12/3/99
Email from Richard Doucette, MAC to Kathy Sferra re: local permitting	12/6/99
Email from Richard Doucette, MAC to Kathy Sferra re: response to comments	1/6/00
Comments from DEP Southeast Regional Office on FEIR	1/11/00
MEPA Certificate on Final EIR	1/14/00
Superceding Order of Conditions, from DEP	3/27/00
Emails (2) from R. Doucette, MAC to Kathy Sferra re: comments on draft decision	3/31/00

From the public:

Letter from E. Heidi Roddis, Mass. Audubon Society with concerns about project	3/1/93
Letter from Henri S. Rauschenbach in support of project	5/11/93
Letter from E. Heidi Roddis, Mass. Audubon Society with concerns about project	5/13/93
Letter from E. Heidi Roddis, Mass. Audubon Society with concerns about project	6/25/93
Memo from Alix Ritchie transmitting hearing remarks supporting project w/ attachments	5/26/98
Letter from E. Heidi Roddis, Mass. Audubon Society with concerns about project	6/24/98

The application and notices of public hearings relative thereto, the Commission staff's notes and staff reports, exhibits and correspondence, the transcript and minutes of meetings and hearings and all written submissions received in the course of our proceedings are incorporated into the record by reference.

TESTIMONY

May 11, 1993 Public Hearing

The subcommittee explained the hearing process and the applicant described the proposed project. It was noted that the project is only for short-term improvements and should not be confused with longer-term needs.

Dave Fish, a consultant to the project said that he was responsible for preparation of the Master Plan. He discussed the content of the Master Plan, the role of the airport on the outer Cape and current and projected traffic at the airport. He explained the relationship between the airport and the National Park Service and noted that the Master Plan identified an economic benefit of \$2.9 to \$3 million from the airport. The peak traffic year at the airport was 1984 with 23,000 trips,

last year was 8300 trips. They are projecting a return to 25,000 trips in the future. He summarized the projects that are included in the short-term improvements which are only related to safety and not capacity. Mr. Fish stated that the proposed runway safety areas are already less than required by FAA due to the limits of the NPS lease and that this improvement is their highest priority.

Stan Humphries presented the environmental issues relating to the project. He showed a list of the issues that must be addressed in the Environmental Assessment and presented a map of the wetlands around the airport. He said the greatest environmental impact will result from runway safety area #4 which involves filling approximately 3 acres of wetland. He stated that alternatives to the fill will be examined. They considered bridging or relocating Race Rd. but this was not feasible. Mr. Humphries explained that a variance will be needed from DEP since the project exceeds 5000 sq. ft. of wetlands fill. He noted that they must acknowledge that the Cape Cod Commission has a no fill policy and must justify the public need for the project.

Dennis Finn summarized the staff report. He noted concerns in 6 areas: natural resources, hazardous waste, economic development, transportation, historic preservation/community character and open space. He summarized the issues including alteration of 4.57 acres of wetlands and areas of the buffer, the need for delineation, vegetation clearing, stormwater, the needs for a wildlife habitat assessment, other permitting requirements, etc.

Alix Ritchie submitted copies of the Executive Summary of the Airport Master Plan. She explained the history of the Commission's involvement with this project. She noted the RPP's focus on public transportation and the transportation, medical and economic benefits provided by the project.

Mike Perrell, Provincetown Selectmen, stated that the questions asked in the staff report are far beyond what the town can answer. He urged the Commission to consider the importance of the airport. He said that he would like to see the long term improvements included in the project. He noted that there will be 90 new acres of wetlands to replace 4.

James Jeffords of the Provincetown Water and Sewer Board stated that he felt the staff report was revolting. He explained the history of the Hatches Harbor Project and that discussions over the appropriate flood elevation. He noted that the town has 52% unemployment in the winter and that this outweighs the environmental issues.

Bob Martin, Truro Selectmen, said that the Truro Board of Selectmen have voted to support this project and anything that improved transportation to the outer Cape. He stressed that the economic benefits of the project be considered.

Andy Ringgold from the National Park Service said they are not supporting or opposing the project. He expressed concern about the process of selection of alternatives in the master plan. He said it is not clear what FAA requires and what can be waived. He suggested the no action

alternative be assessed with regard to the wetland issue. He urged the reviewers to consider the purpose of the national seashore and the potential impacts on Seashore uses and values. He emphasized the impact of noise and said that is still not clear whether or not the improvements will facilitate higher use levels. He asked the reviewers to consider the assumptions behind the economic arguments. He also asked that a field survey be conducted for archeological issues.

Pam Rubinoff, CZM, spoke on behalf of Jeff Benoit. She noted that there may not be much time between the short term and long term improvements and suggested that the entire project be scoped for an EIR instead of being segmented. She noted that the Master Plan was never reviewed by MEPA. She concurred with the comments of the staff and the National Seashore.

Paul Trainor said that the staff report does not include a discussion of the tourism benefits of the airport and noted the health and safety importance of the airport. He suggested that the airport be expanded toward Race Point Road. He added that he doubted that the archeological survey would find anything.

Sarah Park, business owner, stated that economic impacts must be weighed against environmental impacts. She said that the alternative to not having the airport is new parking lots which also have environmental impacts. Other benefits of the airport are reduced travel time, less vehicle noise, improved air quality.

Peter Souza, Provincetown Earth First, said it would be obscene to fill the wetlands on the site. He said that the economic benefit of the airport is a myth. He stressed the need to take a long term view with regard to the environment. He said the short-term improvements are setting the airport up for larger planes in the future. He urged the subcommittee to have the courage to do what is right and deny the project.

John Silva from the FAA explained the difference between runway safety areas and the runway expansion. Waivers would be approved only if any equivalent level of safety can be demonstrated. They cannot provide federal funding unless runways are brought up to standards. He said the FAA originally supported considering the whole project, including the runway extension, but the NPS refused to participate if they proposed extending the runway beyond the lease areas. He said that the runway will need to be extended in 3-5 years to allow for larger turboprop airplanes. He added that the master plan is more environmentally sensitive than other master plans he has been involved with. He feels that alternatives have been assessed from an environmental perspective. He added that it is not possible to extend the runway to the east since a large dune would block aircraft operations.

Gwen Bloomingdale stated that the EIR should consider the impacts of the full required runway safety areas, not just those within the boundaries of the NPS lease. She said that she feels that the Hatches Harbor project should be included with this project and not separated. She stressed the need to get this project underway quickly.

Barbara Gard said she moved to Provincetown due to the short flight commute. She is a mechanic on call at the airport. She noted that the changes in airport use are partly a result of the construction of Route 6, increasing fuel prices and an airline company that went out of business, and better fuel mileage. She also noted the economic and medical importance of the airport.

Edgar Francis, Truro, stated that the environment of the airport includes the residents of the outer Cape. He takes people back and forth by plane to Boston to attend to medical needs.

The subcommittee discussed the project, revised the staff report and agreed to send comments to MEPA on the Scope of the project.

FAA Public Hearing, May 19, 1998

John Silva of the FAA acted as hearing officer and explained the process and timeframe. The DEIR/DEIS will be revised over the next few months. There will be a 30 day public comment on the FEIS and then a federal record of decision. The EIS comment deadline has been extended to June 24, 1998. Dave Shepardson from MEPA clarified that the MEPA comment deadline is still May 29, 1998.

David Fish explained the history of the project and the alternatives that were considered. He noted that the Runway Extension was included for the purpose of assessing the cumulative impacts only. Jeff O'Connell explained the environmental impacts of the project. David Fish noted the compromises that had been made in project design in order to minimize the environmental impacts. Don Schall explained the possible replication project and noted his opinion that the replication of herbaceous vegetated wetlands can almost be guaranteed. The possibility of mitigation through the Hatches Harbor project was also discussed.

Alix Ritchie noted the importance of the airport remaining commercially viable and its economic and transportation importance to Provincetown. She noted goals and policies from various documents including the Regional Policy Plan, Long Range Transportation Plan, Outer Cape Capacity Study, and Provincetown Transportation Planning Committee Study that support alternative transportation, including air service. She noted that she believes that the Hatches Harbor project and the Airport project overlap in many ways and supports using this project as mitigation for the airport project.

Armand Dufresne, Massachusetts Aeronautics Commission, also noted the economic importance of the Airport and the opportunity for mitigation through the Hatches Harbor project. He said that MAC is considering asking the Secretary of Environmental Affairs to consider the DEIR final so that the projects can move forward quickly.

Candace Collins-Bowden, Provincetown Chamber of Commerce, spoke about the importance of the Airport to Provincetown's economy and to enhancing tourism.

February 24, 2000 Public Hearing

Jeff O'Connell, consultant for the project, showed an aerial photo of the airport and described the project. He stated that the airport includes 6 acres of paved area. Mr. O'Connell stated that the project includes aviation parking aprons, runway safety areas, and an access road for the airport approach lights. Turf aprons are proposed in two areas and would impact 0.06 acres of wetland. The Runway Safety Areas are minimized in size to 150 feet by 300 feet and are located outside of wetland areas at both ends of the runway. The whole runway will shift 200 feet east as part of this proposal to avoid wetland impacts. Mr. O'Connell noted that the Access Road is a more recent proposal. He stated that the light system needs to be replaced and 6 alternatives were considered to try to avoid wetland impacts. They propose a 14-foot wide access road (with 10-foot wide paved area) for 1200 feet along the light stations. This would impact wetlands, as well as wetland buffer areas. They considered a 5-foot wide roadway which would require using an ATV, but the FAA would prefer a regular vehicle. Mr. O'Connell stated that a DEP variance would be required as part of their permitting. He stated they also considered using the existing National Park Service road with side roads to each light station, which would have less wetland impact, but no area for vehicle turn-around. The current proposal ends with a catwalk of 150 feet to the final light station, reducing the wetland impact by 27%.

Frank Smigelski, FAA, stated that the access is needed for monthly maintenance, plus needs if problems occur. Joe Travelo asked how much equipment is needed to service the lights. Mr. Smigelski stated that toolboxes, etc. are needed and that a 400-foot distance to haul equipment would be acceptable, though they would prefer road access all the way. He also noted that the final 400 feet of the access would become tidal under the Hatches Harbor project, making a catwalk in that area logical. Peter Gray-Mullen, consultant for the project, stated that technicians currently carry all equipment that may be needed in their truck.

Mr. Ernst invited staff to report. Kathy Sferra summarized the staff report. Ms. Sferra stated that the project's wetland impacts have been most difficult. For the proposed Runway Safety Areas and parking aprons, Commission staff and the applicant agree that the preferred alternatives are best in terms of their limited wetland impacts. For the access road, Commission staff, DEP and the project proponents met to discuss options. She stated she was pleased that new alternatives are being considered. The applicant has proposed culverts under the access road to maintain water flow. Ms. Sferra stated that the Flexibility Clause of the Regional Policy Plan is needed if wetland impacts are allowed. The applicant proposes the Hatches Harbor project as mitigation. The Park Service has offered to provide information on the project's status which is currently ahead of schedule. Commission and DEP staff have requested a mitigation package including the Hatches Harbor project, a reduction in impacts of the access road, and stormwater run-off improvements. They have also asked the applicant to address concerns regarding the timing of the project and its mitigation, noting that the project's wetland creation would occur much later than the airport improvements. The FAA agreed to provide annual reports return with alternative mitigation if necessary. Ms. Sferra stated that a Stormwater Management Plan is currently being prepared, and improvements proposed in this plan could help mitigate wetland buffer impacts because of the close relationship between stormwater and wetland quality.

Mr. O'Leary asked about the extent of the Hatches Harbor project and its impact on wetland areas around the light system. Mr. Travelo suggested another means of accessing the light stations from the existing Park Service roadway. Ms. Sferra stated that it is preferable to keep the road within the existing grassed and managed wetland areas to avoid impacts to undisturbed wetland areas. Mr. Brock clarified that the grassy strip along the light stations will need to be maintained regardless of the access chosen.

Gwen Bloomingdale, speaking as a member of the Airport Commission, stated that in regards to traffic impacts, larger planes using the airport don't necessarily mean more people, but rather fewer operations. She stated that they have no intention of making the improvements to increase capacity. Mr. Brock noted that capacity could, however, be increased with the proposal for a runway extension. Ms. Sferra clarified that the runway extension is not proposed at this time.

The subcommittee closed the hearing, leaving the record open and scheduled a meeting on April 3, 2000 for the purposes of receiving an update and discussing a draft decision.

April 3, 2000

The subcommittee met for the purpose of reviewing a draft decision. After discussion, the subcommittee voted 4-0 to recommend approval of the project with conditions.

JURISDICTION

The proposed Provincetown Airport Short-Term Improvements Project is being reviewed by the Cape Cod Commission as a Development of Regional Impact pursuant to an application filed on April 15, 1993 because the project required the filing of an Environmental Impact Report under Section 61-62h of Chapter 30 of the general laws. The referral is required by Section 12(i) of the Act and by Commission regulations.

FINDINGS

The Commission has considered the application of Dr. Leonard Alberts, Chair of the Provincetown Airport Commission for the proposed Provincetown Airport Short-Term Improvements, and based on consideration of such application and upon the information presented at the public hearing(s) and submitted for the record, makes the following findings pursuant to Sections 12 and 13 of the Act:

General

1. Provincetown Airport is a commercial service airport situated on more than 320 acres of land within the Cape Cod National Seashore. The airport operates through Special Use Permits issued by the National Park Service which are valid through 2016.
2. The proposed project is being reviewed for consistency with the 1991 Regional Policy Plan in accordance with Barnstable County Ordinance 91-8, Section 5 which states that "DRIs

referred to or accepted for review by the Commission after September 6, 1991 shall be governed by the Minimum Performance Standards of the Plan in effect at the time of the opening of the first public hearing."

3. The proposed project consists of the following short-term safety improvements: runway safety areas, turf and general aviation aprons, and replacement of the approach lights and construction of an access road/catwalk serving the lights. The airport currently lacks FAA required runway safety areas and the approach lights have deteriorated and are in need of replacement. This project approval incorporates the following alternatives identified in the applicant's submittal: Turf and General Aviation Alternative A3, Runway Safety Area Alternative RSA4, and MALS Access Alternative 1B.
4. A proposed runway extension is not proposed for construction at this time, and is not included in this approval. The runway extension would be subject to future Cape Cod Commission review if it proceeds at a later date and appropriate mitigation will need to be identified at that time.
5. Developments of Regional Impact are required to be consistent with certified Local Comprehensive Plans. The town of Provincetown does not have a certified Local Comprehensive Plan.
6. Developments of Regional Impact are required to be consistent with adopted Districts of Critical Planning Concern. The proposed project is not located within an adopted District of Critical Planning Concern.
7. Developments of Regional Impact are required to be consistent with local development bylaws. The proposed project is consistent with Provincetown's Bylaws. The project will require a variance from the Wetlands Protection Act as noted in the Wetlands findings below, and approval has been conditioned on the grant of this variance.

Water Resources

8. The 1991 RPP prohibits direct discharge of new untreated stormwater into marine and fresh surface waters (Minimum Performance Standard 2.1.1.5) and encourages the use of stormwater best management practices.
9. Drainage through the site is generally by sheet flow and infiltration into existing surrounding upland and wetland areas and a continuation of this sheet flow is proposed for the airport improvement projects. Potential water quality impacts include discharge of hazardous materials from airplane maintenance and storage, plane de-icing and fueling practices.
10. In order to minimize stormwater impacts from the proposed expansion of the runway aprons, surface runoff will be directed to a three-foot wide grass filter strip between the edge

of the pavement and the wetland. In cases where this three-foot strip cannot be provided, the apron will be curbed or graded to divert stormwater flow to the filter strip.

11. The Provincetown Airport Commission has submitted a draft comprehensive Stormwater Pollution Prevention Plan (SWPPP), dated March 2000 and prepared by Eggleston Environmental, that addresses drainage and runoff issued associated with existing conditions and with the planned improvements.
12. Given the close interrelationship between wetlands, wetlands buffer and stormwater issues at the Airport, implementation of recommendations in the stormwater management plan will help mitigate the wetlands and wetland buffer impacts of the project. In order to accomplish this, the conditions of this decision require improvement of two existing catchbasins which discharge stormwater directly to wetlands and wetland buffer areas, implementation of best management practices in the SWPPP with reports on progress to the Cape Cod Commission, and minor modifications to the draft SWPPP to address inspection of existing facilities. These conditions will help improve stormwater quality and minimize risk of contamination from refueling, stormwater runoff and other existing operations.

Transportation and Economic Development

13. Provincetown is located at the extreme tip of Cape Cod. It takes approximately 2 1/4 hours to drive there from Boston and one hour from Hyannis (and longer in the summer) and requires air transportation for accessibility. Air service also provides a necessary medical link between Provincetown and Boston hospitals.
14. The Commission encourages public transportation alternatives to the automobile, including airplanes. The Cape Cod Commission Regional Policy Plan (Development Review Policy 4.1.2.5) recognizes public transportation, particularly airports, as "vital economic and transportation resources." Enhancing the air service out of Provincetown is considered a benefit in the Commission's required weighing of benefits and detriments of this project.
15. The importance of public transportation, including airports, is also recognized in the Long-Range Transportation Plan for Cape Cod. Such air service benefits business and personal travelers who live on Cape Cod, as well as visitors and summer tourists.
16. The proposed improvements will not result in an increase in traffic that would warrant mitigation measures.
17. While the proposed improvements are not expected to impact the regional roadway system, future plans to expand air service to the airport may result in additional traffic and would need to be addressed by the applicant in a subsequent DRI.

Hazardous Materials/Solid Waste

18. The site is not located in either an existing Zone II or a Potential Public Water Supply Area. As such, standard 4.2.2.3 of the Regional Policy Plan would not apply to this project.
19. The proposed project involves various types of heavy equipment working in a highly sensitive wetland area. This may involve on-site storage and handling of materials related to equipment fueling and maintenance.
20. MPS 4.2.2.1 requires development and redevelopment to make reasonable efforts to minimize their hazardous waste generation through source reduction, reuse, material substitution, employee education and recycling.
21. MPS 4.2.2.2 requires that development and redevelopment shall be in conformance with the Massachusetts Hazardous Waste Regulations, 310 CMR 30.00.
22. This decision requires that the applicant demonstrate compliance with these standards by taking steps to ensure that construction contractors are familiar with the requirements of 310 CMR 30.00, and disposing of any hazardous waste generated during construction in accordance with them.
23. This decision requires that the applicant develop a protocol to be used during construction activities regarding fuel storage, equipment fueling and maintenance. These activities should be done on an impervious, bermed surface designed to provide containment and prevent runoff into adjacent areas. Equipment maintenance should be limited to the minimum necessary to keep machinery functioning (e.g. greasing of joints) and heavy maintenance (e.g. oil changes, engine repairs) should be prohibited.

Historic Preservation and Community Character

24. The Massachusetts Historical Commission has submitted a letter dated April 28, 1993 that states that the project is unlikely to affect significant historic or archeological resources.

Wetlands/Plant and Wildlife Habitat

25. Provincetown Airport is located in a low-lying area surrounded by sensitive resources including fresh and salt water marsh, barrier beach and dunes. The entire facility is located within the 100 year floodplain. The applicant has conducted a Plant and Wildlife Assessment of the site, and has identified no adverse impacts to rare species as a result of construction of the preferred alternative.
26. The Provincetown Conservation Commission has reviewed a Notice of Intent for the MALS Access Road and light replacement project and denied the project because the amount of

wetland alteration is greater than permitted by the performance standards in the Wetlands Protection Act (10,200 sq. ft. of wetland alteration vs. 5,000 sq. ft. maximum permitted). The Department of Environmental Protection has also denied a request for a Superceding Order of Conditions for the same reason. The applicant is required to apply to DEP-Boston for a variance from the Wetlands Protection Act.

27. A second Notice of Intent is currently pending before the Provincetown Conservation Commission for the Turf/General Aviation Aprons. Review of this Notice of Intent has been suspended during the Cape Cod Commission's review of this project. This portion of the project is not anticipated to require a variance.
28. The proposed project is not consistent with the 1991 Regional Policy Plan's Minimum Performance Standards for wetland alteration. Minimum Performance Standard 2.3.1.1. prohibits wetland alteration for Developments of Regional Impact. The total amount of wetland alteration approved in this decision is 13,000 sq. ft. (0.29 acres). Of this, 10,200 sq. ft. (0.23 acres) is grassed and managed wetland already regularly mowed and maintained in conjunction with the runway approach lights; the remaining 2800 sq. ft. (0.06 acres) is an isolated wetland containing shrub swamp vegetation.
29. The proposed project is not consistent with the 1991 Regional Policy Plan's Minimum Performance Standards for wetland buffer alteration. Minimum Performance Standard 2.3.1.2. prohibits wetland buffer alteration for Developments of Regional Impact. The standard states: "Natural, undisturbed buffer areas of at least 100' width shall be maintained from the edge of coastal and inland wetlands including isolated wetlands, to protect their natural functions including but not limited to mitigation of stormwater impacts and their wildlife habitat value. . . ." The total amount of wetland buffer alteration approved in this decision is 91,224 sq. ft. (2.09 acres). This area consists of approximately 0.5 acre of natural buffer and 1.5 acre of grassed and managed wetland buffer.
30. The Regional Policy Plan contains a Flexibility Clause allow the Commission to vary standards "if the interests protected by a given Minimum Performance Standard can be better served by an alternative approach." The Regional Policy Plan requires that: "In approving such modification, the Commission must make a finding that the proposed use will not be more detrimental to the protected resource than would be allowable under the applicable Minimum Performance Standard. The burden of proof to demonstrate that such a modification is acceptable shall be on the applicant."
31. Each of the preferred alternatives has been modified through an extensive review process to minimize wetland alteration resulting from the project. These modifications have resulted both in lowered construction costs and reduced environmental impacts from those contained in earlier submittals. The amount of wetland and wetland buffer alteration for each of the projects is the minimum amount feasible for each project. In addition, each of the selected alternatives minimizes the amount of undisturbed wetland that will be altered by locating

elements of the project in wetland/wetland buffer areas that are already grassed and mowed regularly as part of the existing airport operations.

32. The National Park Service is currently in the midst of a project to restore tidal flushing to Hatches Harbor, an area of approximately 200 acres of former salt marsh and open water that was diked off in the 1930s and lies adjacent to the Airport. The project consists of enlarging and increasing the flow of water in culverts in the dike across the Harbor. The project began in January of 1999 and it is anticipated that when completed (approximately 10 years) it will result in the restoration of 60-90 acres of salt marsh that are currently a mix of fresh, brackish and upland communities.
33. The National Park Service and the Town entered into a Memorandum of Understanding (MOU) that allows Hatches Harbor to be used as mitigation for the proposed Airport improvements if such mitigation is acceptable to the various permitting agencies. The MOU also provides for periodic monitoring of the project by a technical review committee to determine the pace at which it will proceed and address any issues that arise. The National Park Service has submitted information that demonstrates that the project is proceeding on or ahead of schedule in terms of the restoration of tidal circulation behind the dike.
34. The Hatches Harbor project is anticipated to result in the creation of wetlands in areas that are currently low-lying upland, so that there is not a net loss of wetland acreage resulting from the project. The National Park Service anticipates that approximately 6.98 acres of upland area within Hatches Harbor will be converted to wetland due to an increase in soil saturation in this area, likely in the final stages of the restoration project. A map showing the approximate location of these areas has been provided.
35. The Hatches Harbor project is also anticipated to result in the creation of approximately 1.5 acres of new wetland buffer, also in the final stages of the restoration project, which will mitigate for the buffer disturbance associated with this project. A map showing the approximate location of these areas has been provided.
36. The FAA, Massachusetts Aeronautics Commission and Provincetown Airport Commission have agreed to provide \$77,000 toward the Hatches Harbor project as mitigation for wetland impacts associated with this project. The \$77,000 figure was determined based on the funding that the National Park Service needed to cover the cost of the project. A portion of these funds has already been provided in advance of the permit to complete construction of the berms and repair the dike.
37. The applicant has agreed to submit annual reports on the progress of the Hatches Harbor restoration project. In addition, the agencies involved in the Hatches Harbor Technical Review Committee have agreed to meet in 2005/2006 to review the success of the Hatches Harbor Project. This meeting will coincide with the five-year life span of the Variance anticipated to be issued by DEP. It will also fall within the seven-year life span of the Cape

Cod Commission approval. At this time, all involved agencies and participants will review the Hatches Harbor project to see if the results meet the mitigation goals for success for the airport safety improvements (the creation of at least six acres of new wetland within Hatches Harbor and 1.5 acres of new wetland buffer). If the results are not adequate to meet the requirements of this decision, the applicant has agreed to return to the Cape Cod Commission for a modification with a new mitigation plan.

38. The applicant has also agreed to add the Commission to the membership of the Hatches Harbor Technical Review Committee overseeing the Hatches Harbor restoration project to monitor the progress of the restoration as mitigation for the wetlands impacts of this project.
39. The applicant has agreed to install culverts under the proposed MALS Access Road to address concerns raised by DEP, the National Seashore and the Commission regarding maintaining the hydrology of the wetland.
40. Based on the unique conditions associated with this project, the Commission finds that it is appropriate to invoke the Flexibility Clause to allow the wetland and wetland buffer alteration required for this project. In considering the mitigation proposed, the Commission finds that the proposed use will not be more detrimental to the protected resource than would be allowable under the applicable Minimum Performance Standard. The following factors, taken together, are essential components of this finding:
 - a) During the review of this project, the amount of wetland alteration has been significantly reduced through project modifications to the minimum amount necessary to accomplish the purpose of the project.
 - b) There are no feasible alternatives to the proposed project that would completely eliminate the need for wetland alteration.
 - c) The proposed project provides a significant public safety benefit to the Town of Provincetown and Cape Cod and is necessary to meet FAA standards and allow the continued operation of this important regional public facility. Continued operation of this airport is vital to meet local, regional and state interests in the provision of public transportation.
 - d) Significant mitigation has been provided through the participation of the Provincetown Airport Commission and the Federal Aviation Administration in the Hatches Harbor Project. This mitigation will result in restoration of 60-90 acres of salt marsh, including at least six acres of new wetlands and 1.5 acres of new wetland buffer. In addition, if the improvements at the Airport were prohibited, it is likely that the Town would not have entered into a Memorandum of Agreement with the National Park Service allowing the Hatches Harbor Restoration to proceed.
 - e) In addition to the mitigation proposed through the Hatches Harbor project, other project modifications and stormwater improvements will result in additional benefits to wetland and wetland buffer resources on the site.

CONCLUSION

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

The benefits of the proposed project outweigh the detriments resulting from the development. This conclusion is supported by the fact that the project will benefit the regional public transportation system and provides significant wetland benefits through the required mitigation.

The Commission has reviewed the project against the Minimum Performance Standards in the 1991 Regional Policy Plan and has determined that the project, as conditioned, will comply with all Regional Policy Plan Minimum Performance Standards with the exception of standards 2.3.1.1. and 2.3.1.2. The Commission has found that it is appropriate to apply the Flexibility Clause in the Regional Policy Plan with regard to these two standards in light of the work that the applicant has done to avoid, minimize and mitigate this wetland and wetland buffer alteration as provided in the findings and conditions of this decision.

The Commission has also determined that, as conditioned by this decision, the proposed development is consistent with local development bylaws in the town of Provincetown. The project will require a variance from the Wetlands Protection Act and this decision requires that such variance be granted before the project is allowed to proceed. This decision is not intended to support or oppose the grant of such variance.

The Commission hereby approves the Provincetown Airport Short-Term Improvements, subject to the following conditions:

CONDITIONS

General:

1. The applicant, his successors or assigns shall obtain all necessary State and local permits for the project prior to commencing construction. A copy of final plans and wetlands and water quality permits approved by the Massachusetts Department of Environmental Protection and the Provincetown Conservation Commission (as applicable) shall be submitted to the Commission upon receipt of such approvals and prior to receipt of a Partial Certificate of Compliance (COC#1).
2. The project shall be developed as shown on approved plans. These plans as submitted and listed in this decision shall become part of the written decision and any changes shall be approved by the Cape Cod Commission or its designee. The applicant shall provide a copy of the final design plans (including details of the catwalk construction) to the Cape Cod Commission prior to receipt of a Partial Certificate of Compliance (COC#1).
 - Hatches Harbor Tidal Restoration Plan, March 2000 (8726-940)
 - Runway Safety Area - Preferred Alternative RSA4 - Edwards and Kelcey, 1/00

Provincetown Airport--Short Term Improvements
Provincetown, MA
TR-93007
Decision

- MALSF Light Details-Road Details - Edwards and Kelcey, 1/00
3. No development work, as the term "development" is defined in the Act, shall be undertaken until all appeal periods have elapsed or, if such an appeal has been filed, until all judicial proceedings have been completed.
 4. Prior to commencing any development activity the applicant shall apply for and obtain a Partial Certificate of Compliance from the Cape Cod Commission (COC#1). Upon completion of all on site construction work and revegetation of temporary construction areas, the applicant shall apply for a Partial Certificate of Compliance (COC#2). After the wetlands mitigation has been completed, the applicant shall apply for a Final Certificate of Compliance. The applicant shall provide the Cape Cod Commission with at least 30 days notice prior to any application for a Certificate of Compliance, along with any documentation necessary to demonstrate compliance with the conditions of this decision.
 5. This DRI decision is valid for 7 years and local development permits may be issued pursuant hereto for a period of 7 years from the date of the written decision.
 6. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this decision.
 7. The applicant agrees to allow Cape Cod Commission staff to enter onto the property that is the subject of this decision for the purpose of determining whether the conditions contained in the decision are met.
 8. The applicant shall demonstrate that a copy of this decision has been provided to the general contractor prior to the start of construction.

Water Resources/Hazardous Materials/Solid Waste

9. The Stormwater Pollution Prevention Plan shall be revised as follows and a copy of the final plan submitted to the Cape Cod Commission prior to commencement of construction and receipt of a Partial Certificate of Compliance (COC #1):
 - a) The fueling area for planes should be clearly marked within the boundaries described in the management plans. No fuel storage or fueling activities should be allowed on unpaved surfaces or within the catchment area to the two existing storm drains. The areas around the existing fuel tank and in particular the area where the mobile truck is located during refilling shall be described and pollution prevention during refilling operations must be discussed.
 - b) In all cases where "periodic" inspection is specified, the plan shall be modified to be more definitive, e.g. to provide for annual, semi-annual, or monthly inspection.
10. The two existing catch basins that have wetland/buffer discharge should be modified to ensure oil/water separation, with the discharge directed to filter strips as opposed to directly to

wetland areas. This work shall be completed prior to receipt of Partial Certificate of Compliance #2.

11. The applicant shall submit reports on the status of implementation of the Stormwater Pollution Prevention Plan prior to receipt of Partial Certificates of Compliance #1 and #2.
12. Prior to application for Partial Certificate of Compliance #1, the applicant shall submit for Commission review and approval plans, which show an area or areas for construction equipment fueling and limited on-site maintenance in conjunction with the proposed construction.
13. Prior to application for Partial Certificate of Compliance #1, the applicant shall submit a narrative which describes the steps to be used to inform construction contractors of their obligation to make reasonable efforts to minimize their hazardous waste generation through source reduction, reuse, material substitution and employee education in accordance with MPS 4.2.2.1, of their obligation to utilize the area(s) designated for equipment fueling/limited maintenance as specified in this decision.
14. In accordance with MPS 4.2.2.2, prior to issuance of Partial Certificate of Compliance #1, the applicant shall submit documentation that construction contractors shall operate in conformance with MPS 4.2.2.2.
15. All on-site maintenance of construction equipment shall be limited to greasing of fittings and joints. Major repairs or servicing of equipment on site is prohibited.

Transportation/Economic Development

16. New traffic resulting from future expansion of the airport (unrelated to this project) would need to be addressed by the applicant in a subsequent DRI. Traffic impacts on the surrounding regional roadway network resulting from expanded air service could require mitigation.

Wetlands/Plant and Wildlife Habitat

17. Prior to application for Partial Certificate of Compliance #1, the applicant shall install sediment and erosion controls as required shown on the approved plans. Commission staff shall conduct a site visit and verify the adequacy of these sediment and erosion controls. Additional sediment and erosion controls shall be installed during the project wherever necessary to prevent sedimentation and erosion.

18. The applicant shall install at least twenty 6-12" diameter equalizer culverts beneath the MALS Access Road in order to encourage the flow of surface water and the movement of wildlife from one side of the road to the other. The location of these culverts shall be determined based on field conditions.
19. The applicant shall provide the National Park Service with a total of \$77,000 to be used toward the Hatches Harbor Salt Marsh Restoration Project. A portion of these funds were provided during the permitting of this project. Proof of the remainder of this payment shall be provided to the Cape Cod Commission prior to the receipt of Partial Certificate of Compliance #1.
20. The applicant shall provide the Cape Cod Commission with an annual progress report to be submitted on or before the anniversary of the date of this decision until a Final Certificate of Compliance is issued for the project. The annual progress report shall describe the status progress on the Hatches Harbor Salt Marsh Restoration Project.
21. The acres of wetland being altered for this project are being mitigated in part through the creation of new fringing wetland and wetland buffer surrounding the Hatches Harbor Project. Prior to receipt of a Final Certificate of Compliance and no later than June 30, 2006 the applicant shall either submit documentation that 6 new acres of wetlands and 1.5 acres of new wetland buffer have been created in conjunction with the Hatches Harbor project as specified in the findings of this decision or shall return to the Commission to seek a modification of this decision and propose alternative mitigation for review and approval by the Commission.
22. All areas temporarily altered during construction shall be restored to their original grade and revegetated with suitable wetland vegetation. Partial Certificate of Compliance #2 will not be issued until after two growing seasons to allow for vegetative restoration. Supplemental plantings may be required as necessary for restoration purposes.
23. The Cape Cod Commission shall be provided notices of meetings and minutes of the Hatches Harbor Technical Review Committee overseeing the Hatches Harbor restoration project and allowed to participate in the meetings as a nonvoting member of the Committee.

The Cape Cod Commission hereby approves with conditions the application of Dr. Leonard Alberts, Chair of the Provincetown Airport Commission as a Development of Regional Impact pursuant to Sections 12 and 13 of the Act, c. 716 of the Acts of 1989, as amended for the proposed Provincetown Airport Short-Term Improvements located in Provincetown, MA.

Thomas Broidrick
Tom Broidrick, Chair

4/24/00
Date

Commonwealth of Massachusetts

Barnstable, ss.

Subscribed and sworn to before me this 24th day of April 2000

Katharine L. Peters
Name, Notary Public

My commission expires:

