



CAPE COD COMMISSION

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DATE: August 21, 2001 (Modification Type #2)

TO: Brent T. Goins, General Manager
Bourne Integrated Solid Waste Management Facility

FROM: Cape Cod Commission

RE: Modification of an Approved Development of Regional Impact Decision
Section 9(n) of the *Enabling Regulations*

APPLICANT: Town of Bourne
Department of Integrated Solid Waste Management
24 Perry Avenue
Buzzards Bay, MA 02432

PROJECT #: 97031

PROJECT: Bourne Integrated Solid Waste Management Facility

BOOK/PAGE: Book 1351 Page 456 & 457

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (Commission), through its Regulatory Committee, hereby approves the application of the Department of Integrated Solid Waste Management for a modification to an approved Development of Regional Impact Decision under Section 9(n) of the *DRI Enabling Regulations* for the sole purpose of reflecting changes to the site plan, specifically, the addition of 25 acres of adjacent land to the project site.

This change is hereby approved as a minor modification #2 under Section 7 of the *Administrative Regulations* (as revised). This decision is rendered pursuant to a vote of the Commission's Regulatory Committee on August 21, 2001.

PROJECT DESCRIPTION, MATTERS AT ISSUE and PROCEDURAL HISTORY

The matter before the Regulatory Committee was consideration of a modification to an approved Development of Regional Impact decision for the Bourne Integrated Solid Waste Management Facility (Facility). The modification resulted from the proposed use of 25 acres of land adjacent to the Facility for various activities and facilities including a construction/demolition waste - materials processing facility, a wood processing and composting area, a reconfigured recycling drop-off area, and a Department of Public Works garage. The site is located off MacArthur Boulevard (Route 28) in Bourne.

In a decision dated February 17, 2000, the Commission approved as a DRI, with conditions, the re-development of a waste management facility located off MacArthur Boulevard (Route 28) in Bourne. The project site, which had a Board of Health Site Assignment for this purpose, was 78 acres. The project review also included the filing of an



Environmental Notification Form, and an joint Environmental Impact Report (EIR) process with the Massachusetts Environmental Policy Act (MEPA) Unit.

The Bourne Integrated Waste Management Facility proposal incorporated several different projects. The capping of older, previously filled portions of the site (Phases 1A-1D) began before commencement of the MEPA/Commission review. Development of the first lined landfill cell (Phase 2) was issued a Waiver by MEPA. Therefore, the February 17, 2000 DRI decision related to the just development of two new lined cells (Phase 3 and Phase 4), the reclamation of Phase 1D, and a Materials Recovery Facility (MRF).

The development of the full Phase 1 reclamation plan (Phase 5), Phase 6, the bio-solids proposal are not part of this DRI approval. These projects were discussed only in conceptual terms in the FEIR and, according to the Secretary's Certificate, would be the subject of future Notices of Project Change.

In addition, capping of the old, unlined landfill cells (Phase 1A-1D) began prior to the commencement of the Joint Commission/MEPA review. Development of the first lined cell, Phase 2, was granted a Waiver from inclusion in the EIR process. These projects were, therefore, considered during the review of the overall Waste Management Facility but were not part of the DRI approval.

On May 22, 2001 the Commission received an initial request from the ISWMF staff requesting a determination from the Regulatory Committee. Subsequently, the ISWMF staff requested additional time to complete an application package, and to seek an advisory opinion from MEPA concerning a possible Notice of Project Change. On July 10, 2001, the Commission received another letter requesting that the matter be placed on the August 21, 2001 Regulatory Committee agenda. On July 26, 2001, the Commission received a packet of information for the Regulatory Committee's consideration. Commission staff developed a report dated August 15, 2001 using this and other relevant information from the EIR files.

Under Section 7.0 of the *Administrative Regulations*, any proposal which would include "a substantially similar proposal to the original project but [which] involves a minor change of use, a minor change to the site plan, or a technical correction or small change to the findings or a condition of the original approval which does not affect the intent or outcome of the finding or condition" is subject to Commission review as a modification, specifically a minor modification type #2. The *Regulations* go on to stipulate that proposed changes which can be deemed type #2 minor modifications "shall not result in different or increased impacts to the resources protected by the Cape Cod Commission Act and/or RPP."

COMMENTS/DISCUSSION AT THE REGULATORY COMMITTEE MEETING

The Commission's Regulatory Committee considered the impacts and proposed changes to the February 17, 2000 DRI Decision that would result from shifting previously-approved activities and structures to the adjacent 25-acre parcel. At its August 21, 2001 meeting, Mr. Goins and Mr. Philip Goddard, of the Integrated Solid Waste Management Department, described the proposed site plan changes and how the adjacent acreage would be incorporated into the facility plan. Mr. David Ellis, of the Massachusetts Department of Environmental Protection, Southeast Region, commented that the proposed reconfiguration of uses on the adjacent acreage would allow the facility to operate more efficiently.

Staff recommended that since the Town was changing the project by adding 25 acres of land to the approved project, a public hearing would be necessary. This was based on the fact that the addition of land to the approved DRI would change the potential affected abutters. Staff also noted that minor modifications to DRI projects that were approved by the Regulatory Committee had generally involved the re-arrangement or adjustment of

previously approved uses or activities within the approved DRI project site. Staff also recommended that while it appeared from their analysis that the proposed incorporation of adjacent acreage into the project site would not result in changes to the findings or conditions of the original approval that would affect their intent or outcome, or result in different or increased impacts to critical resources, that it was nonetheless important to conduct a public hearing so that interested parties in the community could voice their concerns directly to the Commission.

The Regulatory Committee considered these comments and voted four to three to consider the change a Minor Modification #2 under Section 7 of the *Administrative Regulations* (as revised).

MATERIALS SUBMITTED FOR THE RECORD

A. Materials submitted by the Applicant:

Letter, with attachments, requesting modification	May 22, 2001
Revised letter, requesting modification	July 10, 2001
Copy of letter to MEPA regarding Notice of Project Change -with attachments	July 24, 2001
Fax, copy of MEPA Advisory Opinion	August 13, 2001

B. Materials submitted by Cape Cod Commission:

Staff Report	August 15, 2001
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The information and notice of the public hearings relative thereto, the Commission's staff reports, exhibits, minutes of all hearings and meetings and all submissions received in the course of the original DRI proceedings, including materials submitted on file 97031 and all subsequent modification decisions, are incorporated into the record by reference.

JURISDICTION

The proposed changes to the previously-approved Integrated Solid Waste Management Facility project qualify as a modification to an approved DRI Decision under Section 9(n) of the DRI *Enabling Regulations*.

FINDINGS

The Commission's Regulatory Committee determines that the addition of 25 acres of land adjacent to the approved site for this project is a minor modification type #2 based on the finding that the proposed revision to the project does not result in different or increased impacts on the resources protected by the Cape Cod Commission Act and/or Regional Policy Plan.

For clarity and consistency, finding G2 and condition G5 of the original decision are modified as follows. These changes, however, do not affect the intent or outcome of the finding or condition.

Modifications to Finding G2 and Condition G5 in bold:

Finding G2. The site of the proposed project, as defined in this decision, has a site assignment as a landfill from the Bourne Board of Health, which dates to June, 1972. The development is also consistent with the Town of Bourne development bylaws. **The site also includes approximately 25 acres of adjacent land shown on Assessor's Map 32.0 - parcel 2, Map 32.0 - parcel 3, Map 32.0 - parcel 4, Map 32.0 - parcel 8, and Map 28.0 - parcel 13.**

Condition G5. The proposed Integrated Solid Waste Management Facility shall be constructed in accordance with the following conceptual design plan: "Preliminary Site Plan for Cape Cod Commission Final Decision on Development of Regional Impact" dated 1/27/00 (attached), **as amended by the concept plan entitled "Existing Landfill Site Conditions and Future Processing Facility Development" dated May, 2001.**

No other changes are authorized to the findings or conditions of the original DRI decision by this modification decision.

David J. Ansel
David J. Ansel
Chair, Regulatory Committee

9/4/01
Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

On this 4th day of Sept, 2001, before me personally appeared

David Ansel, to me known to be the person described in and who

executed the foregoing instrument, and acknowledged that he executed the same as

his free act and deed.

Katharine L. Peters
Notary Public
Commonwealth of Massachusetts

My Commission expires:

