



# CAPE COD COMMISSION

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DATE: April 1, 2002 MOD-TR91054 (Modification/Type 2)

TO: P.A. Landers, Inc.  
C/of Attorney Jon Fitch  
MacNeil & Fitch  
Tudor Hill House  
88 Route 6A  
P.O. Box 549  
Sandwich, MA 02563

RE: Modification of an Approved DRI Decision  
Section 9(n) of *Enabling Regulations*

APPLICANT: P.A. Landers, Inc.

PROJECT: Modification of Development of Regional Impact decision  
P.A. Landers Sand & Gravel  
Kiah's Way, Sandwich, MA

LOCUS: Map 53, Parcels E-4, E2-2

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## DECISION OF THE CAPE COD COMMISSION

### SUMMARY

The Cape Cod Commission (Commission), through its Regulatory Committee, hereby approves the application of Attorney Jon Fitch, on behalf of P.A. Landers, for a modification to an approved Development of Regional Impact (DRI) decision under Section 9(n) of the *Enabling Regulations* for the sole purpose of granting an extension of the timeframe of condition 13 of the original DRI decision.

The 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 April 1, 2002.

### ORIGINAL PROJECT DESCRIPTION

In a DRI decision dated December 5, 1991, the Commission approved, with conditions, P.A. Landers, Inc. sand and gravel removal operation and a "sand and gravel processing plant" on part of a 33.3 acre site located off Route 130 at Kiah's Way in Sandwich.

### PROCEDURAL HISTORY

The DRI decision includes a condition (#13) that limits all or part of the approval of operations on the site for a maximum of ten years, ending on December 5, 2001.

In 1997, the Commission granted a modification to the original DRI decision that did not affect the time limit in condition #13.

In meetings on November 13, 2001 and December 3, 2001, the Regulatory Committee discussed a request by P.A. Landers for a modification to condition #13 of the DRI decision. At the December 3, 2001 meeting, the Regulatory Committee granted an extension of this time limit to April 5, 2002 to give an opportunity for the owner, Attorney Jon Fitch (representing Landers), and Cape Cod Commission staff to discuss open space issues.

**COMMENTS/DISCUSSION AT THE APRIL 1, 2002  
REGULATORY COMMITTEE MEETING**

Planner Andrea Adams provided an update on the progress that is being made with regard to the open space, issues of re-vegetation and mining and a proposed land exchange with the town of Sandwich. She reported that the applicant had submitted a written request to the Commission to further extend condition #13 until November, 2003, which would coincide with the expiration of Sandwich's Special Permit. Town Planner Joanne Buntich spoke in favor of granting the extension request. She also noted it would make sense to extend the timeframe to coincide with the local Special Permit approval deadline.

Mr. Deane made a motion to allow an extension until November, 2003 to allow the town to work with the applicant on re-vegetation. Ms. Kadar seconded the motion that was carried unanimously.

**MATERIALS SUBMITTED FOR THE RECORD**

A. Materials submitted by the Applicant:

Letter concerning proposed land exchange	3/8/02
Letter requesting modification	3/21/02

B. Materials submitted by Cape Cod Commission:

Staff Report	3/26/02
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C. Materials submitted by Town of Sandwich

Letter, in support of land exchange and modification	3/21/02
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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 proceedings, including materials submitted on file TR-91054 are incorporated into the record by reference.

**JURISDICTION**

The proposed changes to the P.A. Landers project and DRI decision qualify as a modification to an approved DRI Decision under Section 9(n) of the DRI *Enabling Regulations*.

**FINDINGS**

The Commission's Regulatory Committee considered the proposed request to modify the language of condition #13 of the December 5, 1991 DRI decision, and voted unanimously on April 1, 2002 to consider this language revision as a minor modification #2 under Section 7 of the *Administrative Regulations* (as revised).

**MODIFICATION TO THE DRI DECISION**

In accordance with the vote of the Regulatory Committee, the following modification is made to the December 5, 1991 DRI decision:

"13. The gravel removal operation must commence within seven (7) years of the approval date. The approval shall be valid for a maximum of ten (10) years from the date of approval by the Commission until November 8, 2003."

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

4/2/02  
Date

**Commonwealth of Massachusetts  
County of Barnstable**

On this 18<sup>th</sup> day of APRIL, 2002, before me personally appeared DAVID J. ANSEL, to me known to be the person(s) described in and who executed the foregoing instrument, and acknowledged that HE executed the same as HIS free act and deed.

Dorr Steven Fox  
Notary  
Commonwealth of Massachusetts

My Commission Expires: \_\_\_\_\_

