



# TOWN OF HOPKINTON

OFFICE OF  
**BOARD OF APPEALS**

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TOWN HALL  
18 MAIN STREET - ROOM 207  
HOPKINTON, MASSACHUSETTS 01748-3209

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Chairman's Opening Comments  
E. L. Harvey & Sons, Inc.  
Public Hearing: June 16, 20004

Good evening. The applicant, E. L. Harvey & Sons, Inc. is before the Board of Appeals with respect to seven applications for Special Permits, several of which relate to the Water Resources Protection Overlay District zoning by-law, which was originally adopted by the Citizens of the Town of Hopkinton on November 20, 1989, and later amended in May 1994, May 1997, and May 2004. According to the Citizens of the Town, the purpose of the overlay district is to promote the health, safety, and general welfare of the community by ensuring an adequate quality and quantity of drinking water, to preserve and protect existing and potential sources of drinking water supplies, to conserve the natural resources of the town, and to prevent temporary and permanent contamination of the environment.

The Citizens of Hopkinton have specified in the zoning by-laws the contents of Applications for Special Permits for uses within the overlay district. The Citizens have required that applications shall include a site plan and a complete description of the proposed use. The Citizens of Hopkinton have also required that the Application's site plan shall include proposed down-gradient locations for groundwater monitoring wells, should the Board deem the activity a potential groundwater threat. The Citizens have also required that the Application include an analysis by a registered professional engineer experienced in groundwater evaluation or by a qualified professional hydrogeologist, with an evaluation of the proposed use, including its probable effects or impact on surface and groundwater quality and quantity.

The Citizens of Hopkinton have required that the Board of Appeals enter specific findings as a pre-condition to approval of any Special Permit. In order to assist the Board in reaching those required findings, the Zoning By-law permits the Board to retain the services of consultants.

For the past several months, I have been in communication with the Applicant's attorney with respect to these and other matters relating to the application. The consultants retained by the Board of Appeals, Fay Spofford & Thorndike and Earth Tech have been also been in close communication with the Applicant's consultant, Brown & Caldwell, with respect to the plans submitted and the various other matters that are required by the Citizens of Hopkinton to

undergo review and scrutiny by the Board of Appeals. And all of these consultants have also been in communication with the Solid Waste Section of the Massachusetts Department of Environmental Protection, the agency charged with review of additional applications that must be filed with the state. While there has not always been uniform agreement on all the issues, over the past several weeks and months there has been significant communication and cooperation among the various parties in an attempt to provide for a uniform regulatory scheme. Given the significant complexities that exist with respect to the proposed project and the multitude of levels of review that must occur on the state and municipal levels, an isolated approach to the permitting processes only serves to place obstacles in the path of the applicant and increases its costs. A narrow approach to the permitting process may also lead to diminished protections for the Citizens of Hopkinton. To profess otherwise, is a deception.

In December 2003, the Massachusetts Department of Environmental Protection announced that it would require a new long-term ground water monitoring plan for the site. In its communication of May 24, 2004, the DEP modified its existing 1995 Permit for a Large Handling Facility and confirmed the need for a long-term monitoring plan by stating that current DEP regulations require long-term groundwater monitoring of the facility. The need for long-term ground water monitoring is therefore not in question.

For months now, the Board has suggested that it give serious consideration to adoption of a long-term monitoring plan similar to that which is imposed by the MA DEP. During our discussions, both the applicant and the Board expressed opinions that this was the favored approach, as opposed to creation of independent monitoring plan by the Board of Appeals. And to its credit, for weeks now the applicant's consultants have attempted to finalize this monitoring plan and obtain final approval from the DEP. As a point of clarification, however, it is the responsibility of the Applicant to obtain final approval from the DEP with respect to a monitoring plan. That responsibility does not lie with the Board of Appeals. Unfortunately, I was advised today by the DEP that it will be at least another two weeks before the DEP will be ready or willing to give its final approval. This will no doubt have ramifications on our discussions during tonight's public hearing.