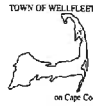




Wellfleet Shellfish Department



300 Main Street, Wellfleet, Massachusetts 02667

INTRODUCTION TO ARC'S OPERATIONS ON GRANT #792, 3 ACRES, DEEP WATER INDIAN NECK

- Over the past five years, the Shellfish Department has noticed an inconsistent use of site #792. Some years there was some activity and other years minimal. It is the Shellfish Department's belief that license holders should not keep license sites with merely placeholding operations. As required by our regulations, there must be production and market sales equal to or exceeding \$1,000 an acre. ACR's license site is three acres and therefore, should demonstrate \$3,000 a year in sales.
- ARC affirms that in years with no market sales, they were still selling seed from site #792. The Shellfish Department feels this could be an acceptable sales avenue but would like to hear the Selectboard's feedback. Other grant holders could also collect wild oyster seed on hats or buy it from hatcheries and sell it within Wellfleet if endorsed by the Mass. Division of Marine Fisheries to do so. Therefore, this decision might help other grant holders as well. Of course, documentation of such sales can always be requested by the Shellfish Department to prove the activities.

HISTORICAL OVERVIEW OF GRANT # 792

- License granted on Sept. 22, 1982, to Aquacultural Research Corporation (ARC) from Dennis. (No domicile regulation existed.)
- License has been renewed many times since 1982 with the most recent renewal on Sept. 22, 2017, for ten years to Sept. 22, 2027.
- We asked the state to provide a 10-year history of propagation permits and state commercial shellfishing permits, and ARC has held both for at least the last ten years.
- According to the annual grant report submitted to the town for 2017, 50,000 bay scallops were planted and 30,000 quahogs remained on the license site.
- Assistant Constable John Mankevetch did a grant inspection on Dec. 7, 2017, with Karen Johnson present. He noted 50,000 bay scallops under nets as well as remnant clams were on the grant.
- According to annual grant report submitted for 2018, 2,000 bushels of oyster seed were planted, and 2,000 bushels of oysters were removed from the license site. 2,000 bushels seems improbable (2,000 x 400 oysters to a bushel = 800,000). Could have been a typo and meant individual oysters. The annual report also states 20,000 quahogs planted.
- On Oct. 9, 2018, Constable Nancy Civetta did a grant inspection with Karen Johnson present. Civetta made notes of 20,000 quahogs and 8,400 oysters currently on the grant as well as that there had been 72,800 oysters on the license site in the beginning of 2018.
- According to the annual grant report submitted for 2019, 6,000 pieces of oyster seed were planted and approximately 6,000 oysters were removed for

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Phone (508) 349-0325

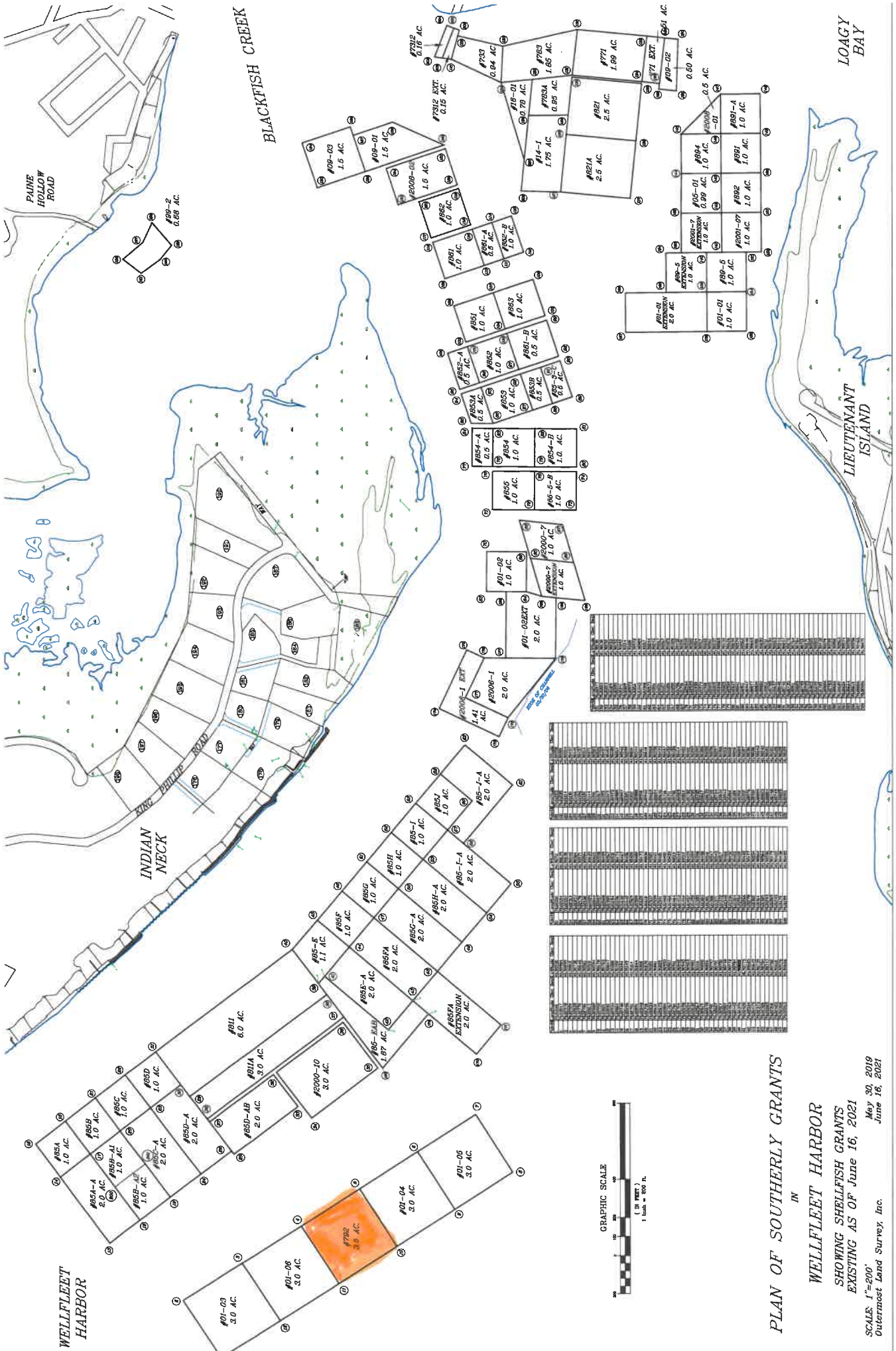


Fax (508) 349-0305

overwintering and put back on the license site in Spring 2020. The annual grant report also states 100,000 quahogs planted without protective netting.

- On Aug. 2, 2019, Civetta did a grant inspection with Casaundra Healey present. Civetta observed two condos with six bags half full of 6mm oyster seed.
- The annual grant report submitted for 2020 states 15,000 pieces of oyster seed were planted, and 15,000 pieces of oyster seed remained on the grant. No mature pieces of oyster were removed.
- According to the annual grant report for 2021, 10,000 oysters were planted and 3,200 were sold, and 20,000 quahogs were planted and 14,912 were sold. Also, 52 blood clams were also removed.
- On Jan. 13, 2020, ARC was issued a written warning for violation of for a violation of Shellfishing Policy and Regulations 7.19.5 Overwintering of Equipment.
- On August 19, 2020, Deputy Constable Chris Manulla attempted to do a grant inspection, and there was nothing there to report.
- On March 31, 2021, Civetta attempted to do a grant inspection, and there was nothing there to report. On April 28, 2021, while assisting two neighboring grant holders with buoys, Civetta and Manulla walked this grant and noted no activity. On July 25, 2021, Manulla again visited this grant to monitor for minimum productivity. There was no sign of condos nor grow out bags nor oyster aquaculture on this grant, however, there were a few clam run markers. The cloudy weather made it difficult to determine if there were clam nets present. All of these notes are in our daily patrol logs.
- On Jan. 21, 2022, Constable Civetta spoke with Rick Sawyer on the phone to explain enforcement actions that Shellfish Department was undertaking regarding minimum productivity requirements.
- On Feb. 7, 2022, Rick Sawyer received a follow-up email containing a copy of the letter, dated Feb. 4, 2022, stating his grant was being monitored for minimum productivity, and forms to request sales history from the MA DMF that were sent to him via certified mail.
- On Feb. 8, 2022, a certified letter was signed for containing the letter, dated Feb. 4, 2022, stating this license site was under review for minimum productivity requirements. The letter outlines how to request sales history from the MA DMF.
- On Mar. 24, 2022, a certified letter was signed for containing the letter, dated Mar. 18, 2022, stating Civetta did receive additional information about sales from the MA DMF; however, the data is not sorted by license site. Sales from license site #792 were not separated from other sites ARC uses. The letter also states that this grant failed to meet the minimum productivity requirements and contained information on requesting a public hearing.
- On Mar. 25, 2022, a follow-up email was sent with an attachment of the certified letter, dated Mar. 18, 2022, to Rick Sawyer stating that this license site failed to meet minimum productivity requirements along with instructions on how to request a public hearing.
- On Mar. 23, 2022, ARC requested a public hearing.

- At the Shellfish Constable's request, ARC provided her with a summary of the acreage it uses in Wellfleet Harbor and where. Their usage areas do not exceed the seven acre maximum mandated by our regulations. See attached.
- ARC has always been up to date on their annual reports and grant fees.



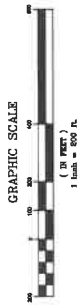
WELFLEET HARBOR

BLACKFISH CREEK

INDIAN NECK

LIEUTENANT ISLAND

LOAGY BAY



PLAN OF SOUTHERLY GRANTS
 IN
 WELFLEET HARBOR
 SHOWING SHELLFISH GRANTS
 EXISTING AS OF June 16, 2021
 SCALE: 1"=200'
 Outermost Land Survey, Inc.
 May 30, 2019
 June 16, 2021

Requested Hearing 3-23-22

Wellfleet Harbormaster Department
Wellfleet Shellfish Department



300 Main Street, Wellfleet, Massachusetts 02667

Rick Sawyer
Aquacultural Research Corporation
99 Chapin Beach Rd.
Dennis, MA 02638

March 18, 2022

Dear Rick:

The Shellfish Department has been discussing minimum productivity for your grant #792 with you and your staff since 2018. I spoke to you on the phone on January 21, 2022, and explained the enforcement actions the Shellfish Department was undertaking to this regard and that you would be receiving an email and certified mail with what you needed to do to demonstrate that you have made minimum productivity on this grant. Given that this grant is three acres, you need to sell \$3,000 worth of product from this grant each year.

We thank you for acquiring the SAFIS data from the state, however since the state does not separate out sales data by license site, we don't know how much came from grant #792 and how much came from other sites that you use. In addition, while we believe that seed sales can count toward minimum productivity, we did not have systems in place to oversee that and our grant inspection documents do not reflect that type of operation, perhaps because we assumed market sales. And in our conversations about minimum productivity, your staff never communicated to us that your business plan out there was for seed sales. So, we will need to enter into that line of communication and oversight moving forward.

However, for now, I need to notify you of failing to meet minimum productivity, which would mean forfeiting your grant. **You have the right to appeal this to the Selectboard within two weeks from this notification.** If you do not file an appeal within that time frame, your license for grant #792 will be forfeited automatically. Here are the Town of Wellfleet's Shellfishing Policy and Regulations to this regard:

7.13.3. Notification of Failure to Meet Minimal Requirements

Subsequent to the filing of the annual report, the Constable will notify any license holder who, in the opinion of the Constable, has failed to meet the minimum requirements. **The license holder has the right to appeal to the Selectboard within two weeks after notification. If no appeal is filed on a timely basis, the license will be forfeited.**

wellfleet-ma.gov/shellfish-department


Phone (508) 349-0325



Fax (508) 349-0305

Don't hesitate to call me for further details. Should you want to appeal my determination to the Selectboard, that is your right.

Sincerely,


Nancy Civetta
Shellfish Constable
Town of Wellfleet

If you would like to request a
public hearing, please
call Rebekah Edridge
at 508-349-0300 ext 1100.



Wellfleet Shellfish Department



300 Main Street, Wellfleet, Massachusetts 02667

February 4, 2022

Dear *Tracy*

As we discussed on the phone, the Shellfish Department has been monitoring your grant for minimum productivity, and we would like to request some additional information from you as we evaluate your grant's production. Here are the regulations:

7.12.1 Minimum Levels of Investment and Production

There shall be minimum levels of investment and production required in order to retain an area license. These shall be:

a. During the first, second, and third year after the date of issuance of the license a minimum of \$1000 per acre shall be spent on seed and gear for the area and it shall be evident that this effort of improvement has taken place. Any licensed area that is less than one acre shall be prorated.

b. During the fourth year and every year thereafter there shall be a minimum production of an average of \$1000 worth of product per year per acre, or prorated for a portion thereof, from the practice of aquaculture on the licensed area. This shall be demonstrated by the annual grant report, and, if so requested by the Shellfish Constable, copies of transaction receipts or other acceptable documentation.

In an effort to more fully understand the history of shellfish sales on your farm, the Shellfish Department will be creating a historical review of minimum productivity met on your grant over the last seven years. We chose this time period to take into consideration that the past two years (2020 and 2021) have been affected by market uncertainties during the pandemic caused by COVID-19.

To do this, the Shellfish Department will be cross-referencing your grant reports and our grant inspections paperwork with Mass. Division of Marine Fisheries sales data. We have worked with MADMF, which provided the forms included here to guide you in how to request your data. **When you request your data, please request it from 1/1/2015 to 12-31-2021. You will need to provide your sales information back to the Shellfish Department by February 28, 2022.** MADMF has assured us that they can meet this turn-around time, but please act immediately. If you decide not to query the MADMF, the Shellfish Department will use your grant reports and our grant inspections to make its determination.

Ultimately, the Selectboard is the regulatory authority that decides whether or not a grant must be forfeited. If the Shellfish Department concludes that your grant is not meeting minimum productivity, you will have an opportunity to appeal this determination to the Selectboard and request a public hearing to explain your circumstances.

Sincerely,

Nancy Civetta
Nancy Civetta
Shellfish Constable

wellfleet-ma.gov/shellfish-department

Phone (508) 349-0325

Fax (508) 349-0305

Nancy Civetta

From: Nancy Civetta
Sent: Monday, February 7, 2022 1:36 PM
To: Richard Sawyer
Subject: Minimum productivity request for information
Attachments: ARC.pdf; DMFWellfleetTemplate2022minprod-WSD.docx; How to request your catch reports from DMF.pdf

Dear Rick,

As discussed, the attached was sent by certified mail to you last week. If you decide to do this via USPS mail, the entire request must be notarized, which can be done with Rebekah Eldridge, Executive Assistant to the Town Administrator, in Town Hall. Please call her at 508-349-0300, ext. 1100 to set up an appointment.

Don't hesitate to contact me with any questions or for assistance.

Thank you for your understanding,
Nancy

Nancy Civetta
Shellfish Constable
Town of Wellfleet
C: 617-901-7193
O: 508-349-0325
E: nancy.civetta@wellfleet-ma.gov
300 Main St.
Wellfleet, MA 02667
Check for news and updates on [Facebook](#).

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS. HOLD AT BOTTOM LINE.

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

A.R.C.
P.O. Box 2028
Dennis, MA 02638



9590 9402 6450 0346 4719 30

2. Article Number (Transfer from service label)

7020 1290 0000 3238 6425

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X  Agent
 Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

RECEIVED
DENNIS MA
USPS-02638

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail (insured Mail Restricted Delivery over \$500)
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

**U.S. Postal Service™
CERTIFIED MAIL® RECEIPT**
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For delivery information, visit our website at www.usps.com®.

Dennis, MA 02638

Certified Mail Fee	\$3.75	\$3.05
Extra Services & Fees (check box, add fee)		
<input type="checkbox"/> Return Receipt (hardcopy)	\$1.00	
<input type="checkbox"/> Return Receipt (electronic)	\$0.00	
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00	
<input type="checkbox"/> Adult Signature Request	\$0.00	
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00	
Postage	\$0.58	
Total Postage and Fees	\$7.38	

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14

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02/05/2022

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A.R.C.
Street and Apt. No., or PO Box No.
PO Box 2028
City, State, ZIP+4®
Dennis MA 02638

PS Form 3800, April 2015 PSN 7530-02-000-3047 See Reverse for Instructions

7020 1290 0000 3238 6425

Rebekah Eldridge

From: Nancy Civetta
Sent: Friday, March 25, 2022 5:41 PM
To: Richard Sawyer
Cc: Rebekah Eldridge
Subject: Notice of potential forfeiture of ARC's grant #792 for not making minimum productivity
Attachments: arcmail3-21-22.pdf

Dear Rick,

Attached is the correspondence that has been sent to you from the Town of Wellfleet Shellfish Department regarding noncompliance on grant #792 with the Town's minimum productivity regulations:

7.12.2. Failure to Meet Production Levels

Failure of the licensee/s to meet the specified production level for any three (3) consecutive years may result in the forfeit of the aquaculture license and licensed area, as stated in [MGL Chapter 130; Section 65](#).

A certified letter was sent to you on March 21, 2022, with a notice of your failure to meet minimal requirements per our regulations section 7.13.3.

7.13.3. Notification of Failure to Meet Minimal Requirements

Subsequent to the filing of the annual report, the Constable will notify any license holder who, in the opinion of the Constable, has failed to meet the minimum requirements. **The license holder has the right to appeal to the Selectboard within two weeks after notification. If no appeal is filed on a timely basis, the license will be forfeited.**

If you would like a public hearing with the Selectboard to explain why you have not met minimum productivity please contact Rebekah Eldridge and request one WITHIN TWO WEEKS of receiving your certified mail. If you do not, you will automatically forfeit your grant. You can certainly request a public hearing at any time before receiving your certified mail, as well.


You can reach Rebekah as follows:

- 1) Go to her office in Town Hall. It is on the second floor, second door on the left. She is there 9 a.m to 3:30 p.m. Monday through Friday.
- 2) Call her at 508-349-0300 ext. 1100. Leave a message if she doesn't pick up.
- 3) Hit reply all to this email and request it as she is copied here. Or email her directly at rebekah.eldridge@wellfleet-ma.gov.
- 4) Put a certified letter with return receipt requested in the mail to her attention to Town of Wellfleet, 300 Main St. Wellfleet, MA 02667.

If you have any questions, please call me at 617-901-7193.

Thank you,
Nancy

Nancy Civetta
Shellfish Constable
Town of Wellfleet
C: 617-901-7193
O: 508-349-0325
E: nancy.civetta@wellfleet-ma.gov
300 Main St.

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input checked="" type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) _____ C. Date of Delivery _____</p>
<p>1. Article Addressed to:</p> <p>A.R.C PO Box 2028 Dennis MA 02638</p>  <p>9590 9402 6450 0346 4728 69</p>	<p>D. Is delivery address different from item? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p>3. Service Type</p> <ul style="list-style-type: none"> <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery
<p>2. Article Number (Transfer from service label)</p> <p>7020 1290 0000 3238 1314</p>	<p>4. Is delivery address different from item? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p>5. Service Type</p> <ul style="list-style-type: none"> <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery

PS Form 3811, July 2020 PSN 7530-02-000-9053

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For delivery information, visit our website at www.usps.com®.

Dennis, MA 02638

<p>Certified Mail Fee \$3.75</p> <p>Extra Services & Fees (check box, add fee if appropriate)</p> <ul style="list-style-type: none"> <input type="checkbox"/> Return Receipt (hardcopy) \$0.00 <input type="checkbox"/> Return Receipt (electronic) \$0.00 <input type="checkbox"/> Certified Mail Restricted Delivery \$0.00 <input type="checkbox"/> Adult Signature Required \$0.00 <input type="checkbox"/> Adult Signature Restricted Delivery \$0.00 <p>Postage \$0.58</p> <p>Total Postage and Fees \$7.33</p>	 <p>0687 15</p> <p>Postmark Here</p> <p>USPS</p> <p>03/22/2022</p>
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Sent To A.R.C

Street and Apt. No., or PO Box No. PO Box 2028

City, State, ZIP+4® Dennis MA 02638

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7020 1290 0000 3238 1314