

**Record of Decision  
Bristol-Myers Squibb  
Cooling Towers  
38 Jackson Road (Parcel #09.0-004-0200.0)  
Devens (Harvard), MA  
Amended Unified Permit  
June 16, 2022**

**1. Applicant:**

The Applicant and owner is Bristol-Myers Squibb Company. Property located at 38 Jackson Road, Devens (Harvard), MA 01434 (Deed Reference: Bk 40684 pg. 172).

**2. Premises and Proposed Project:**

The owner and applicant, is seeking an amended Level 2 Unified Permit for the Cell Therapy Facility to construct cooling towers and related infrastructure on a previously approved and constructed tower pad. The building is located within the Innovation technology Business Zoning District, the Viewshed Overlay District and Water Resources Protection Overlay District.

**3. Submission:**

The following is a list of exhibits included as part of the record for this Application:

1. Unified Permit Application - Level 2 Submittal package for, including the following:
  - Application for Level 2 BMS Cooling tower);
  - Completed Level 2 Unified Permit Application form (D22-058) dated 5-06-22;
  - Completed Industrial Performance Standards Checklist;
  - Certified Abutters List;
  - BMS Cooling Tower Initial Construction control document dated 5/4/2022, 38 Jackson Road, Devens, MA 01434;
  - BMS Cooling Tower Initial Construction control document dated 5/4/2022, 38 Jackson Road, Devens, MA 01434;
  - BMS Cooling Tower Initial Construction control document dated 5/9/2022, 38 Jackson Road, Devens, MA 01434
  - BMS Cooling Tower Permit Plans 2022 prepared by Jacobs and consisting of 24 sheets;
  - BMS Cooling towers Noise Assessment Central Utility Building Expansion prepared by VHB, 101 Walnut Street, Watertown, MA 02472 dated May 2022;
  - Building Permit dated 6-2-22;
  - Sound Barrier/Mitigation Concept Plan prepared by VHB for BMS and labelled CSP-1 dated 5-11-2022
2. Determination of Completeness May 9, 2022;
3. Public Hearing Notice Memo to Town Clerks of Ayer, Harvard, Shirley, Lancaster and MassDevelopment, from Peter Lowitt, dated May 9, 2022;
4. Public Hearing Legal Notice e-mail to Nashoba Publications, from Peter Lowitt and Dawn Babcock, dated May 9, 2022 – to be published May 13 and 20, 2022;
5. Copies of Legal notices from May 13 and 20, 2022 from Nashoba Valley Voice;
6. Public Hearing Notice emailed to Community Service Cable Committee, from Peter Lowitt/Dawn Babcock, dated May 9, 2022;
7. Memo dated May 9, 2022 from Peter Lowitt to Towns of Ayer, Harvard and Shirley Board of Selectman and Planning Board; Subject: Level 2 Unified Permit Application – 38 Jackson Road to add additional cooling tower to accommodate the recently approved

Cell Therapy Facility Request (notification of Public Hearing on June 9, 2022 at 7:30AM), including return receipts;

8. Memo dated May 9, 2022 from Peter Lowitt to Abutters and Interested Parties; Subject: Level 2 Unified Permit Application – BMS 38 Jackson Road Cooling Towers to accommodate the recently approved Cell Therapy Facility, including return receipts;
9. Public Hearing Notice to Secretary of State, from Peter Lowitt, dated May 9, 2022;
10. Staff Report dated 6/2/22 Re: Level 2 Unified Permit –38 Jackson Road BMS Cooling tower Amended Level 2 Unified Permit, prepared by Peter Lowitt and Neil Angus (3 pages);
11. Approval of BMS Proposed Cooling Towers Memo from Michael Lannan and Matthew Riegert of Tech Environmental to Peter Lowitt and Neil Angus dated May 20, 2022 (2 pages);
12. BMS Cooling towers Noise Assessment Central Utility Building Expansion prepared by VHB, 101 Walnut Street, Watertown, MA 02472 dated May 2022 and revised 5/20/22 to address Tech Environmental comments;
13. Documenting Acoustic Modelling Deficiencies Discovered in Noise Assessment for BMS Memo from Michael Lannan and Matthew Riegert of Tech Environmental to Peter Lowitt and Neil Angus dated May 20, 2022 (3 pages);
14. Memo to Michael Lannan, Tech Environmental from Jason Ross, P.E. Director of Noise and Vibration VHB, RE: Response to Comments from Tech Environmental Review of BMS Noise Study dated 5/27/2022 (3pages);
15. E-mail correspondence as follows:

Date	From	To	Subject
12/21/2021	Quan Tat	Neil Angus	BMS Cooling Tower Noise Assessment Protocol
12/9/2021	Curtis Quitzau	Neil Angus	BMS Cooling Tower
11/30/2021	Curtis Quitzau	Neil Angus	RE: BMS Cooling Tower
5/6/2022	Curtis Quitzau	Peter Lowitt	RE: BMS Cooling Tower Level 2 Application
5/20/22	Matthew Riegert	Neil Angus	RE: BMS and CFS follow-up
6/2/2022	Neil Angus	Peter Lowitt	RE: Draft BMS Cooling Tower Staff Report
5/19/2022	Peter Lowitt	Dan Post	RE: BMS Cooling Tower Application Fee
5/13/2022	Curtis Quitzau	Neil Angus	RE: BMS Cooling Tower Sound Barrier CSP-1
5/27/2022	Curtis Quitzau	Neil Angus	RE: Response to Tech Comments and Updated Noise Assessment clarifying height of noise wall
6/8/2022	Neil Angus	Mike Lannan	RE: review of response to Tech Comments by VHB
6/7/2022	Peter Lowitt	Dan Post	Draft Staff Report and ROD
6/8/2022	Dan Post	Peter Lowitt	Response to draft ROD response
6/13/22	Mike Lannan	Neil Angus	FW: [External] RE: BMS Cooling Tower application fee

**4. Unified Permit Components and Actions:**

The Unified Permit request includes a minor modification of an approved plan for the Cell Therapy Facility to construct Cooling Tower and related infrastructure on previously constructed foundation located at 38 Jackson Road in Devens (Harvard), MA.

**5. Process:**

The application was submitted on May 6, 2022. A Determination of Completeness was issued on May 9, 2022. Copies of the application were received by the surrounding Towns on May 9, 2022. Legal notices were placed in Nashoba Publications on May 13 and 20, 2022. Certified Mail notice was sent to all abutters on May 9, 2022. The 30-day Town comment period expired on June 8, 2022. No comments were received. The Public Hearing opened on June 9, 2022 and continued to June 16, 2022 at 7:30 AM and closed at that same meeting.

**6. Waivers**

No waivers were requested or granted as part of this Unified Permit Amendment.

**7. Findings**

The DEC made the following findings:

1. The May 2022 Bristol-Myers Squibb Central Utilities Building Equipment Expansion prepared by VHB (hereinafter the Noise Assessment) showed a potential exceedance of the Devens Noise Regulations (974CMR4.05) to the east of Queenstown Road at the capped landfill.
2. The Applicant has developed a plan to bring the facility into compliance with 974CMR4.05 in the event of a valid noise complaint.
3. The proposed manufacturing processes are an allowed use within the Innovation Technology Business District and is in compliance with the Viewshed Overlay District Regulations.
4. Regarding the approval criteria listed in 974 CMR 3.03(2):
  - (a) The Plan complies with 974 CMR 3.00 and with the applicable provisions of the By-Laws.
  - (b) The development lies on a lot that is recorded at the Registry of Deeds;
  - (c) The application is Complete.
  - (d) All drives, parking lots, loading areas, paths, sidewalks, and streets are designed to provide for safe vehicular and pedestrian travel.
  - (e) Access and site circulation will enable prompt fire, police, and emergency response.
  - (f) Adequate capture, treatment, infiltration and discharge of stormwater and surface water runoff and compliance with applicable portions of the "Devens Stormwater Pollution Prevention Plan", has been included in the design.
  - (g) Connections with utility, power and communication systems available in the abutting infrastructure currently exist and were approved by Devens Utilities.
  - (h) Facilities required under the Water Resources Protection Bylaw and the related Design Standards have been included.
  - (i) The plans are in compliance with the Landscaping Design Standards 974 CMR 3.04(8).
  - (j) A Wetlands Order of Conditions is not required for this project.
  - (k) The Devens Fire Department has reviewed the application.
  - (l) The project is in compliance with the Devens Industrial Performance Standards with conditions of approval.
  - (m) Sufficient parking for current needs exists.
  - (n) Traffic control measures are adequate for this project.
  - (o) The development is required to participate in the Devens traffic management association.

- (p) Adequate water supply exists in terms of quantity, quality, and water pressure for domestic needs and fire protection.
- (q) Connection to sanitary sewers has been authorized by Devens Utilities.
- (r) There are no new buildings as part of this application and therefore no requirement to meet any design standards as established by MassDevelopment for the district in which the lot is located.
- (s) The Applicant and project will comply with the Devens Soil Management Policy.
- (t) The development has been designed with due consideration for public health.
- (u) Adequate climate change mitigation, adaptation and greenhouse gas emissions mitigation measures have been incorporated in accordance with 974 CMR 4.11.

**8. Conditions:**

The DEC voted to impose the following conditions in addition to the 21 conditions in the original unified permit record of decision dated April 9, 2020, and November 5, 2020 amendment:

- 22. Once the appeal period has expired, the Applicant shall file the Record of Decision with the Registry of Deeds and proof of recordation shall be submitted to the DEC.
- 23. Prior to operation of the new cooling towers, the Noise report entitled: “Bristol-Myers Squibb Central Utility Building Equipment Expansion, Devens, Massachusetts” dated May 2022, prepared by VHB, Inc. shall be revised to include the following:
  - a. Provide an inventory of all the facility exterior sound sources:
    - i. Those sources that were audible during the monitoring session and their quantity,
    - ii. Those sources that were not audible during the monitoring session and their quantity, and
    - iii. Those sources that were omitted during the monitoring session and their quantity. This shall be provided as an inventory list in an appendix to the report.
  - b. The modeling shall be rerun with only those sound sources that are associated with the Central Utility Building and its new equipment. This modeling should still include impacts at all receptor locations, so as to demonstrate that most impacts are not substantially altered by the Central Utility Building and its new equipment.
  - c. The report should only discuss the sources associated with the Central Utility Building and its new equipment. The report shall be modified to include:
    - i. Ambient conditions without the cooling towers/site.
    - ii. Existing conditions with the existing cooling towers.
    - iii. Future conditions with the existing and proposed cooling towers. (mitigation delayed)
    - iv. A model run that predicts future sound without mitigation.
    - v. Future conditions with the existing and proposed cooling towers. (mitigation included)
    - vi. A model run that predicts how the delayed mitigation would demonstrate compliance in the future.

24. Should there be a verified noise complaint associated with the Central Utility Building and chillers, the Applicant shall take all necessary measures to bring the facility into compliance, including, but not limited to, the installation of the noise control measures, or approved equal noise mitigation, as presented in the Noise report entitled: "Bristol-Myers Squibb Central Utility Building Equipment Expansion, Devens, Massachusetts" dated May 2022, prepared by VHB, Inc.

**9. Decision:**

The DEC closed the hearing on June 9, 2022 and voted to issue findings, including that the application complied with Approval Criteria in 974 CMR 3.03(2), to impose conditions, and to approve the amended Level 2 Unified Permit to allow construction of the cooling towers at 38 Jackson Road, Devens (Parcel #09.0-004-0200.0) with conditions.

**10. Building Permit**

No additional building permit is required

**11. Permit Duration**

In accordance with 974 CMR 1.10, unified permits shall remain in effect so long as the approved activities are commenced within six months of the date of the DEC's written decision and completed within two years. It is further noted that a thirty-day "reconsideration period" during which an applicant, a Town, or an aggrieved person may request the DEC reconsider its action (By-Laws, Article IV, Sections C through F). Work performed during this period, which begins on June 10, 2022 and terminates July 11, 2022, is "at risk".

Approved by:

Date: \_\_\_\_\_

\_\_\_\_\_  
Peter C. Lowitt, FAICP, Director  
Devens Enterprise Commission

***Certification***

***Middlesex, SS***

I certify the above is a true action and record of the Devens Enterprise Commission and that Peter C. Lowitt, Devens Land Use Administrator/Director, is empowered by the Devens Enterprise Commission to sign this Record of Decision on its behalf.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Dawn Babcock, Notary  
My Commission expires \_\_\_\_\_