**DEVENS ENTERPRISE COMMISSION**
**SERVING AS THE DEVENS BOARD OF HEALTH**

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| In the matter of: | ) | |
| | ) | |
| DEVENS RECYCLING CENTER, LLC | ) | Site Assignment for |
| 45 Independence Drive, | ) | Minor Modification |
| Devens, Massachusetts 01434 | ) | |
| | ) | |

## PREHEARING ORDER

The public hearing on the Devens Recycling Center, LLC's application for a minor modification is scheduled to begin on January 6, 2026, at 6:00 p.m. It will be a hybrid zoom hearing with the Hearing Officer conducting the proceedings remotely.

This hearing will be the "first rodeo" for the current Board membership, and potential participants (if any). It is a formal process with procedures prescribed by the MassDEP Site Assignment regulations. It is my responsibility to ensure a full and fair hearing on the application for minor modification, and that the Board of Health is provided with all relevant material, and reliable evidence on whether the site is suitable for the proposal's minor modifications. I am like a Judge in a civil jury trial, ruling on procedures, the admissibility of evidence, on motions, and requests to intervene or participate. I am charged with making sure there is an orderly presentation of evidence and arguments. If I am like a Superior Court Civil Judge, then the Board is the Jury charged with making the final Decision on the requested modification.

I previously connected with the parties to the hearing, Neil Angus for the DEC/Board, Jim Lampke, Esq. Counsel to the DEC, and Gregory Wirsen for the Applicant on schedules and procedures that will allow the DEC to commence the public hearing on January 6, 2026. The agreements of the parties are incorporated in the Public Notice for the hearing that has been published in the Nashoba Valley Voice.

The Notice explains:

1) The site assignment modification hearing will be conducted concurrently with the Unified Permit.
2) All Parties shall submit written pre-filed testimony with the DEC, the Hearing Officer, and approved Intervenors no later than December 29, 2025.
3) Persons who seek to intervene or participate must submit a written petition to the parties and the Hearing Officer no later than December 18, 2025. I have not yet received any petitions. Please send me copies of any petitions that the DEC receives.

Based on the public notice and my initial review of the Request for Minor Site Assignment modification, reports and exhibits, I hereby find and order the following:

1. The Public Notices have been timely published in the Nashoba Valley Voice. My compliments to Dawn Babcock for this critical step. Please ensure postings are made under the Open Meeting Law, I recall several cases where the hearing had to be continued and re-noticed because of failure to properly post under the Open Meeting Law. Please confirm to all parties and me as soon as it is posted.

2. The Site Assignment application includes analyses, reports, plans, and data. It includes a Report by Green Seal Environmental's Gregory C. Wirsen, and an Operations and Maintenance Plan. I direct Mr. Wirsen to file a short Certification that contain documents were prepared by him and others at Green Seal; adopts the Report and Plans as his/their Prefiled Written Testimony; and attaches his professional CV and of other preparers. Submit the Certifications to me and all parties by December 29, 2025.
3. The application also includes an Acoustic Study for day-time and night-time operations prepared by Cavanough Tocci's Liam E. Maloney. The Study needs to be stamped. He should also submit a Certification that he prepared the Study; adopts it as his Prefiled Written Testimony; and attaches his professional CV. Submit the Certification to all parties and me by December 29, 2025.
4. The Application also includes a Traffic Impact Study prepared by Revecca L. Brown, PE and Cecilia Donaldson, EIT. They should submit a Certification that they prepared the Study; adopt it as their Prefiled Written Testimony; and attach their professional CVs. Submit to all parties and me by December 29, 2025.
5. I have not yet received the Peer Review Report by Nitsch Engineering and Michael Lannon. Please submit Certifications that they prepared to the Peer Review Report, adopt it as their Prefiled Written Testimony; and attach their professional CVs. Please Submit to all parties by December 29, 2025.
6. If the Applicant elects to submit Written Prefiled Rebuttal Testimony, it needs to be received by all Parties by 12 noon on January 5, 2026.

7. If the Applicant or Peer Reviewer elect to use Powerpoint presentations at the hearing, they need to be received by all parties by 12 noon on January 5, 2026.
8. I will prepare a script for the Chairman to read to formally open the public hearing, and to introduce me as Hearing Official.
9. The Applicant will open with its case-in-chief and the witness will be subject to questions from the Applicant, Board members, the Peer Reviewers, and the Hearing Officer. The Peer Reviewer will present its Report and be subject to questions by all parties and me. All witnesses will be sworn and testifying under oath.
10. Under the MassDEP Regulations, the hearing can be recorded electronically or by stenographer. Preliminary discussions indicated it will be recorded electronically and by Zoom. Please advise if there is any change.
11. At the close of evidence, I will provide Closing Instructions on Post-Hearing deliberations and issuance of a written Decision.

So Ordered,

John F. Shea, Esq.
Hearing Officer

Dated: December 17, 2025

SERVICE LIST

Greg Wirsen, Green Seal (g.wirsen@gseenv.com)
Neil Angus, DEC (neilangus@devensec.com)
James Lampke, Esq. Counsel to DEC (james.lampke@lampkelaw.com)