

Memo

Devens
Enterprise
Commission

Date: November 19, 2025
To: **Devens Enterprise Commission**
Cc:
From: Neil Angus, Director
RE: **Hearing officer for upcoming Site Assignment process**

The owners of Devens Recycling Center (Republic Services) will be submitting a request for a Minor Amendment to their existing Site Assignment to change their currently approved waste acceptance operating hours (7:00AM to 5:00PM) to 5:00AM to 9:00PM Monday through Friday and maintain Saturday's waste acceptance operational hours from 7:00AM to 1:00PM. They will also be requesting that the decision be modified to allow internal processing of waste materials (i.e., kick sorting, operating the processing line and recycling equipment within the confines of the building) Monday through Saturday until midnight. The Facility would continue to remain closed on Sundays.

The DEC, acting in its capacity as the local Board of Health for Devens, must hold a formal hearing process, that is different from the Unified Permitting process, to consider this request in accordance with MassDEP Site Assignment Regulations for Solid Waste Facilities (310 CMR 16.00). Staff has consulted with MassDEP, and has been working with Republic Services, our Legal Counsel, and Peer Review Consultants to coordinate these proceedings and arrange a hearing date. Based on Commissioner availability, we will be scheduling this hearing for January 6th at 6:00PM. This process requires the DEC to hire a hearing officer to oversee the proceedings. Counsel and the Applicant have reviewed several candidates for this position and we have selected Attorney John F. Shea. Attorney Shea was actually the hearing officer for the previous site assignment modification back in 2008, so he is very familiar with Devens and the process.

Attached is the draft letter of engagement. The proposed scope of services in the letter are consistent with the MassDEP Site Assignment process. We are finalizing the letter with DEC Legal Counsel and the Applicant is in agreement with the choice. The Applicant will be responsible for covering the hearing officer costs, as well as the legal notice fees and peer review fees.

Recommended Action:

If the commission has no objections to this choice of hearing officer, Staff would request that the commission make the following motion:

"The commission, acting in its capacity as the local board of health for the Devens Regional Enterprise Zone, hereby ratifies the decision to hire Attorney John F. Shea as Hearing Officer for Devens Recycling Center LLC's application for a minor modification of hours of operation for the existing site assignment for their facility located at 45 Independence Drive in Devens."

JOHN F. SHEA
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November 18, 2025

VIA E-MAIL
(Original by Mail)

William P. Marshall, Chairman
Devens Enterprise Commission
33 Andrews Parkway
Devens, MA 01434

Atten: Neil Angus, Director (neilangus@devensec.com)

Re: Devens Recycling Center, LLC Minor Modification Application

Dear Chairman Marshall and Commissioners:

I am pleased to be selected to act as Hearing Officer to the Devens Enterprise Commission acting as the Board Health (DEC) on the Devens Recycling Center LLC's application for a minor modification of hours of operation for the existing site assignment for the construction and demolition (C&D) recycling operation. I previously submitted to James B. Lampke, Esq, counsel to the DEC, my Hearing Officer Statements Qualifications and Resume and had several telephone conversations with him about the site assignment process and various provisions in the MassDEP Site Assignment Regulations, 310 CMR 16.00, including the role of the hearing officer and the use of prefiled written testimony.

I understand the Applicant and Mr. Greg Wirsen is working with Jim Lampke and Neil Angus on a date for the hearing that will comply with the regulatory notice requirements. I should be available most any date in December because the DEC has agreed to conduct a hybrid hearing in which I would participate by Zoom. Thank you for accommodating my Caregiver Duties.

It is my understanding the MassDEP has determined the application for changes in hours of operation constitute a minor modification of site assignment under 310 CMR 16.22(3). I concur.

This letter sets forth the terms upon which the DEC has engaged our firm for me to act as Hearing Officer, including the anticipated scope of services and the billing policies and practices that will apply the engagement. We have agreed to discount my hourly rate to \$625.00 an hour. This discounted rate will apply in 2026. By engaging Verill and me, you agree to the Statement of Billing Policies

William P. Marshall, Chairman
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that are set forth in exhibit A to this letter. No retainer is required. Clients are billed monthly, approximately one week after the end of each month/billing period. Fees are expenses and due and payable within 30 days of receipt of the monthly statements. Even though the Applicant is obligated to pay the public hearing fee covering my services, the DEC is responsible for payment in the unlikely event the Applicant delays, declines, or cannot pay the fee.

Under the MassDEP Site Regulations, 310 CMR 16.30(3) the DEC is entitled to certain public hearing fees which Devens Recycling Center, Inc. as the Applicant must pay to the DEC, including the fee for the Hearing Officer. The DEC and the Applicant should consult on the amount of the public hearing fee (including any cost for conducting the Zoom hearing) which should be assessed initially and paid prior to the commencement of the hearing. It has been my experience that my preparation for and conducting a simple uncontested hearing (no or few intervenors or participants) by Zoom can cost \$20,000 for the Hearing Officer work. Of course, if the site assignment is contested, or if more information must be provided and multiple hearings are required, the estimated costs will increase to reflect additional work, findings and rulings. If the initial assessment is insufficient, the DEC may make an additional assessment of the Applicant.

The Proposed Scope of Services includes the following:

1. Review the Site Assignment Application, Prefilled Testimony from Applicant, Peer Reviewer, other parties, and all pleadings;
2. Review proposed Notice of the Hearing;
3. Advise the parties on procedural and substantial issues, conduct pre-hearing conferences by Zoom or phone, and issue Orders, as needed;
4. Review and rule on any intervenor/party registrations; and
5. Conduct a hybrid Public Hearing under M.G.L c. 111, § 150A and 310 CMR 16.00 by Zoom. Zoom conference services will be provided by the DEC or the Applicant.

I request that you review this letter carefully and if it is consistent with your understanding of our respective responsibilities, please return a signed copy of this letter by email so the firm can open this matter and I can begin work

Sincerely,

A handwritten signature in blue ink that reads "John F. Shea". The signature is fluid and cursive, with the first name "John" being the most prominent part.

John F. Shea

Enclosure

cc: James Lampke, Esq.