

Record of Decision
MASSDEVELOPMENT
SHABOKIN WATER TREATMENT FACILITY
39 and 88 Sheridan Road (Parcel ID#: 2-99-202 and 3-99-203)
Devens (Harvard), MA
November 5, 2020

1. Owner/Applicant:

MassDevelopment Finance Agency, 99 High Street, Boston, MA 02110.

2. Premises and Proposed Project:

The applicant is seeking a Level 2 Unified Permit for Site Plan Approval and a Wetland Notice of Intent for the construction of a new water treatment plant, parking, driveway, emergency generator, and associated drainage and utilities. The project is located on portions of both 88 Sheridan Road (Parcel ID #2-99-202; Deed Reference: Bk 26317 pg. 3) and 39 Sheridan Road (Parcel ID# 3-99-203; Deed Reference: Bk 17907 pg. 1) in Devens (Harvard), MA 01434 within the Open Space and Recreation Zone and within a Zone 1 and Zone 2 Water Resources Protection Overlay District. Portions of the project are also located within 100 feet of wetlands and within a Priority Habitat Area subject to the Natural Heritage Endangered Species Program.

3. Submission:

The application includes the following, which all become part of the record:

1. DEC Completed Application Form (D20-073);
2. 39 Sheridan Road and 88 Sheridan Road Abutters lists (Harvard and Devens);
3. Convault Diesel Storage tank Brochure;
4. Emergency Action Plan and Site Specific Program – Devens – SUEZ Report (24 Pages);
5. Industrial Performance Standards Checklist (completed by Applicant);
6. LEED Checklist – Shabokin;
7. Level 2 Unified Permit Checklist (completed by Applicant);
8. Mirror Lake Esker Parcel Conservation Restriction (Bk. 48220 pg. 332);
9. Letter from James Cray, PE, Wright-Pierce, to Neil Angus, Subject: Narrative for Reuse Plan and Industrial Performance Standards; dated September 2, 2020 (7 pages);
10. Environmental Notification Form : MassDevelopment Patton and Shabokin Water Treatment Plants; dated September 2020; prepared by Caron Environmental Consulting, 247 Bragg Hill Road, Westminister, MA 01473 (85 pages);
11. Site Plans entitled: “MassDevelopment Contract Drawings for Shabokin Water Treatment Plant, Devens, Massachusetts”; Cover Page and Sheets C-1 through C-11 and A-3 and A-4; dated 9-9-20; Prepared by Wright-Pierce, 11 Bowdoin Mill Island, Suite 140, Topsham, ME 04086;
12. Geotechnical Report: Proposed Water Treatment Building, Shabokin Well Site, Devens, MA; dated 7/10/20; prepared by Summit Geoengineering Services, 145 Lisbon Street, Lewiston, ME 04243;
13. Wetland Notice of Intent: Shabokin Water Treatment Plant, Sheridan Road, Devens; prepared by Caron Environmental Consulting, 247 Bragg Hill Road, Westminister, MA 01473 (27 pages);

14. Stormwater Management Plan: Shabokin Water Treatment Plant – Report prepared by Wright-Pierce for MassDevelopment; dated September 2020 (128 pages);
15. Quit Claim Deed for subject parcel – Book 17907 Pg: 1 (original deed from Army to MassDevelopment – 76 pages);
16. Public Hearing Notice to abutters and interested parties (including certified mail return receipts) dated October 1, 2020;
17. Public Hearing legal notice publication memo to Nashoba Publications, dated September 18, 2020 (publication dates October 2 and 9, 2020);
18. Public Hearing Notice to Board of Selectman and Planning Boards, Towns of Ayer, Harvard and Shirley, dated September 18, 2020, from Peter Lowitt, Director DEC.
19. Determination of Completeness, dated September 17, 2020.
20. 11/3/20 request for extension of DEC and MA DEP time limits for rendering a decision on a RDA application;
21. Public Hearing Notice to Town Clerks of Ayer, Harvard, Shirley, Lancaster, MassDevelopment, dated October 5, 2020, from Peter Lowitt/Kate Clisham.
22. Community Cable Advisory Committee notice, dated October 5, 2020, to run October 5-27, 2020;
23. Public Hearing Notice to the Secretary of State, dated October 5, 2020.
24. Natural Heritage Endangered Species Program filing (NHESP Tracking # 09-26799), dated September 23, 2020 (11 pages);
25. DEC Staff Report, dated 10/26/20 (3 Pages);
26. Plan Circulation memo dated September 17, 2020, from Neil Angus to MassDevelopment Re: Unified Permit Application – New Shabokin Water Treatment Facility (1 page);
27. Site Plans entitled: “MassDevelopment Contract Drawings for Shabokin Water Treatment Plant, Devens, Massachusetts”; Cover Page and Sheets C-1 through C-11 and A-3 and A-4; dated 9-9-20, REVISED THROUGH 10/20/20; Prepared by Wright-Pierce, 11 Bowdoin Mill Island, Suite 140, Topsham, ME 04086;
28. Delivery Truck Turning Plan –prepared by Wright-Pierce, dated 9/20/20 (1 sheet);
29. Fire Truck Turning Plan –prepared by Wright-Pierce, dated 9/20/20 (1 sheet)
30. Stormwater Management Plan: Shabokin Water Treatment Plant – Report prepared by Wright-Pierce for MassDevelopment; dated October 2020 (140 pages);
31. Updated Light Fixture Cut Sheet with Motion Sensor (WDGE2 LED Architectural Wall Sconce) (5 pages);
32. Letter from James Cray, PE, Wright-Pierce, to Neil Angus, Subject: Water Treatment Plant – Shabokin Well – Review Response to Comments; dated October, 16, 2020 (10 pages);
33. DEC Staff Review Comments, dated October 1, 2020 from Neil Angus to Lucas Anthony, Wright Pierce (3 pages);
34. Nitsch Engineering Peer Review Comments letter dated October 23, 2020 (6 pages);
35. Shabokin WTP - DEC Cost Estimate for Fee Calculation from Wright Pierce (1 page);
36. Correspondence with Public Safety Officer - September 29, 2020 (4 pages);
37. Wright Pierce revised narrative (Industrial Performance Standards) letter from James Cray to Neil Angus, dated September 30, 2020 (8 pages);
38. Draft Record of Decision – Shabokin Water Treatment Plant, dated 11-5-20 (7

pages);

39. Email correspondence as follows:

Date	From	To	Subject
9/24/20	Lucas Anthony	Neil Angus	FW: Patton and Shabokin WTP's
9/23/20	Chuck Caron	Neil Angus	NHESP filing
9/30/20	Lucas Anthony	Neil Angus	RE: Patton Well DOC
9/29/20	Lucas Anthony	Neil Angus	FW: Patton Well DOC
10/9/20	Peter Lowitt	James Cray	RE Devens WTP - DEC Fee Calculation Reference Documents
10/16/20	CERO_NOI@Mass Mail.state.ma.us	Neil Angus	MassDEP NOI File Number
10/16/20	Lucas Anthony	Neil Angus	Shabokin WTP - Revised Plans
10/23/20	Paige Simmons	Neil Angus	RE: Shabokin WTP - Revised Plans
10/9/20	James Cray	Neil Angus	Devens WTP - DEC Fee Calculation Reference Documents
11/3/20	Lucas Anthony	Neil Angus	RE: Public Hearing Format
11/3/20	Lucas Anthony	Neil Angus	Unified Permit #D20-073 (waiver withdrawal request)

40. Staff Report dated 11-3-20 Re: Shabokin Water Treatment Facility – Level 2 Unified Permit Continued Public Hearing, prepared by Neil Angus and Peter Lowitt (3 pgs);

41. Draft wpaform5 - Shabokin Well Treatment Facility (16 pages);

4. Unified Permit Components and Actions:

The Unified Permit for this project includes Site Plan Approval and a Wetland Notice of Intent for the construction of a new water treatment plant, parking, driveway, emergency generator, and associated drainage and utilities. The Application also included copies of submittals to the Natural Heritage Endangered Species Program and an Environmental Notification Form to the Executive Office of Energy and Environmental Affairs.

5. Process:

Wright-Pierce, on behalf of MassDevelopment Utilities Department, submitted a Level II Unified Permit application package, including the application, Wetland Notice of Intent, Stormwater Management Plan, Environmental Project Notification Form and site plans on September 11, 2020. The pre-permitting conference was completed on July 30, 2020, and the Determination of Completeness was issued on September 17, 2020. Copies of the application and plans were received by the surrounding Towns on September 21, 2020. Legal notices were placed in Nashoba Publications on October 2 and 9, 2020. Certified Mail notice was sent to abutters on September 24, 2020. The 30-day public comment period expired on October 23, 2020. No public comments were received. The public hearing opened on October 27, 2020 and was continued to and closed on November 5, 2020. The Commission voted on the Permit at the November 5, 2020 meeting after the close of the public hearing.

6. Waivers:

This Applicant requested the following waivers as part of this application:

974 CMR 3.04 (3)(a)1. a - Parking shall be on rear or side of buildings, 10% max allowed in front of building.

The proposed use does not require a significant amount of parking and as such the parking has been located in front of the building to be to reduce the need for excess pavement and provide the most efficient and safest layout for staff access. This is a municipal use, has minimal parking, and will not be visible from any public way, therefore Staff has no concerns with this waiver request.

974 CMR 3.04 (3)(a)1.h – bicycle parking required.

Site use is expected to be limited to employees, vendors, and delivery personnel. None of these users are expected to visit the site by bicycle.

974 CMR 3.04(6)(a)2.a – Vertical granite curb or cement concrete curb required at all driveway entrance roundings to the point of rounding tangency.

Sheridan road is an uncurbed roadway so there is no need for the vertical granite curb on the driveway entrances.

974 CMR 3.04(6)(a)7.a.1– All sewage generated by site development at Devens shall connect to the Devens public sewer system.

Public sewer is not available at the site given the remote location in Devens. Sewage generated is expected to be minimal with only one bathroom proposed for employee and visitor use. Sewage is proposed to be stored in a tight tank with level monitoring and be pumped out on a regular basis. Because the site is located in a Zone 1 Water Resource protection District, a septic system is not a feasible option.

The Commission voted _____ to grant _____ requested waivers.

7. Findings:

The DEC finds that:

1. The proposed use is a permitted municipal use in the Open Space and Recreation Zoning District as per Exhibit D of the Devens Bylaws.
2. The project is located within a Zone I Water Resources Protection District. The final plans, with the conditions listed herein, comply with the Stormwater Management Provisions and Water Resource Protection District Regulations in 974 CMR 4.08 to protect the ground and surface water resources through the implementation of best management practices during construction as well as long-term.
3. Site lighting for the Facility has been minimized (building-mounted only, photocell and motion sensor, 3000K) and the proposed municipal use requires illumination between 11 p.m. and 7 a.m for public safety, operations, and maintenance.
4. Regarding the approval criteria listed in 974 CMR 3.03(2):
 - (a) The Site 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 access is designed to provide for safe vehicular and pedestrian travel.
 - (e) Access and circulation enables prompt fire, police, and emergency response.
 - (f) Adequate capture and discharge of stormwater and surface water runoff and compliance with applicable portions of the "Devens Stormwater Pollution Prevention Plan" has been achieved.
 - (g) Connections with Devens utility, power and communication systems exist and new connections will be approved by MassDevelopment.

- (h) Facilities required under the Water Resources Protection Bylaw and the related Design Standards have been included.
- (i) The plans comply with Landscaping Design Standards through the preservation of existing specimen trees and wooded areas to the maximum extent feasible.
- (j) A Wetland Order of Conditions has been issued by the DEC.
- (k) Industrial Performance Standards will be adhered to as per the final plans.
- (l) The proposed use provides sufficient parking for the intended use;
- (m) The project will not interfere with existing traffic patterns.
- (n) The project will not generate any additional vehicular traffic.
- (o) Adequate water supply exists in terms of quantity, quality, and water pressure for domestic needs and fire protection.
- (p) Connection to sanitary sewers is not required for this project.
- (q) The building design meets the minimum standards as established by Mass Development for the district in which the lot is located.
- (r) Soil testing indicates that the soils are capable of supporting the proposed development;
- (s) The development has been designed with due consideration for public health;
- (t) Adequate climate change mitigation, adaptation and greenhouse gas emission mitigation measures have been incorporated in accordance with 974 CMR 4.11.

8. Conditions:

The DEC voted to impose the following conditions:

- 1) All applicable federal, state, and local permits necessary for construction must be obtained prior to the start of construction. Copies of permits issued by those other than the DEC must be filed with the DEC, including, but not limited to, MA DEP, MEPA (ENF Certificate), and NHESP authorization. Should any of these decisions require significant plan changes, the Applicant will be required to amend this unified permit.
- 2) The Applicant shall notify the DEC in writing seven or more days prior to the completion of the following construction milestones:
 - a. completion of the site grading and site work;
 - b. completion of all site improvements as shown on the approved site plan;
 - c. final site stabilization.
- 3) In accordance with the Devens By-Laws, Article III, Section K 1. a., no soil, loam, sand, gravel, or other earth materials shall be permanently removed from any lot within Devens, except in accordance with the Devens Soil Management Policy and approval from the DEC.
- 4) Prior to commencing any intrusive earth work within Devens (due diligence, construction of otherwise) all personnel to be on site shall view an Unexploded Ordinance/Munitions of Explosive Concern (UXO/MEC) video briefing provided by the Devens Fire Department.

- 5) Once the appeal period has expired, the Applicant shall submit final approved plans to the DEC for endorsement. The Applicant shall file the endorsed plans and the final Record of Decision with the Registry of Deeds and proof of recordation shall be submitted to the DEC prior to commencement of construction.
- 6) The MA DEP File #352-0044 Wetland Order of Conditions shall be adhered to and become part of this approval.
- 7) Prior to issuance of a building permit, the Applicant shall file a Level 1 Lotting Plan with the DEC to adjust the property boundary in order to meet setback requirements. This plan shall also be recorded at the Registry of Deeds prior to the issuance of the building permit.
- 8) Prior to commencement of construction, limits of disturbance shall be flagged in the field and all necessary erosion controls and wildlife barriers/gates shall be installed and inspected by DEC Staff.
- 9) No dewatering activity is permitted with 50 feet of any wetland resource area.
- 10) The Applicant shall coordinate with Devens Public Works for construction access to the site, as well as winter road maintenance on Sheridan Road.
- 11) The Applicant shall obtain approval for the emergency generator and septic tank from MA DEP. The operation of the generator (diesel fuel storage, re-fueling, emergency spill procedures, and monitoring), as well as the septic tank (regular inspections, monitoring, emergency procedures, and pumping) shall be included in the Facility Operations and Maintenance Plan. A complete copy of the Plan shall be provided to the DEC prior to issuance of a Certificate of Occupancy for the building. The Applicant shall retain all service records and provide copies to the DEC upon request.
- 12) A design review letter from MassDevelopment shall be submitted prior to the issuance of a building permit.
- 13) Prior to DEC endorsement, the following revisions shall be made to the plans:
 - i. Erosion and Sediment Control Plan Notes must be updated to include notes as required under 974 CMR 3.02(3)(e)
 - ii. Space for Chairman's signature and date missing from Sheets C-1, C-2, C-4, C-5, and C-7 through C-11.
 - iii. Correct Note on Sheet C-3 re: Air Quality Permit Not required and Diesel generator certification requirements with MA DEP and DEC.
 - iv. FEMA/FIRM Map number to be included on plans
 - v. Need to provide design details for the loading dock and exterior pads.
 - vi. Update the Site Data Table on C-3 to reflect the revised parcel area once the lot is reconfigured to meet the setback requirements.
 - vii. Plans to be stamped and signed by appropriate disciplines and include all requirements for recording at the Registry.
 - viii. modify the design of the forebays to remove the concrete liner and replace with a geotextile liner, topsoil and vegetation to fully comply with 974 CMR 4.08.

ix. Revised grading and site plans to comply with MA DEP 50' wetland setback requirement for infiltration basins.

9. Decision:

The Public Hearing closed on November 5, 2020 and the DEC voted on November 5, 2020, to issue findings, including that the application complied with Approval Criteria in 974 CMR 3.03(2), to impose Conditions, and to approve the Application Request to construct a new water treatment plant, parking, driveway, emergency generator, and associated drainage and utilities within 100 feet of wetlands.

10. Building Permit:

The Building Commissioner, along with the Electrical and Plumbing Inspectors, must review architectural/structural drawings and specifications and approve them in writing, prior to issuance of a building permit. All requirements in the Massachusetts Building Code, the Massachusetts Sanitary Code, and the Devens Fire Chief must be met. When this approval is obtained, the building permit may then be integrated with this Record of Decision; together they will constitute the Unified Permit for the Shabokin Water Treatment Plant, which will, in turn, allow construction to commence.

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 or the LUA produces a written decision and approved activities are completed within two years. It is further noted that there is 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 November 6, 2020 and terminates December 7, 2020, 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

Kathryn Clisham, Notary
My Commission expires _____