

Record of Decision
MASSDEVELOPMENT
PATTON WELL WATER TREATMENT FACILITY
150 and 168 Patton Road (Parcel ID#: 10-9-200 and 11-99-204)
Devens (Harvard), MA
December 1, 2020

1. Owner/Applicant:

MassDevelopment Finance Agency, 99 High Street, Boston, MA 02110 and 33 Andrews Parkway, Devens, MA 01434.

2. Premises and Proposed Project:

The applicant is seeking a Level 2 Unified Permit for Site Plan Approval and a Wetland Request for Determination for construction of a new water treatment plant, parking, driveway, emergency generator, and associated drainage improvements as well as utility connections within the Patton Road Right of Way which are within 100 feet of wetlands on the north side of Patton Road. The project is located on portions of both 150 Patton Road (Parcel ID #10-9-200) and 168 Patton Road (Parcel ID# 11-99-204) 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 (D20-074);
2. 150 Patton Road and 168 Patton 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 – Patton;
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 Patton Water Treatment Plant, Devens, Massachusetts”; Cover Page and Sheets C-1 through C-13 and A-3 and A-4; dated 9-9-20; Prepared by Wright-Pierce, 11 Bowdoin Mill Island, Suite 140, Topsham, ME 04086; last revised 11/23/2020;
12. Geotechnical Report: Proposed Water Treatment Building, Patton Well Site, Devens, MA; dated 7/10/20; prepared by Summit Geoen지니어ing Services, 145 Lisbon Street, Lewiston, ME 04243;
13. Wetland Notice of Intent: Patton Water Treatment Plant, Patton Road, Devens;

- prepared by Caron Environmental Consulting, 247 Bragg Hill Road, Westminster, MA 01473 (27 pages);
14. Stormwater Management Plan: Patton Water Treatment Plant – Report prepared by Wright-Pierce for MassDevelopment; dated September 2020 (128 pages);
 15. MassDevelopment, Stormwater Management Plan, Patton Water Treatment Plant, revised November, 2020;
 16. Quit Claim Deed for subject parcel – Book 17907 Pg: 1 (original deed from Army to MassDevelopment – 76 pages);
 17. Public Hearing Notice to abutters and interested parties (including certified mail return receipts) dated October 1, 2020;
 18. Public Hearing legal notice publication memo to Nashoba Publications, dated September 18, 2020 (publication dates October 2 and 9, 2020);
 19. 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.
 20. Determination of Completeness, dated September 18, 2020.
 21. 11/3/20 request for extension of DEC and MA DEP time limits for rendering a decision on a RDA application;
 22. Public Hearing Notice to Town Clerks of Ayer, Harvard, Shirley, Lancaster, MassDevelopment, dated October 5, 2020, from Peter Lowitt/Kate Clisham.
 23. Community Cable Advisory Committee notice, dated October 5, 2020, to run October 5-27, 2020;
 24. Public Hearing Notice to the Secretary of State, dated October 5, 2020.
 25. Natural Heritage Endangered Species Program filing (NHESP Tracking # 09-26799), dated September 23, 2020 (11 pages);
 26. DEC Staff Report, dated 10/23/20 (3 Pages);
 27. Plan Circulation memo dated September 17, 2020, from Neil Angus to MassDevelopment Re: Unified Permit Application – Patton Road Water Treatment Facility (1 page);
 28. Site Plans entitled: “MassDevelopment Contract Drawings for Patton Water Treatment Plant, Devens, Massachusetts”; Cover Page and Sheets C-1 through C-13 and A-3 and A-4; dated 9-9-20, REVISED THROUGH 11/23/20; Prepared by Wright-Pierce, 11 Bowdoin Mill Island, Suite 140, Topsham, ME 04086;
 29. Letter from James Cray, P.E., project engineer to Neil Angus, DEC; Response to Comments dated 11/23/2020 seven pages;
 30. Extension Request Letter to Peter Lowitt Re: MA DEP Wetland Notice of Intent for Application No. 352-0044 and DEC Unified Permit Application No. D20-074 dated 11/16/2020 from Jim Moore, Devens Utilities;
 31. Delivery Truck Turning Plan –prepared by Wright-Pierce, dated 9/20/20 (1 sheet);
 32. Fire Truck Turning Plan –prepared by Wright-Pierce, dated 9/20/20 (1 sheet)
 33. Stormwater Management Plan: Patton Water Treatment Plant – Report prepared by Wright-Pierce for MassDevelopment; dated October 2020 (140 pages) revised November, 2020;
 34. Email from Lucas Anthony to Peter Lowitt dated 11/16/2020 requesting continuation until 12/3/2020 public hearing;
 35. Nitsch Engineering Peer Review Comments letter dated December 1, 2020 (17 pages);

36. Revised Staff Report to DEC from Peter Lowitt dated December 1, 2020;
37. Patton WTP - DEC Cost Estimate for Fee Calculation from Wright Pierce (1 pg.);
38. Correspondence with Public Safety Officer - September 29, 2020 (4 pages);
39. Wright Pierce revised narrative (Industrial Performance Standards) letter from James Cray to Neil Angus, dated September 30, 2020 (8 pages);
40. Draft Record of Decision – Patton Water Treatment Plant, dated 12-3-20 (8 pages);
41. 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 |
| 10/28/20 | 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) |
| 11/3/20 | Lucas Anthony | Neil Angus | Unified Permit #D20-0731 (Revised Grading Plan) |
| 11/3/20 | Lucas Anthony | Neil Angus | Unified Permit #D20-073 (revised driveway width) |
| 11/3/20 | Ed Starzec | Neil Angus | Re Patton Water Treatment Plant Design Review |
| 11/4/20 | Debra Rivera | Neil Angus | RE: Mullin Rule Affidavits |
| 10/2/20 | Jennifer Johnson | Neil Angus | RE: Patton Review |
| 10/2/20 | Neil Angus | Lucas Anthony | Patton well comments |
| 11/13/20 | Melany Cheeseman | Peter Lowitt | MEPA comment letter Patton and Shabokin Wells |
| 11/12/20 | John Marc-Aurele | Peter Lowitt | Patton Well boundary issue |
| 11/17/20 | Lucas Anthony | Neil Angus | NHESP and ENF also revised plans, SWMP, response to comments |
| 11/23/20 | Neil Angus | Lucas Anthony | Use of western parcel area? |
| 11/23/20 | Lucas Anthony | Neil Angus | Modifying soil laydown area |
| 11/23/20 | Neil Angus | Lucas Anthony | Response to question |
| 11/23/20 | Lucas Anthony | Neil Angus | Request this become a condition of approval |
| 21/1/20 | Jennifer Johnson | Neil Angus | Patton Review |

42. Staff Report dated 11-12-20 Re: Patton Water Treatment Facility – Level 2 Unified Permit Continued Public Hearing, prepared by Neil Angus and Peter Lowitt (3 pgs);
43. Letter from Everose Schluter, Mass Division of Fisheries and Wildlife dated 11/13/2020 to MEPA Office stating Patton Well review by Division is completed.
44. Design Review Approval Letter from Ed Starzec, MassDevelopment, dated 11/3/20 ;
45. Revised Staff Report to DEC from Peter Lowitt RE: Continued Public Hearing for Patton Well Site Plan dated 11/16/2020;
46. Negative Request for Determination of Applicability with conditions dated 12/3/2020.

4. Unified Permit Components and Actions:

The Unified Permit for this project includes Site Plan Approval and a Wetland Request for Determination of Applicability for the construction of a new water treatment plant, parking, driveway, emergency generator, and associated drainage improvements as well as utility connections within the Patton Road Right of Way which are within 100 feet of wetlands on the north side of Patton Road parking. 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 Request for Determination of Applicability, 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 18, 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 November 17, 2020 and further continued to December 3, 2020 and closed at that time. The Commission voted on the Permit at the December 3, 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.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)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.

The Commission voted all in favor to grant the 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 and Zone 2 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 negative wetlands determination of applicability with 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 erosion and sedimentation controls required by the conditions of the negative request for determination of applicability for this project shall be complied with.
- 7) 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.
- 8) No dewatering activity is permitted within 50 feet of any wetland resource area.
- 9) The project is located within a Priority Habitat Area for Blandings Turtle, therefore the project will need to comply with the Natural Heritage Endangered Species Program No. 20-39668 letter dated 11/13/20 and the conditions of their 10/21/20 determination, which are part of this approval.
- 10) The operation of the generator (diesel fuel storage, re-fueling, emergency spill procedures, and monitoring), propane storage, 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.
- 11) Prior to DEC endorsement, the following revisions shall be made to the plans:
 - Modify western soil laydown area per email correspondence between Lucas Anthony and Neil Angus dated 11/23/20 to the satisfaction of DEC staff; providing more flexibility for shaping the fill pile more naturally and using the level area in the front for stormwater management if needed.
 - Address stormwater modelling design and calculations review comments from Nitsch letter of 12/1/2020, especially the drywell overflow comments.
 - From the Nitsch letter of 12/1/20: The post-development rates are greater than the pre-development rates for the 2-year storm. The Applicant should review and address this requirement.

9. Decision:

The Public Hearing closed on December 3, 2020 and the DEC voted on December 3, 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 utility work within the Patton Road Right of Way 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 Patton 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 December 4, 2020 and terminates January 4, 2021, 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_____