Record of Decision
KING DEVENS LLC,
Portion of 45 Jackson Road (Parcel ID #013.0-0021-1000.0)
Devens (Harvard), MA (Deed Reference: Bk: 62907 Pg: 267)
July 15, 2021

1. **Owner/Applicant:**
   King Devens LLC, 800 Boylston Street, Suite 1570, Boston MA 02119.

2. **Premises and Proposed Project:**
   The applicant is seeking a Level 2 Unified Permit including Site Plan approval for the construction of a +/- 140,000 gross square foot bio-manufacturing building and associated site improvements on a +/-6.4 acre portion of the ~24 acre parcel of land located at 45 Jackson Road (to be assigned the address of 39 Jackson Road (Parcel ID#013.0-0021-1002.0), Devens (Harvard), MA. The project is located within the Innovation and Technology Business District, the Open Space and Recreation District, the Viewshed Overlay District and the Watershed Protection Overlay District.

3. **Submission:**
   The application includes the following, which all become part of the record:

   1. DEC Completed Application Form (D21-057);
   2. 45 Jackson Road Certified Abutters lists (Devens) received 5/10/2021;
   3. Application package entitled "Application for Level 2 – Unified Permit Site Plan Review, Biomanufacturing facility"; Project Address: 39 Jackson Road, Devens, MA; Applicant: King Devens LLC; dated May 6, 2021, prepared by Highpoint Engineering, Inc., 45 Dan Road, Suite 140, Canton, MA 02021 (61 pages)
   4. Cover Letter from Doug Hartnett, PE, Highpoint Engineering to Peter Lowitt, dated 5/6/21, Re: 39 Jackson Road – Biomanufacturing Building Level 2 Unified Permit Application (2 pages);
   5. DRAFT Soil Management Plan; Project: 45 Jackson Road, Devens, Massachusetts Prepared for: King Devens, LLC, 800 Boylston Street, Suite 1570 Boston, Massachusetts, 02199; prepared by Boston Environmental Corporation (76 pages)
   6. Supplemental Geotechnical Evaluation, Proposed Biotechnic Industrial/Manufacturing Development, dated November 2, 2020; prepared by GZA for King Devens, LLC. (233 pages);
   7. Site Plan entitled "39 Jackson Road – Site Development Plan, Devens, Massachusetts – Level 2 – Final Endorsement Set", dated May 6, 2021, revised 6/11/21; prepared for by King Devens LLC Highpoint Engineering, Inc., 45 Dan Road, Suite 140, Canton, MA 02021 including the following sheets:
      - T100 – Title Sheet
      - G100 – General Notes Sheet
      - G200 – Campus Master Plan
      - C100 – Context Plan
      - C200 – Existing Conditions Plan
      - C300 – Soil Erosion & Sedimentation Control/Site Preparation Plan
      - C400 – Layout and Materials Plan
      - C500 – Grading & Drainage Plan
      - C600 – Utilities Plan

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- C700 – C704– Site Details
- L-100 – Overall Landscape Layout and Materials Plan (prepared by Wagner Hodgson)
- L-200 – Landscape Planting Plan East (prepared by Wagner Hodgson)
- L-201 – Landscape Planting Plan West (prepared by Wagner Hodgson)
- L-202 – Planting Notes (prepared by Wagner Hodgson)
- L-400 – Irrigation Plan (prepared by Wagner Hodgson)
- ES1.01 - Electrical Site Lighting Photometric (prepared by NAPPA Electrical Contractors)
- ES1.02 - Electrical Site Lighting Fixture cut sheets (prepared by NAPPA Electrical Contractors)

8. Stormwater Management Plan: 39 Jackson Road - Lot 2 prepared for King Devens, LLC; dated 5/6/2021 by Highpoint Engineering Inc. (219 pages);
9. Traffic Impact and Access Study 39 Jackson Road, Devens, MA; prepared for King Street Properties by VHB dated May 2021(61 pages), including Appendices 230 pages).
10. Public Hearing Notice to abutters and interested parties (including certified mail return receipts) dated May 20, 2021;
11. Public Hearing legal notice publication memo to Nashoba Publications, dated May 20, 2021 (publication dates May 28 and June 4, 2021);
12. Public Hearing Notice to Board of Selectman and Planning Boards, Towns of Ayer, Harvard and Shirley, dated May 17, 2021, from Peter Lowitt, Director DEC.
13. Determination of Completeness, dated May 12, 2021.
14. Public Hearing Notice to Town Clerks of Ayer, Harvard, Shirley, Lancaster, MassDevelopment, dated June 21, 2021, from Peter Lowitt/Kate Clisham.
15. Community Cable Advisory Committee notice, dated June 21, 2021;
16. Public Hearing Notice to the Secretary of State, dated June 21, 2021.
17. Neil Initial Review Comments 5/17/21.
18. Building Elevation Plans entitled: "Presentation – Exterior Elevation Drawings"; Sheet SD-1; Scale: 1/16"=1'; prepared by RE Dinneen Architcts and Planners, 123 North Washington Street, Boston, MA.
19. DEC Staff Report, dated 6/27/21 (5 Pages);
20. Plan Circulation memo dated May 17, 2021, from Neil Angus to MassDevelopment Re: Unified Permit Application – KSP 39 Jackson (1 page);
21. Nitsch Engineering Site Plan and Stormwater Peer Review Comments letter to Neil Angus from Jennifer Johnson, PE dated 5/27/21 (7 pages);
22. Nitsch Engineering Traffic Peer Review Comments letter to Neil Angus from Adina Alpert, dated 5/27/21 (3 pages);
23. IBI Group Landscape Peer Review Comments letter dated 5/27/21 from John Amodeo (7 pages);
24. Highpoint Engineering 6/11/21 response to Nitsch Engineering Site Plan and Stormwater Peer Review Comments letter to Neil Angus from Jennifer Johnson, PE dated 5/27/21 (6 pages);
25. Revised Stormwater Management Report: 39 Jackson Road - Lot 2 prepared for King Devens, LLC; dated 6/11/2021 by Highpoint Engineering Inc. (223 pages);
26. Final Traffic Impact and Access Study 39 Jackson Road, Devens, MA; prepared for King Street Properties by VHB dated June 2021(281 pages).
27. Wagner Hodgson 6/11/21 Response to May 27, 2021 Landscape Peer Review letter from IBI Group (8 pages).
28. Highpoint Engineering 6/11/21 response to May 27, 2021 Traffic Peer Review

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comments from Nitsch Engineering (3 pages).

29. IBI Group Revised Landscape Peer Review Comments letter dated 6/23/21 from John Amodeo (4 pages)
30. Compiled Review Comments to Highpoint Engineering, from Neil Angus, dated June 24, 2021 (14 pages)
31. ROD - 39 Jackson draft 7/15/21 (10 Pages);
32. 39 Jackson Powerpoint Presentation Deck, prepared by Highpoint Engineering presented at 6/29/21 public hearing (18 slides)
33. Email correspondence as follows:

Date	From	To	Subject
5/20/21	Kate Clisham	Legals Advertising	Public Notice
5/26/21	Legals Advertising	Kate Clisham	Re: FW: Public Notice
5/6/21	Doug Hartnett	Neil Angus	39 Jackson Road – Level 2Unified Permit Submission(1)
5/6/21	Doug Hartnett	Neil Angus	39 Jackson Road - Level 2 Unified Permit Submission
6/11/21	Doug Hartnett	Neil Angus	39 Jackson Road - Level 2 Unified Permit | Peer Review Response to Comments
5/19/21	Mark Cohen	Neil Angus	RE 39 Jackson - KSP Building #2 New Level 2 Unified Permit
5/26/21	Ed Starzec	Neil Angus	RE 39 Jackson - KSP Building #2 New Level 2 Unified Permit
5/21/21	Jenn Johnson	Neil Angus	RE 39 Jackson - KSP Building #2 New Level 2 Unified Permit
5/28/21	Neil Angus	Doug Hartnett	39 Jackson Review Comments
5/27/21	Jenn Johnson	Neil Angus	RE: 39 Jackson Landscape Review
5/27/21	Jenn Johnson	Neil Angus	39 Jackson Landscape Review
3/29/21	Ruth Loetterle	Neil Angus	Re 33 Jackson Review Letters
5/27/21	Jenn Johnson	Neil Angus	FW: Devens 39 Jackson Traffic Peer Review
3/31/21	John Marc Aurele	Neil Angus	RE 33 Jackson
6/23/21	Neil Angus	Adina Alpert	RE: 39 Jackson Traffic Review
5/26/21	John Marc Aurele	Neil Angus	FW 33 Jackson Road - Level 2 Permit Peer Review Response to Comments
6/23/21	Jenn Johnson	Neil Angus	39 Jackson Site/Stormwater Review
6/23/21	Ruth Loetterle	Neil Angus	Devens - 39 Jackson Road - Level 2 Unified Permit
6/23/21	Neil Angus	Ruth Loetterle	Re: Devens - 39 Jackson Road - Level 2 Unified Permit
6/24/21	Neil Angus	Doug Hartnett	39 Jackson 2nd Review
6/28/21	Doug Hartnett	Neil Angus	RE: 39 Jackson 2nd Review
6/29/21	Doug Hartnett	Neil Angus	39 Jackson Level 2 hearing - Presentation Deck
7/1/21	Doug Hartnett	Ed Starzec	39 Jackson Road - Level 2 Building Design Review
7/12/21	Doug Hartnett	Ed Starzec	King Street - 45 and 39 Jackson Road reviews
7/13/21	Jenn Johnson	Neil Angus	39 Jackson and Invoices

4. Unified Permit Components and Actions:

The Unified Permit for this project includes Site Plan Approval for the construction of a +/- 140,000 gross square foot bio-manufacturing building and associated site improvements on a +/-6.4 acre portion of the ~24 acre parcel of land located at 45 Jackson Road (to be assigned the address of 39 Jackson Road (Parcel ID#013.0-0021-1002.0), Devens (Harvard), MA.

5. Process:

Highpoint Engineering, on behalf of King Street Properties Acquisitions, LLC submitted the Unified Permit Application on May 10, 2021 and the Determination of Completeness was issued on May 17, 2021. Copies of the application were received by the surrounding Towns on May 19, 2021. Legal notices were placed in Nashoba Publications on May 28, June 4 and June 11, 2021. All abutting property owners were duly notified by certified

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mail. The 30-day Town comment period expired on June 17, 2021. No comments were received.

6. Waivers:

The Applicant requested the following waiver:

974 CMR 3.04(3)(b) – Viewshed Overlay District. The Applicant seeks a waiver to increase maximum allowable percentage of parking spaces to be constructed between the principal building and street that provides frontage from 10% to 30%....
The parking is not visible from the Prospect Hill/Fruitland's Museum sensitive receptor site due to the presence of mature tree canopy and the Johnson Pharma Life Science facility located within the sightline, resulting in no visual impacts to the viewshed. The setback provided between the parking and the frontage allows for the creation of earthen berms and a robust landscape buffer that provides a natural screen between the parking area and Jackson Road. This natural screen buffer provides sufficient mitigation so the majority of the parking will not be visible when viewed from the Jackson Road frontage, meeting the objectives of the regulations to minimize visual impacts from parking in front of the building as viewed from the street and sensitive receptor.

The DEC voted _____ to approve the waiver request subject to specific conditions (see "Conditions" section of this decision).

7. Findings:

The DEC finds that:

1. The proposed use is a permitted use in the Innovation and Technology Business Zoning District as per Exhibit D of the Devens Bylaws.
2. The project is located within a Watershed 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. The project is located with the Viewshed Overlay District. Based upon the Viewshed Analysis, the Applicant has undertaken all reasonable efforts to design the Project building and site to maximize existing tree preservation, provide supplemental landscape screening and building designs to minimize significant visual impacts to the viewshed receptors.
4. The proposed 157 surface parking spaces are sufficient based on the anticipated use (manufacturing/office). A 5-story 700-space structured parking facility (reserve/future parking) has been included should additional parking be required for this and other future tenants of this master planned complex.
5. The on-site Storm Water Management system has been designed so that there are no untreated discharges from the site– all runoff will be pretreated through an on-site treatment train that includes biofiltration, on-site infiltration, and mechanical filtration. With conditions, discharges from the site will comply with MA DEP SWM Standards and DEC regulations in order to satisfy EPA MS4 requirements. Discharge to the

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Devens Municipal Stormwater System is under the jurisdiction of and subject to the review and approval of the Devens Engineering Departments**.**

6. Regarding the approval criteria listed in 974 CMR 3.03(2), with conditions:
   (a) The Site Plan complies with 974 CMR 3.00 and 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) The project does not require a Wetland Order of Conditions or Determination of Applicability.
   (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, with required off-site improvements, will not interfere with existing traffic patterns.
   (n) The applicant has agreed to participate in the Devens Transportation Management Initiative.
   (o) Adequate water supply exists in terms of quantity, quality, and water pressure for domestic needs and fire protection.
   (p) Connection to sanitary sewers will be made 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 conditioned and incorporated in accordance with 974 CMR 4.11.

8. Conditions:

The DEC voted to impose the following conditions:

1) Wherever "Applicant" is referenced in the Conditions set forth herein, it refers to the Applicant, its successors and assigns.

2) 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, an EPA Construction General Permit, Driveway curb cut permit from MD/Devens Public Works and MA

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DEP permits. Should any of these decisions require significant plan changes, the Applicant will be required to amend this unified permit.

3) Jackson Gate from Route Two shall be the primary means of truck access to and from the site on a permanent basis, with other gates to be used only in an emergency situations or during protracted construction when the Jackson gate is unavailable. The Applicant shall post signs that all trucks must enter and exit Devens via the Jackson Gate at Route 2 on the exit gate of the facility. The Applicant shall take appropriate measures to encourage all automobile traffic associated with this project to use Jackson Gate to the maximum degree feasible.

4) The Applicant and its lessees shall participate in the Devens Transportation Management Initiative. The Applicant is required to implement the Transportation Demand Management Program and Post-Occupancy Traffic Monitoring Program requirements as outlined in the "Mitigation" section of the Traffic Impact Study.

5) The facility shall comply with the Massachusetts Anti-Idling law (5-minute restriction). The Applicant shall post signage at all loading docks and drop-off areas notifying drivers of this requirement.

6) 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, compliance with 974 CMR 407, and approval from the DEC.

7) 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.

8) 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.

9) There is no approval of signs implicitly or explicitly granted in this Unified Permit and any erection of signs of any type will require subsequent DEC approval.

10) No outdoor storage is permitted other than what is shown on the plans.

11) The Applicant shall provide As-Built Plans and accompanying information for all site improvements in accordance with the DEC As Built Policy, prior to issuance of a final Certificate of Occupancy.

12) The Applicant shall file annual reports to the DEC in October of each year indicating how they are maintaining their on-site stormwater management facilities. This is an on-going condition once construction is completed.

13) Landscaping shall be maintained in good condition in accordance with the approved landscape plan and 974 CMR 3.04(m). The applicant is required to submit a letter confirming a one-year guarantee of all approved landscaping once installed. Any dead or damaged landscaping must be replaced promptly. Tree protection fences shall be installed prior to the commencement of any construction activities on site and

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maintained in areas where construction is being conducted. Any existing trees marked for preservation that are damaged, killed or removed shall be replaced in accordance with 974 CMR 3.04(8)(d)8.

14) Prior to any connection to the Devens system, the Applicant shall confirm that:
    a. No discharges from temporary sedimentation basins are connected to the municipal storm water system.
    b. All stormwater recharge requirements are addressed on site.
    c. Stormwater runoff from areas of higher potential pollutant loading such as loading docks, shall be passed through a proprietary water quality unit before entering and component of the on-site system which has a direct connection to the municipal stormwater system.
    d. All systems connected to the Devens stormwater facilities are subject to periodic inspection and sampling.
    e. Required water quality management and treatment for the 25 year storm event shall be provided on-site, will be maintained at a level equal to or greater than that currently provided and shall be upgraded as necessary to maintain compliance with the remaining conditions below.
    f. Any and all discharges to the Devens stormwater facilities shall consist solely of uncontaminated and unpolluted stormwater runoff; and will not consist of or be a source of contaminates or pollutants that would violate the Devens authorization to discharge under the 2016 EPA NPDES general permit for discharges from MS4s in Massachusetts and any subsequent revisions or amendments.
    g. Prior to commencement of any work, a CAD file showing existing and proposed work, in a format acceptable to the MassDevelopment Engineering Department, shall be provided.
    h. Upon completion of work but prior to occupancy of the approved addition, a updated CAD file will be provided showing the as-constructed location of all site features.
    i. The Project reduces Phosphorous (P) and other stormwater impairment constituents prior to discharge to the Nashua River. A phosphorus loading analysis shall be submitted to demonstrate compliance and any required mitigation shall be reviewed and approved by the DEC and MassDevelopment and incorporated into the final design of the project.

    MassDevelopment/DEC may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment. This is a perpetual condition.

15) Applicant shall join the Devens Eco-Efficiency Center and demonstrate compliance with EcoStar Standard 24 – Climate Change Mitigation and comply with the MA Stretch Code (780 CMR 120AA) as amended. If this project requires a MassDEP Air Quality Permit, it will also need to have a roof for which at least thirty (30) percent shall be vegetated.

16) All building finishes shall not contain any reflective materials, including but not limited to metal flashing, mechanical enclosures, window frames/treatments, doors, roofing material or building trim. Any roof top mechanicals that are not able to be non-

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reflective will need to be shielded with a non-reflective barrier. Building roofs and upper tiers and trim shall not be lit.

17) Prior to commencement of construction, the Applicant shall submit a copy of their Construction Stormwater Pollution Prevention Plan (SWPPP). A written report documenting compliance with the approved erosion and sedimentation controls shall be maintained by the developer and made available to the DEC for review upon request. Additional controls shall be implemented at the discretion of the DEC or its Staff.

18) Prior to issuance of a Certificate of Occupancy all required off-site improvements along Lake George and Jackson Road as identified in the Traffic Impact and Access Study and Appendix for 39 Jackson Road, Devens, MA, prepared for King Street Properties by VHB, Inc., dated March 2021 shall be completed. Final details for these improvements shall be added to the plan set. These improvements shall be coordinated with the DEC, Devens utilities, Engineering, and Public Works.

19) Once a tenant is selected, and prior to a CO for any tenant fit-up, the Applicant shall model proposed tenant and facility equipment operating noise levels and demonstrate compliance with 974 CMR 4.05.

20) All uses/tenants proposed for this building shall be in accordance with permitted uses as listed in the (Innovation Technology Business Zoning District). Each new tenant will be required to obtain a certificate of occupancy/written approval from the DEC/LUA prior to occupancy.

21) An Operations and Maintenance Plan, including stormwater management, elimination/reduction of fertilizers and pesticides, maintenance and care of porous pavement, and a Hazardous Materials Spill Response Plan or Spill Pollution Prevention Control and Countermeasures Plan (depending on the tenants and actual uses) for the facility shall be prepared and submitted to the Fire Chief and DEC prior to issuance of a certificate of occupancy. This plan will need to specify the materials, types, quantities, location and method of storage/containment, handling and disposal as per 974 CMR 4.09.

22) Prior to endorsement, the final plans shall be revised to include the following changes:

    a. Remaining review items identified by the DEC, Nitsch Engineering, and IBI Group in Peer Review letters dated 6/23/21 and 6/24/21.
    b. The 31 spaces along the southern side of the building shall be converted to porous pavement to the maximum extent feasible.
    c. On-site pedestrian and traffic safety signage and pavement markings shall be added to the layout and materials plan to ensure safe circulation of both vehicles and pedestrians.
    d. Waivers granted to be included on final plans.
    e. Eliminate duplicate of Sheet C400 in final plan set (include version with Parking Summary Table).
    f. Lighting at the building entrance (RD fixtures) shall be reduced in intensity consistent with 33 and 45 Jackson building entrance lighting levels.

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23) Prior to the issuance of a building permit, the Applicant shall submit a design review approval letter from MassDevelopment confirming compliance with the Jackson Technology Park Design Guidelines.

24) Relocated and reconstructed existing public water and sewer utilities that run through the site shall be coordinated with Devens Utilities.

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9. Decision:

The Public Hearing closed on July 15, 2021 and the DEC voted on July 15, 2021, to issue findings, including that the application complied with Approval Criteria in 974 CMR 3.03(2), to impose Conditions, and to approve the development of a +/- 140,000 gross square foot bio-manufacturing building and associated site improvements on a +/-6.4 acre portion of the ~24 acre parcel of land located at 45 Jackson Road (to be assigned the address of 39 Jackson Road, Devens (Harvard), MA.

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 this project and 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 July 16, 2021 and terminates August 15, 2021, is "at risk". Final plans must be submitted to the Commission for endorsement by January 16, 2022

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_____

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