

Record of Decision
Devens-Harvard Water System Interconnection Project
Devens (Harvard), MA
Unified Permit
February 8, 2024

1. Applicant:

The Applicant is the Town of Harvard Public Works Department, 47 Depot Road, Harvard, MA 01451 and the owner is MassDevelopment Finance Agency, 33 Andrews Parkway, Devens, MA 01434.

2. Premises and Proposed Project:

The Applicant is seeking a Level 2 Unified Permit application including Site Plan approval and Wetland Notice of Intent for the construction of a water line extension, new Booster Pump Station, and associated site improvements for the interconnection of the Devens water system to the Town of Harvard, MA. Property located at 39 Sheridan Road (003.0-0099-0203.0) and 3 Marne Street (011.0-0019-0200.0) (Deed Reference: Bk: 17907 Pg: 1) Devens (Harvard), MA in the Special Use I and Open Space and Recreation Zoning Districts.

3. Submission:

The following is a list of exhibits included as part of the record for this Application:

1. Unified Permit Application - Level 2 Submittal package including the following:
 - Completed Level 2 Unified Permit Application form (D23-095) dated 12-14-23;
 - Cover letter from Tighe & Bond, dated 12-11-23;
 - Determination of Completeness Checklist (completed by applicant);
 - Town of Harvard Certified Abutters List
 - Notice of Intent and Completed WPA Form 3 – Notice of Intent (MA DEP File # 352-0049), dated 12-13-23, including cover letter and narrative;
 - Plans entitled: “TOWN OF HARVARD, MASSACHUSETTS HARVARD-DEVENS WATER SYSTEM, INTERCONNECTION PROJECT, CONTRACT NO. 1 / DWSRF 7285, PERMIT DRAWINGS, DECEMBER 2023; prepared by Tighe & Bond (41 Sheets);
 - Photographic Log
 - Stormwater Management Report, Harvard- Devens Water System Interconnection Project, Devens, MA, November 2023;
 - LONG-TERM POLLUTION PREVENTION AND STORMWATER MANAGEMENT SYSTEM OPERATION AND MAINTENANCE PLAN; November 2023
 - Massachusetts Historic Commission Notice of Project Change – negative determination; October 17, 2023;
 - Soil logs and soil suitability assessment; percolation test results
 - Green Building Rating System Project Checklist;
 - Project Checklist for Reducing Embodied Carbon;
 - Completed Industrial Performance Standards Checklist;
2. Determination of Completeness Issued 12/26/23;
3. Public Hearing Notice Memo to Town Clerks of Ayer, Harvard, Shirley, Lancaster and MassDevelopment, from Neil Angus, dated December 27, 2023;
4. Public Hearing Legal Notice e-mail to Nashoba Publications, from Neil Angus and Dawn Babcock, dated December 26, 2023 – to be published January 5 and 12, 2024;
5. Copies of Legal notices from January 5 and 12, 2024 from Nashoba Valley Voice;

6. Public Hearing Notice emailed to Community Service Cable Committee, from Neil Angus/Dawn Babcock, dated December 27, 2023;
7. Memo dated December 27, 2023 from Neil Angus to Towns of Ayer, Harvard and Shirley Board of Selectman and Planning Board;(notification of Public Hearing on January 30, 2024 at 6:45PM), including return receipts);
8. Memo dated December 27, 2023 from Neil Angus to Abutters and Interested Parties, including return receipts;
9. Public Hearing Notice to Secretary of State, from Neil Angus, dated December 27, 2023;
10. Plan Circulation memo, dated December 26, 2023 to MassDevelopment, from Neil Angus, Re: Unified Permit Application – Town of Harvard Water Line and Pump Station;
11. Peer Review Comments: Nitsch Project Report #9419, Jan 12 2024
12. DEC MD Comments to Applicant 1-15-24;
13. DEC MD Nitsch Comments to Applicant 1-15-24;
14. Harvard Waterline Project call notes 1-23-24;
15. Harvard Booster Pump Station Permit Review Responses from Tighe & Bond, 1-25-24, including revised plans (299 pages);
16. Devens-Harvard Water System Interconnection Project NOI Staff Report 1.30.24;
17. Unified Permit - Public Hearing Slides 24.01.30 from Tighe & Bond;
18. Wetland Notice of Intent Extension Request signed, 1/22/24;
19. Response from Tighe & Bond (response to comments and revised plans) dated 2/2/24;
20. Nitsch Peer Review Comments 9419-Pump Station LTReview2_Final, dated 2/6/24;
21. Completed MA DEP WPA Form 5 – Draft, dated February 8, 2024;
22. Draft Record of Decision, dated February 8, 2024;
23. Mullin Rule Affidavit from Commissioner Lilly, dated 2/6/24
24. Mullin Rule Affidavit from Commissioner Seely, dated 2/5/24
25. Mullin Rule Affidavit from Commissioner Chapman, dated 2/2/24
26. E-mail correspondence as follows:

Date	From	To	Subject
12/20/23	Meg Delorier	Neil Angus	RE Document
12/28/23	CERO_NOI@MassMail.state.ma.us	Neil Angus	MassDEP NOI File Number
6/7/23	Peter Lowitt	Neil Angus	Re: DEC Building Permit Fees
12/26/23	Mark Cohen	Neil Angus	RE: Harvard Waterline booster pump station Unified Permit
1/8/24	April Locke	Neil Angus	RE_ Harvard Unified Permit
1/22/24	April Locke	Neil Angus	RE_ NOI extension
2/1/24	Dawn Babcock	Coom. Seely, Lilly, and Chapman	Mullen Rule - 39 Sheridan Road Harvard Water Line
2/2/24	Mary Danielson	Neil Angus	Re_ Harvard-Devens Interconnection Unified Permit Responses
2/2/24	Mary Danielson	Neil Angus	RE_ Permit Approval Timeline
1/16/24	Mary Danielson	Neil Angus	RE_ Harvard Waterline_Booster Pump Station Levels 2 UP Review Comments
1/11/24	Neil Angus	Mary Danielson	RE_ Harvard Waterline project
1/31/24	John Marc-Aurele	Mary Danielson	RE_ Harvard Booster Pump Station - Easement Questions
12/19/23	Neil Angus	April Locke	RE_ Harvard Abutters List

4. Unified Permit Components and Actions:

The Unified Permit request includes a Wetland Order of Conditions and Site Plan approval for the construction of a water line extension, new Booster Pump Station, and associated site improvements for the interconnection of the Devens water system to the Town of Harvard, MA in the Special Use I and Open Space and Recreation Zoning Districts.

5. Process:

Town of Harvard submitted a Level 2 Permit application package, including the application, Wetland Notice of Intent, project description, stormwater report, and plans on December 14, 2023. A Determination of Completeness was issued on December 26, 2023. Copies of the application were received by the surrounding Towns on December 28, 2023. Legal notices were placed in Nashoba Valley Voice on January 5 and 12, 2024. Certified Mail notice was sent to all abutters on December 26, 2023. The 30-day Town comment period expired on January 28, 2024. No comments were received. The Public Hearing opened on January 30, 2024, was continued to February 8, 2024, and closed at that same meeting.

6. Waivers

No waivers were requested or granted as part of this Unified Permit.

7. Findings

The DEC made the following findings:

1. The booster pump station is an accessory municipal use in the Open Space and Recreation Zoning District.
2. The Applicant has incorporated measures to avoid impacts to the adjacent wetland resource areas.
3. Regarding the approval criteria listed in 974 CMR 3.03(2):
 - (a) The Plan complies with 974 CMR 3.00 and with the applicable provisions of the By-Laws.
 - (b) The development lies on a parcel of land that is recorded at the Registry of Deeds;
 - (c) The application is Complete.
 - (d) The project design will provide for safe vehicular and pedestrian travel.
 - (e) Access will enable prompt fire, police, and emergency response.
 - (f) Adequate capture, treatment, infiltration and discharge of stormwater and surface water runoff and compliance with applicable portions of the "Devens Stormwater Pollution Prevention Plan", has been included in the design.
 - (g) There are no changes to utility, power and communication systems.
 - (h) Facilities required under the Water Resources Protection Bylaw and the related Design Standards have been included.
 - (i) The plans are in compliance with the Landscaping Design Standards 974 CMR 3.04(8).
 - (j) A Wetlands Order of Conditions has been issued for this project.
 - (k) The Devens Fire Department has reviewed the application.
 - (l) The project is in compliance with the Devens Industrial Performance Standards.
 - (m) No parking is required as part of this project.
 - (n) Traffic control measures are not required for this project.

- (o) The project is exempt from the Devens transportation management association.
- (p) Domestic water needs have been met for this project.
- (q) There are no alterations to sanitary sewers as part of this project.
- (r) The building, with conditions, will comply with the design standards as established by Mass Development for the district in which the project is located.
- (s) The project will comply with the Devens Soil Management Policy.
- (t) The development has been designed with due consideration for public health.
- (u) Adequate climate change mitigation, adaptation and greenhouse gas emissions mitigation measures have been 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. Wherever “DEC” is referenced, it shall refer to the Devens Enterprise Commission, its successors, and assigns.
- 2) Plans shall meet Worcester Registry of Deeds recording requirements. 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 issuance of a building permit.
- 3) All applicable federal, state, and local permits necessary for this project must be obtained. Copies of permits issued by those other than the DEC must be filed with the DEC.
- 4) This approval is subject to the MA DEP File #352-0049 Wetland Order of Conditions, issued on February 14, 2024.
- 5) Prior to commencement of construction, a preconstruction meeting shall be held with the contractor performing the work, including DEC Staff and MassDevelopment Staff. No construction shall take place without prior authorization from MassDevelopment (property owner).
- 6) Limits of clearing shall be marked in the field and reviewed by DEC staff prior to any vegetation removal or ground disturbance. No activity is permitted within 25 feet of the wetland resource areas.
- 7) 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.
- 8) 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.
- 9) Areas of rip rap shall be confined to those areas shown on the referenced site plan. Natural stabilization methods (vs. rip rap) shall be employed where feasible.

- 10) The Applicant shall undertake the necessary improvements to the former tank trail/access road to ensure emergency access is not hindered. This includes ensuring a stable and compact surface that can accommodate the largest emergency vehicle that will need to access this site. Any additional work beyond the 16' gravel drive will need to be reviewed by the DEC to ensure any adjacent resource areas are not impacted.
- 11) No outdoor storage is permitted other than what is shown on the plans.
- 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) A copy of the final Operations and Maintenance Plan/Agreement for the facility shall be provided to the DEC to ensure responsible parties and roles are clearly identified between Devens and Harvard.
- 14) The Applicant shall contact the Natural Heritage Endangered Species Program to determine if any additional authorization is required for the proposed improvements to the access road.
- 15) The Applicant shall obtain a design review approval letter from MassDevelopment prior to issuance of a building permit.
- 16) Site lighting shall be no greater than 3000K and fully shielded to prevent off-site glare. Due to the secluded nature of this location, any lighting required to remain on overnight (11PM-7AM), should be minimized through the use of lighting controls (timers, photocells, etc.).
- 17) The Applicant shall provide As-Built Plans for all site improvements in accordance with the DEC As Built Policy, prior to issuance of a final Certificate of Occupancy.
- 18) Prior to endorsement by the DEC, the final plans shall be modified to include the following:
 - a. Update O&M Table on C-400 to include only one trench drain.
 - b. Update C-200 to include:
 - i. notes referencing the construction period erosion, sedimentation, and pollution prevent plan.
 - ii. the location of material stockpiling areas within existing limits of disturbance and as far away from wetland with appropriate controls surrounding.
 - iii. include note that some stockpiled materials will be stored at the Harvard Department of Public Works yard on Depot Road and outside of any 100-foot buffer zone.
 - iv. note in bold that no soils are to leave the site without review and approval from the DEC and MassDevelopment in accordance with the Devens Soil Management Policy.
 - v. Identify where steep slopes are and where erosion control blankets are needed (note and/or hatch).

9. Decision:

The DEC closed the hearing on February 8, 2024 and voted to approve the Wetland Order of Conditions and to issue findings, including that the application complied with Approval Criteria in 974 CMR 3.03(2), to impose conditions, and to approve the Level 2 Unified Permit

application including Site Plan approval and Wetland Notice of Intent for the construction of a water line extension, new Booster Pump Station, and associated site improvements for the interconnection of the Devens water system to the Town of 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 building 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’s written decision and completed within two years. It is further noted that 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 February 9, 2024 and terminates March 10, 2024, is “at risk”.

Date: _____

Approved by:

Neil Angus, FAICP, LEED AP, Director
Devens Enterprise Commission

Certification

Middlesex, SS

I certify the above is a true action and record of the Devens Enterprise Commission and that Neil Angus, Devens Land Use Administrator/Director, is empowered by the Devens Enterprise Commission to sign this Record of Decision on its behalf.

Date

Dawn Babcock, Notary
My Commission expires _____