

**Record of Decision
Willow Brook Culvert Pipe Replacement
Devens (Ayer), MA
Unified Permit
July 26, 2022**

1. Applicant:

The Applicant and owner is MassDevelopment Finance Agency/Devens Engineering, 33 Andrews Parkway, Devens, MA 01434. Property located within the Devens Open Space and Recreation District parallel to Jackson Road in Devens (Ayer), MA 01434 (Deed Reference: Bk 26317 pg. 003).

2. Premises and Proposed Project:

The Applicant, is seeking a Level 2 Unified Permit application for a Wetland Order of Conditions for the replacement of approximately 400 linear feet of degraded corrugated metal pipe (CMP) that carries the flows of Willow Brook, and replace it with 60" HDPE Corrugated Plastic Pipe as part of the West Main Street Corridor MassWorks Infrastructure Upgrade Project in partnership with the Town of Ayer. The project is located within a portion of the Open Space Recreation District between Shriver Job Corps and Jackson Road, and is also within a Zone 2 Water Resources Protection Overlay District.

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 entitled: "60IN Drain – NOI Binder with ONYX Plan" including the following:
 - Completed Level 2 Unified Permit Application form (D22-072) dated 6-8-22;
 - Property location map
 - Culvert replacement location and ACEC location map
 - Culvert Replacement location and NHESP Priority Habitat Map
 - Culvert Replacement location and FEMA Flood Map;
 - Completed WPA Form 3 – Notice of Intent Application
 - Certified Abutters List
 - Notification to Abutters
 - Submittal Certification Transmittal Form;
 - Plans Entitled: "GRADING, DRAINAGE AND PAVING PLAN STA. 26+50 TO 31+00", sheet C14, dated August 2021, revised 9/16/21, prepared by Ayer DPW, 25 Brook Street Ayer, Massachusetts.
 - Bypass pump details
2. Determination of Completeness Issued June 13, 2022;
3. Public Hearing Notice Memo to Town Clerks of Ayer, Harvard, Shirley, Lancaster and MassDevelopment, from Peter Lowitt, dated June 14, 2022;
4. Public Hearing Legal Notice e-mail to Nashoba Publications, from Peter Lowitt and Dawn Babcock, dated June 14, 2022 – to be published July 1 and 8, 2022;
5. Copies of Legal notices from July 1 and 8, 2022 from Nashoba Valley Voice;
6. Public Hearing Notice emailed to Community Service Cable Committee, from Peter Lowitt/Dawn Babcock, dated June 14, 2022;
7. Memo dated June 14, 2022 from Peter Lowitt to Towns of Ayer, Harvard and Shirley Board of Selectman and Planning Board;(notification of Public Hearing on July 26, 2022 at 6:45PM), including return receipts;

8. Memo dated June 14, 2022 from Peter Lowitt to Abutters and Interested Parties, including return receipts;
9. Public Hearing Notice to Secretary of State, from Peter Lowitt, dated June 14, 2022;
10. Staff Report dated 7/20/22 Re: Level 2 Unified Permit WPA NOI for Willow Brook Culvert Replacement, prepared by Peter Lowitt and Neil Angus;
11. Wetland Notice of Intent request for extension of timeline in which to render a decision, dated 6/14/22;
12. Revised Plans entitled: Plans Entitled: “GRADING, DRAINAGE AND PAVING PLAN STA. 26+50 TO 31+00”, sheet C14, dated August 2021, revised 9/16/21, prepared by Ayer DPW, 25 Brook Street Ayer, Massachusetts.
13. Completed MA DEP WPA Form 5 – Draft, dated July 26, 2022;
14. Draft Special Conditions for MA DEP File #352-00XX;
15. Draft Record of Decision;
1. E-mail correspondence as follows:

Date	From	To	Subject
6/2/22	Joe Bisceglia	Neil Angus	60” Drain NOI
6/2/22	Joe Bisceglia	Neil Angus	RE: 60” Drain NOI
6/27/22	Joe Bisceglia	Neil Angus	FW: Determination of Completeness
7/21/22	Joe Bisceglia	Neil Angus	RE: Determination of Completeness
7/21/22	Joe Bisceglia	Neil Angus	RE: DEP Form

4. Unified Permit Components and Actions:

The Unified Permit request includes a Wetland Order of Conditions for the replacement of approximately 400 linear feet of degraded corrugated metal pipe (CMP) that carries the flows of Willow Brook, and replace it with 60” HDPE Corrugated Plastic Pipe.

5. Process:

Devens Engineering, submitted a Level 2 Permit application package, including the application, Wetland Notice of Intent, project description, and plans on June 2, 2022. A Determination of Completeness was issued on June 13, 2022. Copies of the application were received by the surrounding Towns on June 21, 2022. Legal notices were placed in Nashoba Publications on July 1 and 8, 2022. Certified Mail notice was sent to all abutters on June 14, 2022. The 30-day Town comment period expired on July 22, 2022. No comments were received. The Public Hearing opened on July 26, 2022 and closed at that same meeting.

6. Waivers

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

7. Findings

The DEC made the following findings:

1. The proposed improvements are required to ensure public safety and will improve overall water quality in Willow Brook.
2. This replacement is a temporary solution that will improve water quality by avoiding future collapses and corrosion. MassDevelopment has committed to pursue daylighting and restoration of this portion of Willow Brook once PFAS investigations and any remediation are complete.
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 within a parcel of land that is recorded at the Registry of Deeds;
- (c) The application is Complete.
- (d) The culvert pipe replacement 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 adequate for this project.
- (o) The Applicant is participating in the Devens traffic management association.
- (p) There are no domestic water needs for this project.
- (q) There are no alterations to sanitary sewers as part of this project.
- (r) There are no new buildings as part of this application and therefore no requirement to meet any 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. Once the appeal period has expired, the Applicant shall file the Record of Decision with the Registry of Deeds and proof of recordation shall be submitted to the DEC.

3. All applicable federal, state, and local permits necessary for this project must be obtained prior to completion of the project. Copies of permits issued by those other than the DEC must be filed with the DEC.
4. Prior to commencement of construction, the Applicant shall submit a construction management and sequencing plan that addresses project timing, stream diversion and dewatering methods, and any additional measures to protect the stream and wetland resources during construction. All Devens Soil Management Policy and UXO policies and Procedures shall be included.
5. This approval is subject to the MA DEP File #352-00XX Wetland Order of Conditions and Special Conditions for the Willow Brook Culvert Pipe Replacement Project, dated July 26, 2022.

9. Decision:

The DEC closed the hearing on July 26, 2022 and voted 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 for a Wetland Order of Conditions for the replacement of approximately 400 linear feet of degraded corrugated metal pipe (CMP) that carries the flows of Willow Brook, and replace it with 60” HDPE Corrugated Plastic Pipe in Devens (Ayer), MA.

10. Building Permit

No building permit is required.

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 July 27, 2022 and terminates August 26, 2022, is “at risk”.

Approved by:

Date: _____

 Peter C. Lowitt, AICP, 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

 Dawn Babcock, Notary
 My Commission expires _____