Modification to an Approved Unified Permit
RECORD OF DECISION
Devens Recycling Center LLC
Lot 9A, Independence Drive
Devens, MA 01434
August 5, 2010

1. **Applicant:**
The Applicant is Devens Recycling Center, 45 Independence Drive, Devens, MA 01434, its successors and assigns.

2. **Premises and Proposed Modification:**
The Applicant has requested a modification to the Unified Permit for the Devens Recycling Center, located at 45 Independence Drive, Devens, MA to allow, on a trial basis, for Saturday operating hours from 7:00AM to 1:00PM. The 11.10 acre site is located within the Rail, Industrial and Trade Related District (the "Site"). The existing Facility consists of a 90,000 square foot building and associated truck and rail service for the handling of construction and demolition material recycling (the "Facility"). The Unified Permit was issued by the DEC on May 30, 2006. On April 21, 2009 the Applicant received approval for a modification to their current site assignment to allow the Facility to accept up to 500 tons per day of Municipal Solid Waste (MSW). The Unified Permit was subsequently modified on July 9, 2009 to allow the handling of MSW as well as Construction and Demolition Debris.

3. **Application:**
The following items serve as the list of exhibits for this Application:
   a. A completed Level Two Unified Permit Application dated May 25, 2010 (DEC No. D10-02909-037), 1 page;
   b. Accompanying letter dated May 25, 2010 to Peter Lowitt, from W. Kurt Macnamara; 1 page.
   c. Letter dated June 17, 2010 to Peter Lowitt, from W. Kurt Macnamara – copies of past three odor inspections of Devens Recycling Center; 17 pages.
   d. Memo dated June 2, 2010 from Peter Lowitt to Towns of Ayer, Harvard and Shirley Board of Selectman and Planning Offices; Subject: Amend Operating Hours - 45 Independence, DRC (notification of Public Hearing on July 27, 2010);
   e. Memo dated June 24, 2010 from Peter Lowitt to Abutters and Interested Parties; Subject: Amend Operating Hours - 45 Independence, DRC; (notification of Public Hearing on July 27, 2010);
   f. Public Hearing Legal Notice Fax to Nashoba Publications, from Peter Lowitt/Mary Quinn, dated June 18, 2010 – to be published June 25 & July 2, 2010.
   g. Copies of Legal Notices from June 25 and July 2, 2010
   h. Public Hearing Notice Fax to Town Clerks of Ayer, Harvard, Shirley, Lancaster and MassDevelopment, from Peter Lowitt/Mary Quinn, dated June 24, 2010
   i. Public Hearing Notice Fax to Community Service Cable Committee, from Peter Lowitt/Mary Quinn, dated June 27, 2010 (to run 6/24-7/27)

j. Public Hearing Notice Fax to Secretary of State, from Mary Quinn, dated June 24, 2010
k. Letter from Judith L. Royce-Cohen to Peter Lowitt May 25, 2010
l. Letter from Alan Bliss of Flynn Pest Control, to Peter Lowitt, May 14, 2010 re: Devens Recycling Long-Term Pest Management Plan for the Devens Recycling Center, 25 Independence Drive, Devens, MA.
m. Letter from Lieutenant Charles E. McPhail to Judy Cohen, dated May 14, 2010 re: truck traffic issues.
n. Devens Recycling Center Truck Route Inspection reporting sheets dated 8/11/09, 11/6/09, 5/3/10
o. E-mail correspondence as follows:

Date	From	To	Subject
7-28-10	Neil Angus	Peter Lowitt	DRC Inspections
5-8-09	Lynne Welsh	Peter Lowitt	Formal Request for guidance on changes of hours for Devens Recycling LLC
7-23-10	James Garreffi	Neil Angus	Re: Future Inspections of Devens Recycling
7-28-10	Judy Cohen	Neil Angus	Re: Toll Free Number
8-3-10	Judy Cohen	Neil Angus	Re: Letter details
8-4-10	Lynne Welsh, DEP	Neil Angus	Re: DRC Complaint Response

p. 5/27/10 Certified List of Abutters, from Norma Frost, Assistant Assessor, Devens Board of Assessors and certified mail return receipts.
q. Staff Report to the Devens Enterprise Commission, from Peter Lowitt and Neil Angus, dated July 26, 2010, Re: Devens Recycling Center, LLC Unified Permit Amendment Application.
r. List of Devens Recycling Inspection by Various Parties 2009-2010, dated July 28, 2010.
s. Results of Odor Monitoring Survey at Devens Recycling, LLP., dated July 26, 2010, from Mark Gould, PE – CDM (DEC Consultant), to Peter Lowitt.
t. Mullin Rule Affidavit from DEC Commissioner Bill Castro, dated August 4, 2010
u. Mullin Rule Affidavit from DEC Commissioner Russ Smith, dated August 4, 2010.
v. Letter from Shirley Police Department to Peter Lowitt RE: Truck Traffic Complaints dated August 2, 2010.
w. Letter to Mr. Marshall from Harvard Board of Selectmen listing objections to the Saturday hours proposed for the Facility.

4. Unified Permit Components and Actions:

The Applicant seeks a modification to the July 9, 2009 Unified Permit to expand its current operating hours (7:00AM-5:00PM Monday through Friday) on a six-month trial basis to allow for Saturday operating hours from 7:00AM to 1:00PM.

5. Process:

a. Judy Cohen from Devens Recycling, LLC. Submitted the Application and supporting materials on May 25, 2010.
b. The Land Use Administrator determined that the application was complete on May 26, 2010.
c. The DEC transmitted the application by certified mail to the Towns on June 2, 2010. The Towns received the application packets on June 3, 2010.

d. The 30-day comment period commenced on June 4, 2010 and expired on July 5, 2010. No comments were received.

e. The DEC caused notice of the Public Hearing to be advertised in Nashoba Publications on June 25 & July 2, 2010.

f. Abutters to the premises were duly notified in writing by the DEC of the Public Hearing by certified mail on June 24, 2010.

g. The Public Hearing was held on July 27, 2010 in Conference Room 1 at 33 Andrews Parkway, Devens, MA and was continued to August 5, 2010 . The public hearing concluded on August 5, 2010

6. Decision:

At a duly noticed public meeting on August 5, 2010 DEC Commissioner Lilly moved, seconded by Commissioner Castro, to approve the attached Draft Record of Decision (Attachment 1) allowing for Saturday operating hours from 7:00AM-1:00PM,on a six-month trial period Commissioners Smith and Marshall voted in favor of the motion. Commissioners Castro, Demerjian, DeZutter, Lilly, Stoltzfus voted against the motion. The motion did not obtain the requisite majority vote and therefore failed and the Applicant's request was denied.

Decision to Deny Approved by:

8-6-2010
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.

Aug. 6, 2010
Date

Mary Quinn, Notary
My Commission expires June 2, 2017