

Record of Decision
USFWS
Oxbow National Wildlife Refuge Visitor Contact Station and Parking Area (Lot 4-399-200)
Devens MA
Unified Permit
September 27, 2011

1. Applicant:

The applicant and owner is United States Fish and Wildlife Service, 300 Westgate Center Hadley, MA 01305.

2. Premises and Proposed Project:

The applicant is seeking Unified Permit in order to construct a visitor contact station and parking area located at the Oxbow National Wildlife Refuge (Refuge) on Hospital Road in Devens. The applicant is seeking site plan approval and has filed a Wetlands Notice of Intent with the Commission acting as a Conservation Commission in order to construct a multi-purpose building (an educational pavilion), a parking lot, a welcome kiosk and a restroom with two composting units. There is also an amphitheater connected with a universal access path to the facility. Later phases include a maintenance shed, the reestablishment of an existing woods road to the Nashua River, a gravel parking area near the river, construction of a universal access boardwalk with a wildlife observation platform and a canoe/kayak launch. The proposed parcel is located at the bottom of the former Locust Hill housing area and east of Hospital Road on the northeasterly side of the Nashua River (Lot 4-399-200), on a portion of a 217 acre parcel on land zoned Innovation and Technology Business and Open Space and Recreation and Aquifer Water Supply Resources Overlay Zone. The site has more than 100 feet of frontage, in compliance with the minimum requirements of 2 acres of land area and 100 feet of frontage as per the Devens Bylaws. The project is proposed in two phases:

Phase 1: Multi-purpose building, welcome kiosk, and restroom with two composting toilets, amphitheatre and walkway including associated parking, utilities, landscaping and drainage improvements;

Phases (Additives) 2 -5: maintenance shed, driveway to river, kayak/canoe launch area, boardwalk and wildlife observation platform, including associated parking, utilities, landscaping and drainage improvements.

A vegetated or green roof, composting toilets and additional green building techniques will be used to produce a highly efficient building with minimal maintenance demands.

3. Submission:

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

- a. A completed Level Two Unified Permit Application (D11-049) form, dated August 24, 2011 with accompanying project cover letter to Peter Lowitt, DEC, dated August 24, 2011 signed by Ms. Elizabeth Herland; Project Leader; legal notice fee of \$200 and waiver request for balance of Unified Permit Fee beyond DEC's direct costs.
- b. Oxbow Visitor Contact Station and Parking Area Stormwater Management Study for US Fish and Wildlife Service dated September 12, 2011 by Oakpoint Associates including a USGS site location map, Soils Map, Stormwater Facilities Operations and Maintenance Plan, and supporting calculations;

c. Site Plan package entitled "US Fish and Wildlife Service Oxbow Visitor Contact Station and Parking Area: Eastern Massachusetts National Wildlife Refuge Complex; Harvard, Massachusetts, prepared by Oak Point Associates, 85 Middle Street, Portsmouth, NH 0380, Stephen J. Towne, PE including the following sheets numbered 4-28:

- Sheet 1 of 31 Title, List of Drawings, Maps and General Construction Notes dated 9/12/2011
- Sheet 4 of 60 Legend, Notes and Abbreviations dated 6/21/2011 revised as sheet 2 of 31 9/12/2011
- Sheet 5 of 60 Overall Existing Conditions Plan and Sheet Index dated 6/21/2011 renumber as sheet 3 of 31
- Sheet 6 of 60 Existing Conditions and Removals Plan dated 6/20/2011 renumbered as sheet 4 of 31
- Sheet 7 of 60 riverfront Access Area Existing Conditions and Removals Plan dated 6/20/2011 renumbered as sheet 5 of 31
- Sheet 8 of 60 Site and Layout Plan dated 6/21/2011 renumbered 6 of 31
- Sheet 9 of 60 Riverfront Access Area Site and Layout Plan dated 5/16/2011 renumbered 7 of 31
- Sheet 10-11 of 60 Riverfront Access Drive Site Layout, Grading, Drainage, and Erosion Control Plan (Additive 3) dated 7/20/2011 renumbered sheet 8 -9 of 31
- Sheet 12 of 60 Site, Layout, Grading, Drainage, and Erosion Control Plan (Additives 4 and 5) dated 7/20/2011 renumbered sheet 10 of 31
- Sheet 13 of 60 Grading, Drainage, and Erosion Control Plan dated 6/21/2011 renumbered sheet 11 of 31
- Sheet 14 of 60 Riverfront Access Area Grading, Drainage, and Erosion Control Plan dated 6/24/2011 renumbered sheet 12 of 31
- Sheet 15 of 60 Utility Site Plan dated 6/21/2011 sheet 13 of 31
- Sheet 16 of 60 Erosion and Sedimentation Control Notes and Details dated 6/21/2011 renumbered sheet 14 of 31
- Sheet 17-24 of 60 Site Details various dates renumbered sheets 15- 22 of 31
- Sheet 25 of 60 Boring Logs dated 7/26/2011 renumbered sheet 23 of 31
- Sheet 26-27 of 60 Test Pit Logs dated 7/26/2011 renumbered sheets 24-25 of 31
- Sheet 28 of 60 Landscape Details dated 6/24/2011 renumbered sheet 26 of 31
- Sheet 27 of 31 Pavilion Floor Plan dated 9 September 2011
- Sheet 28 (plan says 29) of 31 Maintenance Building and Kiosk plans, elevations and sections dated 9/9/2011
- Sheet 29 of 31 Boardwalk and Observation Platform Plans, Elevs and Sections (Add 5) dated 9/9/2011
- Sheet 30 of 31 Pavilion Exterior Elevations dated 9/9/2011
- Sheet 31 of 31 Stair and Ramp Sections, Elevations and Details dated 9/9/2011
- US Fish and Wildlife Visitors Center Project Location Map (using Mass GIS Data) undated.
- Survey of the Oxbow National Wildlife Refuge properties acquired from Former Fort Devens dated November 6, 1996.
- LEED Checklist dated 9/9/2011

- ITE Traffic Generation data for the proposed site dated September 16, 2011 and supporting pages from ITE Trip Generation 7th edition.
 - US Army Corps of Engineers Navigable Waters of the United States in New England subject to Section 10 Rivers and Harbors Act Jurisdiction list (3 pages) dated 7/18/2006
 - A CD Rom created August 22, 2011 by Oak Point Associates for the Oxbow Visitor Contact Station and Parking Area Project No. 5R-MA-OXB-01.0.
- d. Determination of Completeness, dated August 25, 2011
 - e. Wetlands Notice of Intent Application and supporting information dated September 15, 2011 and \$1037.50 wetlands filing fee. Also Natural Heritage Endangered Species Sites Map from Mass GIS.
 - f. Public Hearing Notice Fax to Town Clerks of Ayer, Harvard, Shirley, Lancaster and MassDevelopment, from Peter Lowitt, dated August 23, 2011;
 - g. Public Hearing Legal Notice Fax to Nashoba Publications, from Peter Lowitt, dated August 24, 2011 – to be published September 2 and September 9, 2011.
 - h. Copies of Legal notices from September 2, 2011 and September 9, 2011 from Ayer Public Spirit.
 - i. Public Hearing Notice emailed to Community Service Cable Committee, from Peter Lowitt/Kate Clisham, dated September 8, 2011;
 - j. Memo dated August 23, 2011 from Peter Lowitt to Towns of Ayer, Harvard and Shirley Board of Selectman and Planning Offices; Subject: Bates and Cavite Multi-Family Housing Units (notification of Public Hearing on September 27, 2011 at 6:45PM);
 - k. Memo dated August 29, 2011 from Peter Lowitt to Abutters and Interested Parties; Subject: Unified Permit – USFWS Oxbow Visitor Contact Station (notification of Public Hearing on September 27, 2011 at 6:45PM);
 - l. Public Hearing Notice to Secretary of State, from Peter Lowitt, dated August 29, 2011
 - m. Certified Abutters List from Devens Board of Assessors, dated August 29, 2011, for property located at USFWS Parcel 1C.
 - n. Certified Mail Return Receipts for application and plan deliveries to Ayer, Harvard and Shirley, received by towns on 8-24-11. Certified Mail return receipts for public hearing notices to all abutters – various dates.
 - o. Staff Report dated September 22, 2011 Re: USFWS Oxbow Visitor Contact Center and Parking Area;
 - p. Comments from BSC Group regarding stormwater management addressed to Peter Lowitt, from Russell Burke and Dave Varga, BSC Group dated September 23, 2011.
 - q. Wetlands Order of Conditions for the project and attached Special Conditions dated September 27, 2011.
 - r. E-mail correspondence as follows:

Date	From	To	Subject
9/16/11	Ken Weston	Peter Lowitt	Re: Oxbow Visitor Contact Station Update
9/20/11	Neil Angus	Russ Burke	FW: Oxbow Visitors Center Devens
9/20/11	Neil Angus	Libby Herland	FW: Updates
9/20/11	Ken Weston	Peter Lowitt	RE: Oxbow Visitor Contact Station
9/21/11	Neil Angus	Ken Weston	Re: Oxbow Visitor Contact Station
9/21/11	Dave Blazon	Neil Angus	Re: Plan Review of Visitors Contact Center Hospital Road
9/21/11	Neil Angus	Dave Blazon	Re: Plan Review of Visitors Contact Center Hospital Road
9/22/11	Jim Moore	Neil Angus	Re: Plan Review of Visitors Ctr Hospital Road

9/22/11	Neil Angus	Jim Moore	Re: Plan Review of Visitors Ctr Hospital Road
8/25/11	Susan Russo	Neil Angus	Re: Mtg to discuss next steps on Oxbow NWR
8/25/11	Susan Russo	Peter Lowitt	Re: Documents from USFWS for Oxbow Permit
8/30/11	Susan Russo	Peter Lowitt	RE; Documents from USFWS for Oxbow Permitting Process
8/30/11	Peter Lowitt	Susan Russo	Re: Mtg to discuss next steps
9/7/11	Susan Russo	Peter Lowitt	Re: Composting Toilet
9/8/2011	Ken Weston	Peter Lowitt	Re: Oxbow Visitor Contact Facility and Parking Area
9/12/2011	Bridgette Brailey	Peter Lowitt	Re: Composting Toilet Question
9/20/2011	Neil Angus	Russell Burke	Re: Accompanying Site Plans for USFWS
9/20/2011	Neil Angus	Russell Burke	Re: USFWS Visitors Center Stormwater Management Study
9/20/2011	Neil Angus	Ken Weston and Susan Russo	Re: Visitors Center Devens
9/22/2011	Neil Angus	Peter Lowitt	Conditions
9/22/2011	Ken Weston	Neil Angus	FW: Oxbow Visitor Contact Station
9/23/2011	Russell Burke	Peter Lowitt	BSC Comments on stormwater and drainage
9/26/2011	Jim Moore	Peter Lowitt	Re: Available Utilities and comments
9/26/2011	John Marc-Aurele	Peter Lowitt	Re: No comments from MD Engineering
9/26/2011	Ken Weston	Peter Lowitt	RE: Waivers Requested
9/27/2011	Neil Angus	Ken Weston	Re: Oxbow Visitor Contact Station
9/27/2011	Ken Weston	Peter Lowitt	Oxbow Hospital Road

4. Unified Permit Components and Actions:

The Unified Permit request includes a Site Plan approval and Wetlands Notice of Intent for the development of a Visitor Contact Station and associated site improvements; including additives for a maintenance shed, drive to the river and kayak/canoe launch plus boardwalk, wildlife observation platform and boardwalk.

5. Process:

The application was submitted on August 23, 2011 and a Determination of Completeness was issued on August 25, 2011. Copies of the application were received by the surrounding Towns on August 25, 2011. Legal notices were placed in Nashoba Publications on September 2, 2011 and September 9, 2011. The public hearing was opened on September 27, 2011. All abutters were properly notified. The 30-day Town comment period expired on September 26, 2011. No comments were received. The public hearing opened on September 27, 2011 and closed that same evening.

6. Waivers

The Applicant requested the following waivers:

1. **974 CMR 1.07 (1) (a)** Unified Permit Fees to allow the applicant to pay the \$200 legal notice fee, wetlands filing fee and any direct costs from the DEC in lieu of a Unified Permit fee.
2. **974 CMR 3.02 (3) c. 1.** Industrial Performance Standards Site Lighting Plan Requirements as the Refuge is closed at dusk.
3. **974 CMR 3.04 (4)(a)3. Stormwater Management Standard 2** - to allow the site to meet TSS removal requirements as proposed in the aggregate rather than on an individual basis per Standard 2.
4. **974 CMR 3.04 4 (a) 3** Mass DEP Stormwater Handbook requirement for a 100-foot setback between open water (including bordering vegetated wetlands) and porous pavement. Project provides a setback of 96 feet between the nearest

wetland and proposed porous pavement to be used as a fire access lane with no Parking.

The DEC voted to approve waivers.

7. Findings

The DEC made the following findings:

1. The proposed lot size and frontage are in accordance with the minimum requirements for development in the Innovation and Technology Business and Open Space and Recreation Districts in which it is located.
2. Regarding the approval criteria listed in 974 CMR 3.03(2):
 - (a) The Site Plan, with conditions and waivers, complies with 974 CMR 3.00 and with the applicable provisions of the By-Laws.
 - (b) The development lies on a lot recorded at the Registry of Deeds;
 - (c) The application is Complete.
 - (d) All drives, parking lots, loading areas, paths, sidewalks, and streets are designed to provide for safe vehicular and pedestrian travel with conditions of approval.
 - (e) Access and site circulation 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", will be achieved with the proposed conditions of approval.
 - (g) Connections with utility, power and communication systems available in the abutting infrastructure have been shown and approved by the Mass Development Managers of Engineering and Utilities.
 - (h) Facilities required under the Water Resources Protection Bylaw and the related Design Standards have been included on the plans.
 - (i) The plans demonstrate compliance with Landscaping Design Standards for plant materials, planting strips, screening, and preservation of existing specimen trees and wooded areas with the ~~waivers granted and~~ proposed conditions of approval.
 - (j) A Wetlands Order of Conditions is required for this site.
 - (k) Industrial Performance Standards do not apply to this site.
 - (l) Sufficient parking for current needs has been provided.
 - (m) Traffic control measures have been included on the plans and as a condition of approval.
 - (n) The proposed development is not required to participate in the Devens traffic management association.
 - (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 not be made. A composting toilet approved by the Commonwealth of Massachusetts DEP has been proposed for the site.
- (q) Building designs will meet the minimum standards as established by Mass Development for the district in which the lots are located.

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. 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. This video is intended to instruct on-site personnel as to how to visually recognize UXO/MEC if found during construction activities and to provide instructions on what to do if potential/suspected UXO/MEC is observed.
3. The Applicant shall comply with the By-Laws, Article III, Section K 1. a., which provides that "no soil, loam, sand, gravel, or other earth materials shall be permanently removed from any lot within Devens, except in accordance with an approved Level Two Development Permit.
4. Waivers granted as part of this project shall be included on the final plans, prior to DEC endorsement.

5. All landscaping shall be maintained in healthy condition. Any dead or damaged landscaping shall be replaced promptly. The applicant shall be required to submit a letter confirming a one-year guarantee of all approved landscaping once installed. A Long-term maintenance plan shall be provided.
6. 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) complete installation of site stormwater management facilities and other subsurface utilities;
 - c) completion of all site improvements as shown on the approved site plan;
 - d) installation of trees and other major landscaping features.The LUA shall schedule a site inspection by the DEC's consultants or allow the submission of a red-lined print stamped by a RLS or PE, as appropriate.
7. The Applicant shall submit final as-built plans in accordance with the DEC As-Built policy, prior to the issuance of a Certificate of Occupancy.

8. All required erosion controls and tree protection fencing shall be installed prior to the commencement of any construction activities on the Site and maintained in areas where construction is being conducted. Contact DEC Staff for inspection. Additional controls shall be implemented at the discretion of the DEC or its Staff.
9. Electric and water connections shall be provided as applicable.
10. All required additional Federal, State and Local Permits, including, but not limited to those under the Clean Water Act, as well as a Board of Health permit from the DEC for the proposed composting toilets, shall be received and permit numbers shown on the plans prior to endorsement by the DEC.
11. The Riverfront Access Drive (Additive #3 see sheet CS104) curb cut onto Hospital Road shall be restricted to outgoing traffic and right turns only. The Site Access drive shall be regraded to minimize runoff from the site driveway entering the Hospital Road right of way in order to prevent winter icing conditions. Once the Shirley Village Growth Area across the Nashua River is more fully developed the Applicant is encouraged to work with MassDevelopment and revisit the possibilities for a left hand turn from the Riverfront Access Drive (the most southerly access point).
12. The Applicant shall revise their plans, stormwater management plan and drainage calculations to address the comments raised by the DEC's Peer Review Engineer, BSC in their memo dated September 23, 2011 prior to commencement of construction.
13. The Applicant shall address the comments of the Devens Utilities Department (September 22, 2011 e-mail) prior to applying for a building permit.
14. Proof that the Record of Decision and Wetlands Order of Conditions has been filed in the Registry of Deeds must be submitted to the DEC before a building permit is issued.
15. 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.
16. Outdoor Storage is only permitted in areas designated on the approved plans. No open or exterior storage is permitted in undesignated locations.
17. Any existing monitoring wells on-site that are to be removed shall be decommissioned in accordance with MA DEP and BCT requirements.
18. The conditions associated with the Wetland Order of Conditions for this project shall be adhered to and become part of this approval.

9. Decision:

The DEC voted September 27, 2011, after the Public Hearing was closed, to issue a Wetland Order of Conditions, grant waivers requested, to issue findings, including that the application complied with Approval Criteria in 974 CMR 3.03(2), to impose Conditions, and to approve the

site development plan for the US Fish and Wildlife Service Oxbow Visitors Contact Station and Parking Area, Hospital Road, Devens, MA.

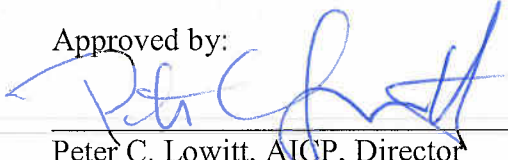
10. Building Permit

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 those of the Devens Fire Chief must be met. When this approval is obtained, the building permit may then be integrated with the Wetland Order of Conditions and this Site Plan Record of Decision; together they will constitute the Unified Permit for the USFWS Oxbow Visitors Contact Station, Hospital Road, Devens, 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 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 September 28, 2011 and terminates October 28, 2011, is "at risk". Final plans must be submitted for endorsement by the Commission by March 28, 2012.

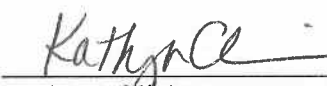
Date: 9-28-2011

Approved by: 
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: 9-28-2011


Kathryn Clisham, Notary
My Commission expires March 16, 2018

