

22 April 2011

Acton Conservation Commission  
Acton Town Hall  
472 Main Street  
Acton, MA 01720

Re: Request for Determination along  
Massachusetts Bay Commuter Railroad (MBCR) Right-of-Way

Dear Commission Members:

In 2005, your commission approved a delineation of wetlands along MBCR's right-of-way. The determination that was issued has allowed MBCR to conduct vegetation management activities in accordance with the Commonwealth of Massachusetts Rights-of-Way Management Regulations (333 CMR 11.00) and MBCR's Vegetation Management Plan (VMP). Each year since the determination was issued you have been supplied with MBCR's Yearly Operational Plan (YOP) and updates of the delineation as necessary.

MBCR's VMP expired on 31 December 2010 and is now in the process of renewal. In accordance with the Wetlands Protection Act, determinations of applicability issued for work conforming to 333 CMR 11.00 are in effect for the life of the VMP and must be renewed with the new VMP. Accordingly, I have enclosed a RDA to renew the wetland delineation along MBCR's right-of-way in Acton. The enclosed maps represent the location of the permanent marking setbacks prescribed by 333 CMR 11.00.

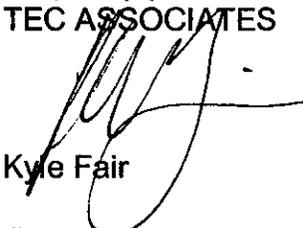
Revisions made to the Rights-of-Way Management Regulations on 9 March 2007 have resulted in changes regarding spraying along rivers and in riverfront areas. The previous regulation prohibited the application of herbicide within ten feet of any flowing surface water. The revised regulation prohibits herbicide use within ten feet of the mean annual high-water line of any river. The buffer zone, shown in light blue on the maps, is where herbicide use is restricted to one application per year using DAR/DEP approved sensitive area materials. In the previous regulation, the buffer zone was a minimum of 100 feet from the flowing water. In the revised regulations, the buffer zone is expanded to the entire riverfront areas measured 200 feet from the mean annual high water line. A no spray area was added in compliance with the new regulations at MP 24.39 due to the presence of a perennial stream.

The limited spray areas at MP 23.80 and MP 26.60 were extended due to wetlands being within 110 feet of track centerline. All other existing markings for wetlands protection were found to be in compliance with the regulations.

The maps have been updated to USGS maps, as required by the regulations. Maps have also been revised to reflect the latest revisions to the water supply zones in Acton as identified on maps supplied by the Commonwealth of Massachusetts' Office of Geographic Information.

Please consider a negative number 5 determination citing 310 CMR 10.03 (6)(b) and 310 CMR 10.58 (6)(a) as the exemptions. If you have any questions, please do not hesitate to call.

Very truly yours,  
TEC ASSOCIATES



Kyle Fair

Enclosure

cc: Mary Ann Reilly, MBCR  
Regional Office, DEP



# WPA Form 1- Request for Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

## A. General Information

**Important:**  
When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



1. Applicant:

|                     |                            |          |
|---------------------|----------------------------|----------|
| TEC Associates      | kyle@tecassoc.com          |          |
| Name                | E-Mail Address             |          |
| 46 Sawyer Street    |                            |          |
| Mailing Address     |                            |          |
| South Portland      | ME                         | 04106    |
| City/Town           | State                      | Zip Code |
| 207-767-6068 ex.203 | 207-767-7125               |          |
| Phone Number        | Fax Number (if applicable) |          |

2. Representative (if any):

|                     |                            |          |
|---------------------|----------------------------|----------|
| TEC Associates      | kyle@tecassoc.com          |          |
| Firm                | E-Mail Address             |          |
| Kyle Fair           |                            |          |
| Contact Name        |                            |          |
| 46 Sawyer Street    |                            |          |
| Mailing Address     |                            |          |
| South Portland      | ME                         | 04106    |
| City/Town           | State                      | Zip Code |
| 207-767-6068 ex.203 | 207-767-7125               |          |
| Phone Number        | Fax Number (if applicable) |          |

## B. Determinations

1. I request the Acton \_\_\_\_\_ make the following determination(s). Check any that apply:  
Conservation Commission

- a. whether the **area** depicted on plan(s) and/or map(s) referenced below is an area subject to jurisdiction of the Wetlands Protection Act.
- b. whether the **boundaries** of resource area(s) depicted on plan(s) and/or map(s) referenced below are accurately delineated.
- c. whether the **work** depicted on plan(s) referenced below is subject to the Wetlands Protection Act.
- d. whether the area and/or work depicted on plan(s) referenced below is subject to the jurisdiction of any **municipal wetlands ordinance or bylaw** of:

\_\_\_\_\_  
Name of Municipality

- e. whether the following **scope of alternatives** is adequate for work in the Riverfront Area as depicted on referenced plan(s).



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## C. Project Description

1. a. Project Location (use maps and plans to identify the location of the area subject to this request):

|                           |                   |
|---------------------------|-------------------|
| N/A                       | Acton             |
| Street Address            | City/Town         |
| N/A                       | N/A               |
| Assessors Map/Plat Number | Parcel/Lot Number |

- b. Area Description (use additional paper, if necessary):

Massachusetts Bay Commuter Railroad Right-of-Way

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- c. Plan and/or Map Reference(s):

|           |               |
|-----------|---------------|
| USGS Maps | 20 April 2011 |
| Title     | Date          |
| Title     | Date          |
| Title     | Date          |

2. a. Work Description (use additional paper and/or provide plan(s) of work, if necessary):

No work is proposed within wetland resource areas. Vegetation control will conform to the guidelines set forth in the Massachusetts Rights-of-Way Management Regulations (333 CMR 11.00) and the preface to the Wetlands Protection Regulations (333 CMR 10.00) relative to rights-of-way management.

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## WPA Form 1- Request for Determination of Applicability

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### C. Project Description (cont.)

b. Identify provisions of the Wetlands Protection Act or regulations which may exempt the applicant from having to file a Notice of Intent for all or part of the described work (use additional paper, if necessary).

310 CMR 10.03 (6) (b) Presumption Concerning Application of Herbicides.

310 CMR 10.05 (3) (a) (2) Requests for Determination of Applicability.

310 CMR 10.58 (6) (a) Exempted from Requirements for the Riverfront Area.

3. a. If this application is a Request for Determination of Scope of Alternatives for work in the Riverfront Area, indicate the one classification below that best describes the project.

- Single family house on a lot recorded on or before 8/1/96
- Single family house on a lot recorded after 8/1/96
- Expansion of an existing structure on a lot recorded after 8/1/96
- Project, other than a single family house or public project, where the applicant owned the lot before 8/7/96
- New agriculture or aquaculture project
- Public project where funds were appropriated prior to 8/7/96
- Project on a lot shown on an approved, definitive subdivision plan where there is a recorded deed restriction limiting total alteration of the Riverfront Area for the entire subdivision
- Residential subdivision; institutional, industrial, or commercial project
- Municipal project
- District, county, state, or federal government project
- Project required to evaluate off-site alternatives in more than one municipality in an Environmental Impact Report under MEPA or in an alternatives analysis pursuant to an application for a 404 permit from the U.S. Army Corps of Engineers or 401 Water Quality Certification from the Department of Environmental Protection.

b. Provide evidence (e.g., record of date subdivision lot was recorded) supporting the classification above (use additional paper and/or attach appropriate documents, if necessary.)



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Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

**D. Signatures and Submittal Requirements**

I hereby certify under the penalties of perjury that the foregoing Request for Determination of Applicability and accompanying plans, documents, and supporting data are true and complete to the best of my knowledge.

I further certify that the property owner, if different from the applicant, and the appropriate DEP Regional Office were sent a complete copy of this Request (including all appropriate documentation) simultaneously with the submittal of this Request to the Conservation Commission.

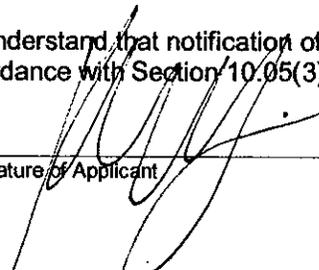
Failure by the applicant to send copies in a timely manner may result in dismissal of the Request for Determination of Applicability.

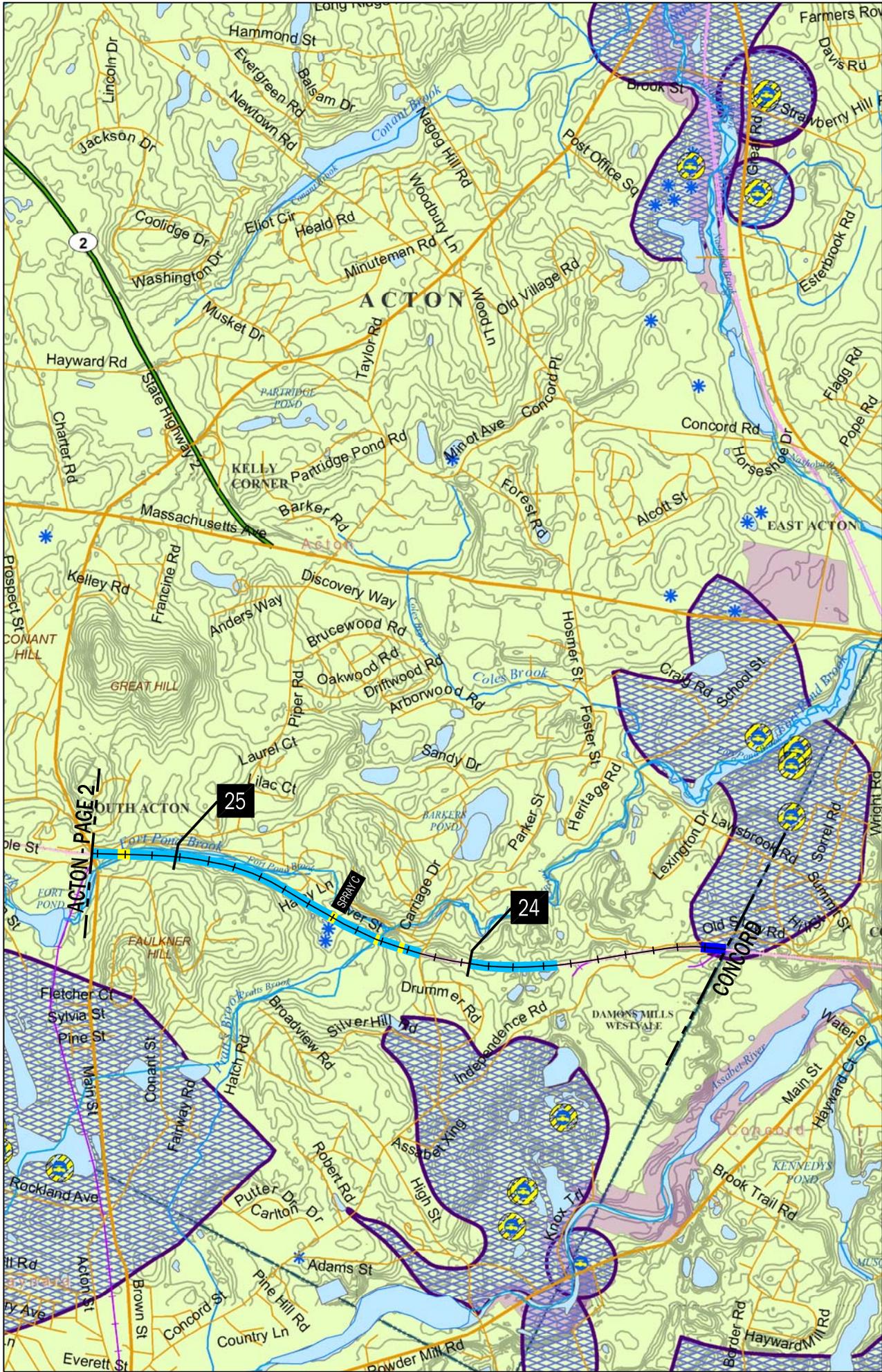
Name and address of the property owner:

Massachusetts Bay Commuter Railroad  
Name  
32 Cobble Hill Road  
Mailing Address  
Somerville  
City/Town  
MA  
State  
02143  
Zip Code

Signatures:

I also understand that notification of this Request will be placed in a local newspaper at my expense in accordance with Section 10.05(3)(b)(1) of the Wetlands Protection Act regulations.

  
Signature of Applicant  
22 April 2011  
Date  
Signature of Representative (if any)  
Date



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|--|--|---|---|--|---|
| SCALE: 1:25,000  | SHEET 1 OF 2                                 | TOWN OF: ACTON  | BRANCH: FITCHBURG LINE  | DATE: 4/20/2011                                    |   |
| <br><b>TEC ASSOCIATES</b><br>CONSULTING ENGINEERS<br>46 SAWYER STREET<br>SOUTH PORTLAND, MAINE 04106 | 32 COBBLE HILL ROAD<br>SOMMERVILLE, MA 02143 | LIMITED SPRAY ZONE<br>(1 YEAR INTERVAL)<br>LIMITED SPRAY ZONE<br>(2 YEAR INTERVAL)<br>NO SPRAY ZONE | Groundwater Source<br>Surface Water Intake<br>NHESP Vernal Pool | DEP Approved Zone I<br>DEP Approved Zone II / IWPA | Zone A<br>Zone B<br>NHESP Priority<br>Habitat |

