



1 March 2016

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

Re: Request for Determination of Applicability (RDA) along
Keolis Commuter Services (Purple Lines) Right-of-Way

Dear Commission Members:

In 2011, your commission approved a delineation of wetlands along the railroad right-of-way previously operated by MBCR, now Keolis. The determination that was issued has allowed Keolis to conduct vegetation management activities in accordance with the Commonwealth of Massachusetts Rights-of-Way Management Regulations (333 CMR 11.00) and Keolis's Vegetation Management Plan (VMP). Each year since the determination was issued you have been supplied with Keolis's Yearly Operational Plan (YOP) and updates of the delineation as necessary.

Keolis's VMP expired on 31 December 2015 and is now in the process of renewal (view a copy of the preliminary VMP at FDCErailroadvegetation.com). In accordance with the Wetlands Protection Act, RDA's issued for work conforming to 333 CMR 11.00 are in effect for the life of the VMP and must be renewed with the VMP. Accordingly, I have enclosed an RDA to renew the wetland delineation along Keolis's right-of-way in your municipality. The enclosed map(s) represent the location of the permanent marking setbacks prescribed by 333 CMR 11.00 to protect the resources in your community. Small wetlands, variable wetland situations, and the specific boundary to any wetland is determined in the field. There are no proposed changes to the current delineations or permanent markings in the field from the previous filing.

The maps included in the filing are provided in USGS 1:25,000, as required by the regulations. The maps have been revised to reflect the latest revisions to all surface/drinking water supply zones 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 (207) 747-4651 or email kyle@FDCEngineers.com.

Very truly yours,
FDCEngineers

Kyle Fair

Kyle Fair, PE
CEO & Principal Engineer

Enclosure

cc: Clary Coutu, Keolis
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:

Keolis Commuter Services	N/A	
Name	E-Mail Address	
N/A		
Mailing Address		
470 Atlantic Avenue	MA	02210
City/Town	State	Zip Code
Boston		
Phone Number	Fax Number (if applicable)	

2. Representative (if any):

Fair Dermody Consulting Engineers		
Firm		
Kyle Fair	kyle@fdceengineers.com	
Contact Name	E-Mail Address	
18 Ocean Street, Suite 1		
Mailing Address		
South Portland	ME	04106
City/Town	State	Zip Code
207-747-4651		
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):

The attached map is a USGS map of the Commuter Rail Line in your municipality. The rail line is depicted by the dark black line with cross hatches, the numbers represent mileposts.

The legend at the bottom shows the areas protected by 310 CMR 10.00 Wetlands Protection Act and 333 CMR 11.00 Rights of Way Management.

There is also a color coded key to how the spray activities on the right of way are performed. These "Spray Zones" depicted the location of the permanent markers in the field which both protect the resources in your community and indicate to the herbicide applicators the individual spray activities allowed in each zone.

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

USGS Right of Way Maps by Rail Line and Community	March 1, 2016
Title	Date
_____	_____
Title	Date
_____	_____
Title	Date

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

The "work" is related to vegetation control activities. More specifically herbicide application for the purpose of maintaining a safe, vegetation free right-of-way. When reviewing this submission it is important to remember local by-law requirements are limited by 333 CMR 11.06 (4) (d) which states "the approved YOP in conjunction with the VMP shall govern the application of herbicides for a period not to exceed 12 months in accordance with other laws and regulations of the State and Federal governments..." and by Massachusetts legislation entitled "An Act Further Regulating the Use of Pesticides" which provides that the Commonwealth will have the exclusive authority in regulating the labeling, distribution, sale, storage, transportation, use and application, and disposal of pesticides.

This submission is made solely for the purpose of verifying the accuracy of the identification of those resources protected under the Massachusetts Rights-of-Way Management Regulations.

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 (310 CMR 10.00) relative to rights-of-way management.

Please see a copy of the proposed Vegetation Management Plan currently under consideration by the Department of Agricultural Resources for more clarification on the practices currently being proposed along the rights-of-way in Massachusetts.



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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) - Any application of herbicides within the Buffer Zone, other than as provided in 310 CMR 10.03(6)(a), shall be presumed not to alter an Area Subject to Protection under M.G.L. c. 131, § 40,...

310 CMR 10.05 (3) (a) (2) - Any person who proposes to apply herbicides in the Buffer Zone pursuant to the presumption of 310 CMR 10.03(6)(b) shall be required only to submit a request for determination of the boundaries of the Buffer Zone and the Areas Subject to Protection under M.G.L. c. 131, § 40.

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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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:

<u>Keolis Commuter Services</u>	
Name	
<u>470 Atlantic Avenue</u>	
Mailing Address	
<u>Boston</u>	
City/Town	
<u>Massachusetts</u>	<u>02210</u>
State	Zip Code

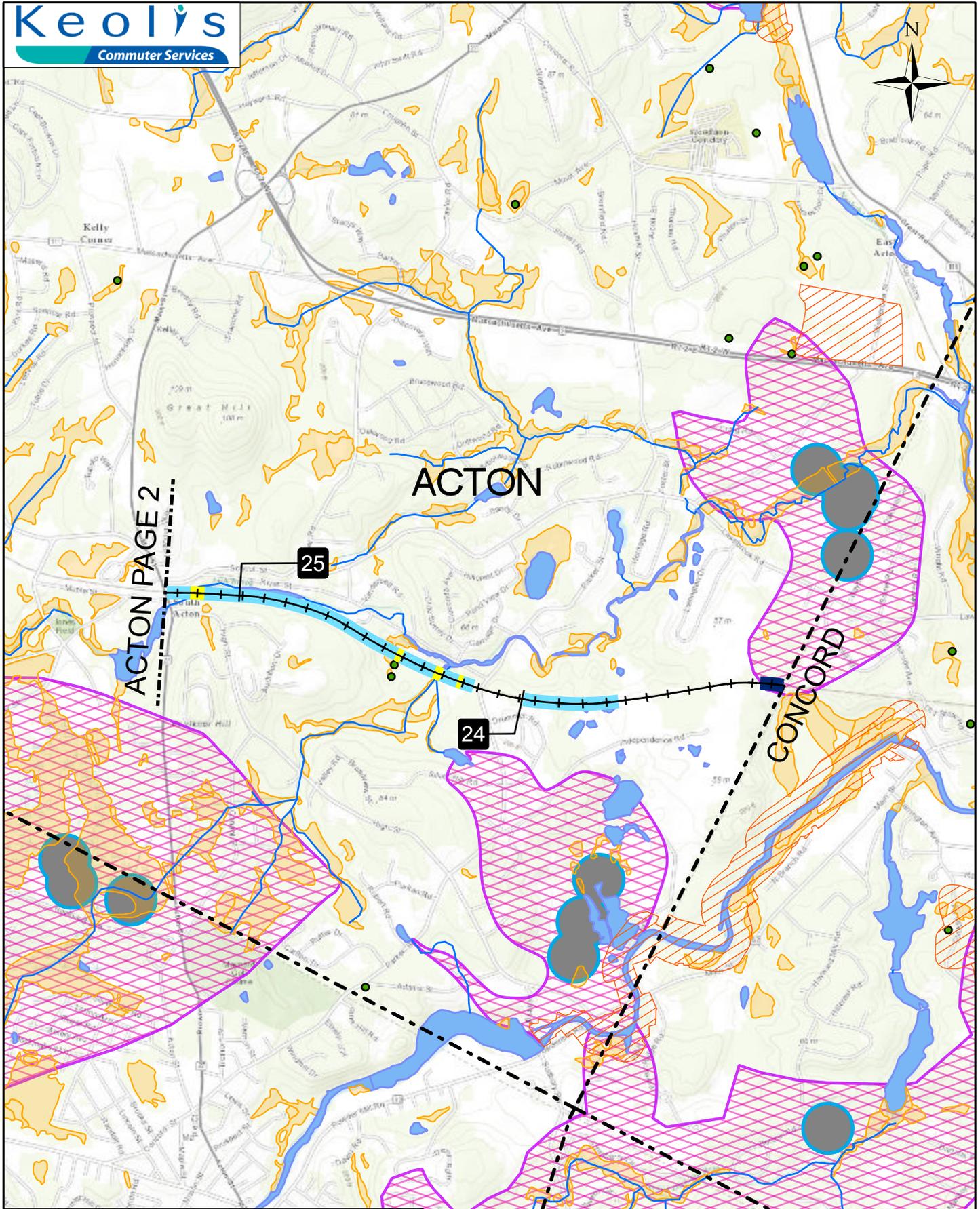
Signatures:

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	_____ Date
<u><i>Kyle Fair</i></u> Signature of Representative (if any)	<u>3/1/2016</u> Date



FITCHBURG MAIN LINE



State of Massachusetts, Esri, HERE, DeLorme, INCREMENT P, Intermap, USGS, METI, NASA, EPA, USDA

TOWN:	ACTON	LIMITED SPRAY ZONE (1 YEAR INTERVAL)	DEP APPROVED ZONE I	ZONE A	NATIONAL WETLANDS
DATE:	3/1/2016	LIMITED SPRAY ZONE (2 YEAR INTERVAL)	DEP APPROVED ZONE II	ZONE B	CERTIFIED VERNAL POOL
SCALE:	1:25,000	NO SPRAY ZONE	IWPA	NHESP PRIORITY HABITATS	
SHEET:	1 OF 2				



FITCHBURG MAIN LINE

BOXBOROUGH

ACTON

ACTON PAGE 1

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State of Massachusetts, Esri, HERE, DeLorme, INCREMENT P, Intermap, USGS, METI/NASA, EPA, USDA

TOWN:	ACTON	LIMITED SPRAY ZONE (1 YEAR INTERVAL)	LIMITED SPRAY ZONE (2 YEAR INTERVAL)	NO SPRAY ZONE	DEP APPROVED ZONE I	DEP APPROVED ZONE II	IWPA	ZONE A	ZONE B	NATIONAL WETLANDS	CERTIFIED VERNAL POOL
DATE:	3/1/2016										
SCALE:	1:25,000										
SHEET:	2 OF 2										
										NHESP PRIORITY HABITATS	