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BOSTON, MASSACHUSETTS 02109

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JOHN M. LYNCH, P.C.
ERNEST P. DESIMONE
RICHARD A. NYLEN, JR.
STEPHEN W. DECOURCEY
SHANNON MICHAUD

November 6, 2020

OF COUNSEL

JAMES W. MURPHY
WAYNE H. SCOTT

DEP Lock Box
Department of Environmental Protection
Box 4062
Boston, MA 02211

RECEIVED

NOV 09 2020

CITY OF HAVERHILL
CONSERVATION DEPARTMENT

**Re: Keolis/MBTA/Haverhill Conservation Commission;
Appeal of Determination of Applicability**

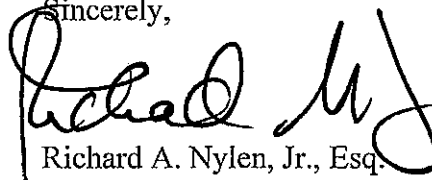
Dear Sir/Madam:

Enclosed please find the Fee Transmittal Form in connection with filing of an appeal of a Determination of Applicability on behalf of Keolis and the MBTA in the above-referenced matter.

No fee is required pursuant to the MBTA Enabling Act at M.G.L. c.161A, §24.

Thank you.

Sincerely,



Richard A. Nylen, Jr., Esq.

RAN/kad
Enclosures

cc: Ms. Jill Provencal
Janis O. Kearney, Esq./MBTA
Ms. Clary Coutu/Keolis
Haverhill Conservation Commission



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands

DEP File Number:

Request for Departmental Action Fee
Transmittal Form

Haverhill
 Provided by DEP

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

A. Request Information

1. Location of Project

MBTA Commuter Rail Right of Way, Haverhill, Haverhill
 MA MA b. City/Town, Zip

 c. Check number _____ d. Fee amount _____

2. Person or party making request (if appropriate, name the citizen group's representative):

Richard A. Nylén, Jr., Esq., Lynch, DeSimone & Nylén, LLP
 Name
10 Post Office Square, Suite 970N
 Mailing Address
Boston MA 02109
 City/Town State Zip Code
(617) 348-4500, ext. 231 (617) 348-4545
 Phone Number Fax Number (if applicable)

3. Applicant (as shown on Notice of Intent (Form 3), Abbreviated Notice of Resource Area Delineation (Form 4A); or Request for Determination of Applicability (Form 1)):

Keolis Commuter Services
 Name
470 Atlantic Avenue, Suite 500
 Mailing Address
Boston MA 02210
 City/Town State Zip Code

 Phone Number Fax Number (if applicable)

4. DEP File Number:

B. Instructions

1. When the Departmental action request is for (check one):

- Superseding Order of Conditions – Fee: \$120.00 (single family house projects) or \$245 (all other projects)
- Superseding Determination of Applicability – Fee: \$120
- Superseding Order of Resource Area Delineation – Fee: \$120

Send this form and check or money order, payable to the *Commonwealth of Massachusetts*, to:

Department of Environmental Protection
 Box 4062
 Boston, MA 02211

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





Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

**Request for Departmental Action Fee
Transmittal Form**

DEP File Number:

Haverhill
Provided by DEP

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

B. Instructions (cont.)

2. On a separate sheet attached to this form, state clearly and concisely the objections to the Determination or Order which is being appealed. To the extent that the Determination or Order is based on a municipal bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.
3. Send a **copy** of this form and a **copy** of the check or money order with the Request for a Superseding Determination or Order by certified mail or hand delivery to the appropriate DEP Regional Office.
4. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

LYNCH, DESIMONE & NYLEN, LLP
ATTORNEYS AT LAW
10 POST OFFICE SQUARE, SUITE 970N
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JOHN M. LYNCH, P.C.
ERNEST P. DESIMONE
RICHARD A. NYLEN, JR.
STEPHEN W. DECOURCEY
SHANNON MICHAUD

November 6, 2020

OF COUNSEL

JAMES W. MURPHY
WAYNE H. SCOTT

Via Email
& Certified Mail – Return Receipt Requested

Ms. Jill Provencal
Wetlands Section Chief
MassDEP-NERO/BWR
205B Lowell Street
Wilmington, MA 01887

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NOV 09 2020

CITY OF HAVERHILL
CONSERVATION DEPARTMENT

Re: Appeal of Determination of Applicability; Haverhill Conservation Commission

Dear Chief Provencal,

This office represents Keolis Commuter Services, LLC (“Keolis”) and the Massachusetts Bay Transportation Authority (“MBTA”) with respect to the submission of a revised Determination of Applicability (“DA”) associated with the Vegetation and Management Plan. Keolis and the MBTA hereby appeal the second Determination of Applicability issued by the Haverhill Conservation Commission (“HCC”) finding that the Applicant is required to file a Notice of Intent for performing certain vegetative management functions on MBTA property operated by Keolis requiring mechanical operations.

The Request for Determination of Applicability (“RDA”) was filed by Keolis with the HCC in July 2020 seeking confirmation of the wetland resource areas adjacent to the railroad right of way within the City of Haverhill under the ownership of the MBTA and within jurisdiction of the HCC. The purpose of the RDA was to confirm the wetland lines and to establish that no filings are required by Keolis or the MBTA for vegetative management provided that Keolis performs activities within the MBTA property consistent with the 2021 Vegetative Management Plan (the “VMP”); and best management practices. The 2021 VMP includes the application of herbicides as the primary tool and mechanical measures when herbicides are not practical.

The HCC issued a DA that did not confirm the wetland line and offered limited approval to the application of herbicides, and not for physical or mechanical work associated with managing vegetation, brush, trees or canopy in order to protect public safety and manage the vegetation. The appeal seeks to confirm the wetland line and confirm that mechanical work necessary for managing vegetation is authorized consistent with the 2021 VMP.

November 6, 2020

2 | Page

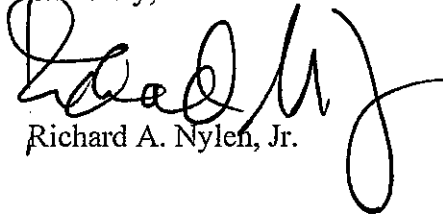
As a matter of law, MBTA and Keolis, are exempt from filing with the HCC in performing vegetative management measures provided that said measures are consistent with the Vegetative Management Plan and best management procedures.

A form is attached. No fee is required for this appeal by the MBTA and its representatives based upon the MBTA's Enabling Statute.

Please contact us if a site visit is scheduled.

Thank you for your courtesies.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard A. Nylan, Jr.", written in a cursive style.

Richard A. Nylan, Jr.

RAN/kad
Enclosures

cc: DEP Lock Box
Janis O. Kearney, Esq./MBTA
Ms. Clary Coutu/Keolis
Haverhill Conservation Commission (via certified mail – #7019 2970 0002 0034 6602)

Receipt No. 7019 2970 0002 0034 6619

H:\MBTA\VMP & ROW\Haverhill\Letter to Provencal - Haverhill 11-06-20.docx



Charles D. Baker, Governor
Karyn E. Polito, Lieutenant Governor
Stephanie Pollack, MassDOT Secretary & CEO
Steve Poflak, General Manager



September 21, 2020

Re: Railroad Vegetation Management along Rights-of-Way

Dear Commission Members:

The Massachusetts Bay Transportation Authority ("MBTA") and Keolis Commuter Services, LLC. ("Keolis") received a copy of the "Guidance to Massachusetts Conservation Commissions Regarding Vegetation Management" issued by MACC and MSMCP on September 16, 2020. This Guidance, which is an opinion and not a legal interpretation from the Massachusetts Department of Environmental Protection ("MassDEP") was not shared for input with the MBTA and Keolis before issuance, asks commissions to change the MassDEP's longstanding policies and implementation of regulations regarding the Vegetated Management Plans ("VMP's) of railroad rights of way. The MBTA disagrees with the legal basis for the new opinion stated in this Guidance that local commissions *must* issue a Positive RDA in response to the VMP Resource Area Maps proposed for the next five (5) years. The consequence of this new opinion will force the MBTA and Keolis to appeal all positive RDA's issued and place us in an unnecessary position at odds with commissions in the many communities that we serve.

The MBTA has initiated discussions with MassDEP to clarify the vegetation maintenance requirements for the 700 plus miles of ROW consistent with the Federal Railroad Act, the Federal Transit Authority requirements, the approved VMP under the jurisdiction of the MDAR 333 CMR 11.00 and the WPA.

In the meantime, we will continue to work cooperatively with commissions in implementing the VMP's with our shared goals of protecting human health and the environment in managing more than 5,000 acres of rights of ways in the Commonwealth as we perform the critical safety operations, and management work to provide a safe public service. As we all know from our New England seasons, operating a safe and reliable railroad requires the ability to remove trees and vegetation in a responsible and expeditious manner.

Finally, we urge commissions to continue your practices that have been in place for more than two (2) decades of issuing a Negative RDA, and Resource Area Wetlands map(s) as required for the five-year ROW Vegetation Management Plan.

Thank you for your diligence and support. We look forward to working with you.

Sincerely,

DocuSigned by:

F0273AC98C4245C...

Janis O. Kearney, Esq.

Director of Environmental Compliance



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 2 – Determination of Applicability

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

RECEIVED

NOV 09 2020

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.



From:

Haverhill
Conservation Commission

CITY OF HAVERHILL
CONSERVATION DEPARTMENT

To: Applicant

Clary Coutu, Keolis Commuter Services
Name

Property Owner (if different from applicant):

Name

470 Atlantic Avenue, Suite 500

Mailing Address

Mailing Address

Boston

City/Town

MA

State

02210

Zip Code

City/Town

State

Zip Code

1. Title and Date (or Revised Date if applicable) of Final Plans and Other Documents:

Request for Determination of Applicability with attachments received by the Commission

July 23, 2020
Date

Title

Date

Title

Date

2. Date Request Filed:

July 23, 2020

B. Determination

Pursuant to the authority of M.G.L. c. 131, § 40, the Conservation Commission considered your Request for Determination of Applicability, with its supporting documentation, and made the following Determination.

Project Description (if applicable):

Confirmation of the validity of resource area boundaries delineated for the identification of herbicide application areas

Project Location:

MBTA Right-of-Way
Street Address

N/A

Assessors Map/Plat Number

Haverhill
City/Town

N/A

Parcel/Lot Number



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 2 – Determination of Applicability

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

B. Determination (cont.)

The following Determination(s) is/are applicable to the proposed site and/or project relative to the Wetlands Protection Act and regulations:

Positive Determination

Note: No work within the jurisdiction of the Wetlands Protection Act may proceed until a final Order of Conditions (issued following submittal of a Notice of Intent or Abbreviated Notice of Intent) or Order of Resource Area Delineation (issued following submittal of Simplified Review ANRAD) has been received from the issuing authority (i.e., Conservation Commission or the Department of Environmental Protection).

1. The area described on the referenced plan(s) is an area subject to protection under the Act. Removing, filling, dredging, or altering of the area requires the filing of a Notice of Intent.

2a. The boundary delineations of the following resource areas described on the referenced plan(s) are confirmed as accurate. Therefore, the resource area boundaries confirmed in this Determination are binding as to all decisions rendered pursuant to the Wetlands Protection Act and its regulations regarding such boundaries for as long as this Determination is valid.

2b. The boundaries of resource areas listed below are not confirmed by this Determination, regardless of whether such boundaries are contained on the plans attached to this Determination or to the Request for Determination.

3. The work described on referenced plan(s) and document(s) is within an area subject to protection under the Act and will remove, fill, dredge, or alter that area. Therefore, said work requires the filing of a Notice of Intent.

4. The work described on referenced plan(s) and document(s) is within the Buffer Zone and will alter an Area subject to protection under the Act. Therefore, said work requires the filing of a Notice of Intent or ANRAD Simplified Review (if work is limited to the Buffer Zone).

5. The area and/or work described on referenced plan(s) and document(s) is subject to review and approval by:

Name of Municipality

Pursuant to the following municipal wetland ordinance or bylaw:

Name

Ordinance or Bylaw Citation



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 2 – Determination of Applicability

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

B. Determination (cont.)

6. The following area and/or work, if any, is subject to a municipal ordinance or bylaw but not subject to the Massachusetts Wetlands Protection Act:
-
-

7. If a Notice of Intent is filed for the work in the Riverfront Area described on referenced plan(s) and document(s), which includes all or part of the work described in the Request, the applicant must consider the following alternatives. (Refer to the wetland regulations at 10.58(4)c. for more information about the scope of alternatives requirements):

- Alternatives limited to the lot on which the project is located.
- Alternatives limited to the lot on which the project is located, the subdivided lots, and any adjacent lots formerly or presently owned by the same owner.
- Alternatives limited to the original parcel on which the project is located, the subdivided parcels, any adjacent parcels, and any other land which can reasonably be obtained within the municipality.
- Alternatives extend to any sites which can reasonably be obtained within the appropriate region of the state.

Negative Determination

Note: No further action under the Wetlands Protection Act is required by the applicant. However, if the Department is requested to issue a Superseding Determination of Applicability, work may not proceed on this project unless the Department fails to act on such request within 35 days of the date the request is post-marked for certified mail or hand delivered to the Department. Work may then proceed at the owner's risk only upon notice to the Department and to the Conservation Commission. Requirements for requests for Superseding Determinations are listed at the end of this document.

1. The area described in the Request is not an area subject to protection under the Act or the Buffer Zone.
2. The work described in the Request is within an area subject to protection under the Act, but will not remove, fill, dredge, or alter that area. Therefore, said work does not require the filing of a Notice of Intent.
3. The work described in the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to protection under the Act. Therefore, said work does not require the filing of a Notice of Intent, subject to the following conditions (if any).
-
-

4. The work described in the Request is not within an Area subject to protection under the Act (including the Buffer Zone). Therefore, said work does not require the filing of a Notice of Intent, unless and until said work alters an Area subject to protection under the Act.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 2 – Determination of Applicability

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

B. Determination (cont.)

- 5. The area described in the Request is subject to protection under the Act. Since the work described therein meets the requirements for the following exemption, as specified in the Act and the regulations, no Notice of Intent is required:

310 CMR 10.03(6)(b) – *Presumption Concerning Application of Herbicides* and 310 CMR 10.58 (6)(a)
*Prior to the first herbicide application, the applicant shall provide the Commission with confirmation of the re-markings of the No Spray and Limited Spray Zones along the R.O.W.

Exempt Activity (site applicable statutory/regulatory provisions)

- 6. The area and/or work described in the Request is not subject to review and approval by:

Name of Municipality

Pursuant to a municipal wetlands ordinance or bylaw.

Name

Ordinance or Bylaw Citation

C. Authorization

This Determination is issued to the applicant and delivered as follows:

- by hand delivery on
- by certified mail, return receipt requested on

Date

October 27, 2020

Date

This Determination is valid for **three years** from the date of issuance (except Determinations for Vegetation Management Plans which are valid for the duration of the Plan). This Determination does not relieve the applicant from complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.

This Determination must be signed by a majority of the Conservation Commission. A copy must be sent to the appropriate DEP Regional Office (see <https://www.mass.gov/service-details/massdep-regional-offices-by-community>) and the property owner (if different from the applicant).



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 2 – Determination of Applicability

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

C. Authorization (cont.)

Pursuant to the vote taken by the Conservation Commission on May 7, 2020, the following signatures are made in accordance with M.G.L. c. 110G and pursuant to said Commission's electronic signature authorization vote recorded on May 21, 2020, with the Southern Essex District Registry of Deeds in Book 38538, Page 455.

Signatures:

/Harmony Wilson/ Signature	Harmony Wilson Printed Name
/Ralph Basiliere/ Signature	Ralph Basiliere Printed Name
/Thomas Wylie/ Signature	Tom Wylie Printed Name
/Neil Frasca/ Signature	Neil Frasca Printed Name
/Frederick Clark/ Signature	Frederick Clark Printed Name
_____ Signature	- Printed Name
_____ Signature	- Printed Name
_____ Signature	_____ Printed Name

D. Appeals

The applicant, owner, any person aggrieved by this Determination, any owner of land abutting the land upon which the proposed work is to be done, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate Department of Environmental Protection Regional Office (see <https://www.mass.gov/service-details/massdep-regional-offices-by-community>) to issue a Superseding Determination of Applicability. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and Fee Transmittal Form (see Request for Departmental Action Fee Transmittal Form) as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Determination. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant if he/she is not the appellant. The request shall state clearly and concisely the objections to the Determination which is being appealed. To the extent that the Determination is based on a municipal ordinance or bylaw and not on the Massachusetts Wetlands Protection Act or regulations, the Department of Environmental Protection has no appellate jurisdiction.



FAIR DERMODY
CONSULTING ENGINEERS

15 July 2020

Haverhill Conservation Commission
Haverhill City Hall, Room 300
4 Summer Street
Haverhill, MA 01830

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

Dear Commission Members:

On behalf of the Massachusetts Bay Transportation Authority ("MBTA") and Keolis Commuter Services, LLC. ("Keolis") owner and operator of the Commuter Rail passenger service in Massachusetts, FDCEngineers is submitting the enclosed RDA for the review of the wetland map(s) along the railroad right-of-way (ROW) within your community as part of the renewal of the five-year Vegetation Management Plan (VMP).

Keolis is obligated under Federal regulation to implement controls for vegetation along the railroad Right-of-Way ("ROW"). Under the jurisdiction of the Rights of Way Management Program [333 CMR 11.00], Keolis implements a Vegetation Management Plan ("VMP") approved every five years by the Massachusetts Department of Agricultural Resources (MDAR) in consultation with a multi-agency Advisory Council including the Massachusetts Department of Environmental Protection (MassDEP). The objective of the VMP is to eliminate, control and manage vegetation along the ROW that represents "*any real or potential condition that can cause injury, illness, or death; damage to or loss of the facilities, equipment, rolling stock, or infrastructure of a public transportation system; or damage to the environment*" as required by the Federal Transit Administration ("FTA") and Federal Railroad Administration ("FRA") to ensure safe operations and in doing so, ensure the protection of the general interests of the Commonwealth of Massachusetts. [49 CFR 673.5; 49 CFR 237].

By way of background information, the final Rights of Way Management regulation effective since 1987 [333 CMR 11.00] was the result of an extensive review initiated by the Department of Food and Agriculture (DFA) in consultation with a technical advisory task force of environmentalists, state agencies and rights of way managers who assisted in the General Environmental Impact Report (GEIR) preparation. Based on results of the study, they recommended to the Secretary of Environmental Affairs a framework for a *coherent state-wide rights of way regulatory program*. During the GEIR process, MassDEP and DFA (now MDAR) worked closely to include provisions which give maximum protection for water supplies and provide protection for wetlands as prescribed within M.G.L. c. 131, § 40 and 310 CMR 10.00. Specifically, the Rights of Way Management regulations presume that work performed in accordance with a VMP [Vegetation Management Plan] and YOP [Yearly Operational Plan], as required under the 333 CMR 11.00 regulations, **will not alter an area subject to protection under M.G.L. c. 131, § 40.**

In 2016, your commission approved the attached wetlands map for the section of land adjacent to the railroad Right-of-Way (ROW). The determination that was issued has allowed Keolis to conduct vegetation management activities over the last five years in accordance with the 333 CMR 11.00 and Keolis' Vegetation Management Plan (VMP). Each year since the determination was issued, you have been supplied with Keolis' Yearly Operational Plan (YOP) and ROW map(s) including the wetlands locations and sensitive receptors.

15 July 2020

Keolis is currently in the process of renewing the five-year VMP that will expire on December 31, 2020. In accordance with the Wetlands Protection Act, RDA's issued for work conforming to 333 CMR 11.00 are in effect for the five-year life of the VMP and must be renewed with the VMP. Accordingly, enclosed please find the RDA to renew the wetland map(s) along the ROW 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. There are no proposed changes to the existing maps and permanent markings in the field from the previous filing. The map(s) included in the filing are provided in USGS 1:25,000, as required by 333 CMR 11.02. The maps have been revised to reflect the latest revisions to all surface/drinking water supply zones as identified on maps supplied by MassGIS.


The safety of employees, passengers and neighboring communities is of high priority. Nonetheless, while the VMP railroad maintenance activities objective is to eliminate, control and manage vegetation along the rail ROW, these maintenance activities are executed with consideration of neighboring communities and the environment. To review the Vegetation Management Plan for the period of 2021-2025 please visit www.fdcerrailroadvegetation.com.

In the interests of the Commonwealth of Massachusetts and in accordance with M.G.L. c. 131, § 40, upon review of the enclosed RDA, please consider the following negative determination on WPA Form 2:

- Number (2) determination: "The work described in the Request is within an area subject to protection under the Act, but will **not remove, fill, dredge, or alter that area**. Therefore, said work does not require the filing of a Notice of Intent"; or
- Number (5) determination citing as exemption 310 CMR 10.02(2)(a)(2) "activities conducted to ***maintain***, repair or replace, but not substantially change or enlarge ***an existing and lawfully located structure or facility used in the service of the public..***".

If you have any questions, please do not hesitate to call Clary Coutu at (617) 874-6946 (clary.coutu@Keoliscs.com) and or you may reach me at (207) 747-4651 (tim@FDCEngineers.com).

Very truly yours,
FDCEngineers



Tim Dermody, EI
President

Enclosure

cc: Clary Coutu, Keolis
Janis O. Kearney, MBTA
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:

Clary Coutu, Keolis Commuter Services, Director of ENV
Name
N/A
Mailing Address
470 Atlantic Avenue, Suite 500
City/Town
Boston
Phone Number

Clary.coutu@keoliscs.com
E-Mail Address

MA
State

02210
Zip Code

Fax Number (if applicable)

2. Representative (if any):

Fair Dermody Consulting Engineers
Firm
Tim Dermody
Contact Name
19 Ocean Avenue, Unit 5
Mailing Address
Portland
City/Town
207-747-4651
Phone Number

tim@fdcengineers.com
E-Mail Address

ME
State

04103
Zip Code

Fax Number (if applicable)

B. Determinations

1. I request the Haverhill 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).



WPA Form 1- Request for Determination of Applicability

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

C. Project Description

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

N/A	Haverhill
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 map was created using MassGIS and the private well registry provided by the Department of Agricultural Resources. The rail line is depicted by the dark black line with cross hatches, the numbers represent mileposts.

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

USGS Right of Way Maps by Rail Line and Community	July 15, 2020
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 management, control and maintenance activities for the years 2021-2025 for the railroad right-of-way [FRA, 49 CFR 237]. The Vegetation management plan for the railroad incorporates the Integrated Pest Management (IPM) approach towards promoting a safer railroad for employees, passengers, and neighboring communities by means of implementing various approaches towards removal of nuisance vegetation along the ROW. This work includes both chemical and mechanical controls as represented within the VMP available for viewing at fdcerailroadvegetation.com. The attached previously approved wetland maps are provided for your review and final maps will be incorporated into the VMP as part of the Rights of Way Management Program 333 CMR 11.00 which incorporates 310 CMR 10.03 (6) to ensure protection of resource areas within your community.



WPA Form 1- Request for Determination of Applicability

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

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 10.02 (2)(a)(2) - "activities conducted to maintain, repair or replace, but not substantially change or enlarge an existing and lawfully located structure or facility used in the service of the public..." in accordance with Presumption for the application of Herbicides 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 and Area Subject to Protection under M.G.L. c. § 40,...

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.

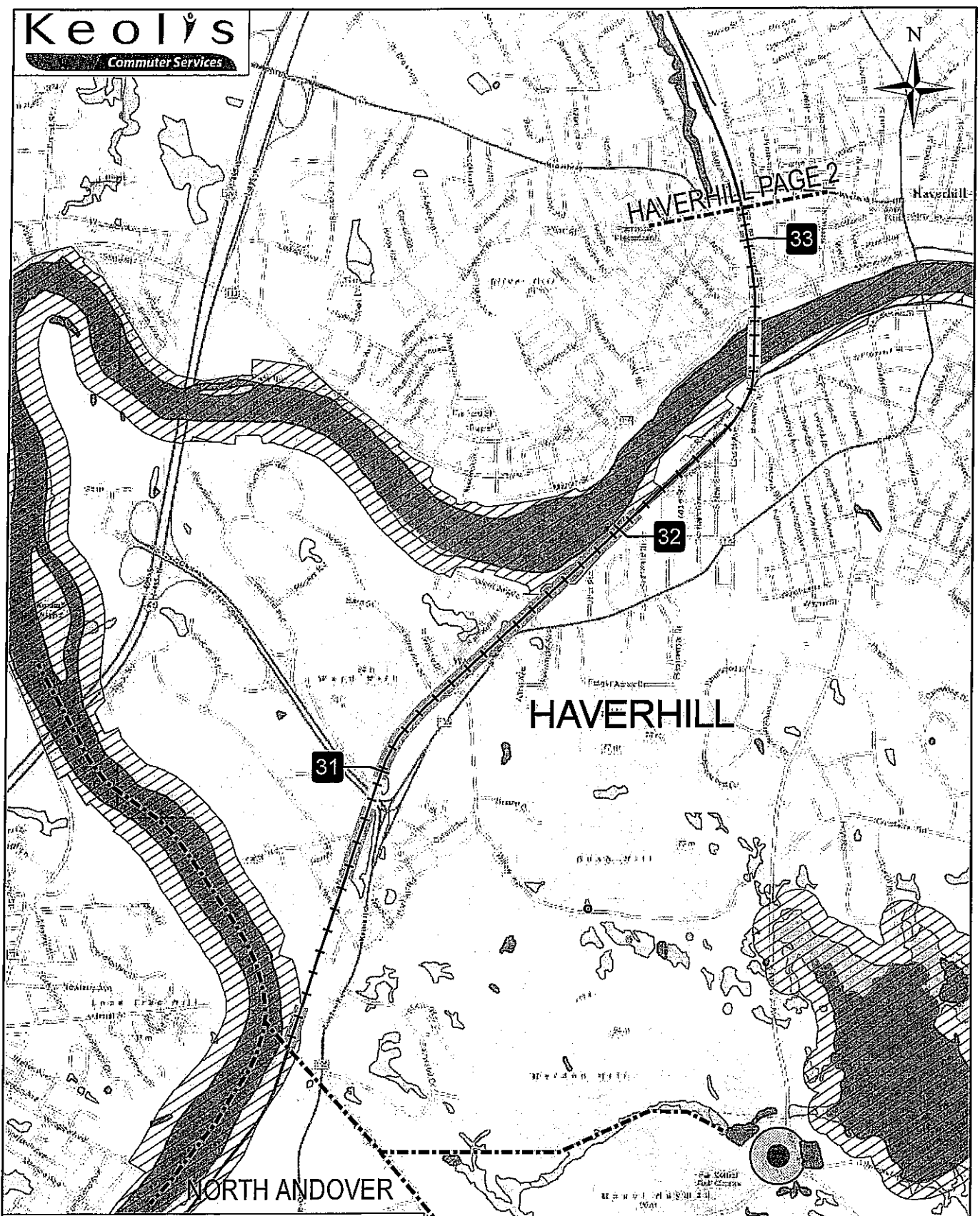
- Single family house on a lot recorded on or before 8/1/96
- Single family house on a lot recorded after 8/1/96
- Expansion of an existing structure on a lot recorded after 8/1/96
- Project, other than a single family house or public project, where the applicant owned the lot before 8/7/96
- New agriculture 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.)



HAVERHILL PAGE 2

WESTERN ROUTE MAIN LINE



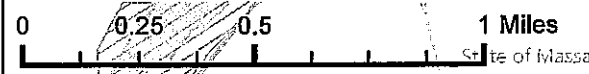
31

32

33

HAVERHILL

NORTH ANDOVER

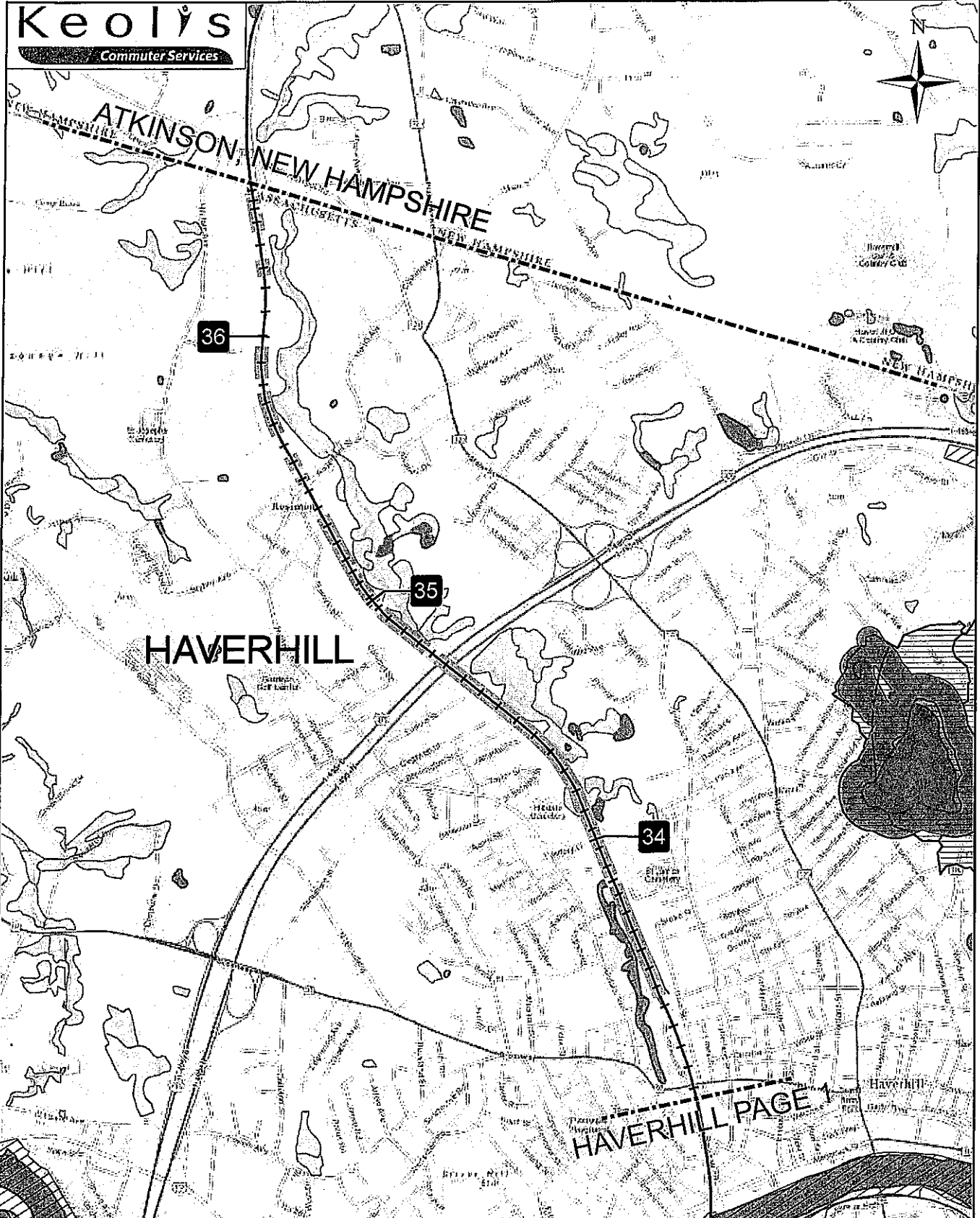


State of Massachusetts, Esri, HERE, DeLorme, INCREMENT P, Intermap, USGS, METI/NASA, EPA, USDA

TOWN:	HAVERHILL	LIMITED SPRAY ZONE (1 YEAR INTERVAL)	DEP APPROVED ZONE I	ZONE A	NATIONAL WETLANDS
DATE:	7/15/2020	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				

Keolis

Commuter Services



WESTERN ROUTE MAIN LINE



TOWN:	Haverhill
DATE:	7/15/2020
SCALE:	1:25,000
SHEET:	2 OF 2

LIMITED SPRAY ZONE (1 YEAR INTERVAL)	DEP APPROVED ZONE I	ZONE A	NATIONAL WETLANDS
LIMITED SPRAY ZONE (2 YEAR INTERVAL)	DEP APPROVED ZONE II	ZONE B	CERTIFIED VERNAL POOL
NO SPRAY ZONE	IWPA	NHESP PRIORITY HABITATS	

Haverhill PAGE 1