

September 26, 2023

Certified Mail Return Receipt: 7020 1810 0000 2012 8035

Tyson Reynoso
King Devens LLC
800 Boylston St., Suite 1570
Boston, MA 02199

Re: Wetland Determination of Applicability – Level One Approval

Dear Mr. Reynoso,

In accordance with 974 CMR 4.06(6)(c), at their September 26, 2023 regular meeting, the Devens Enterprise Commission ratified my decision to issue a conditional Negative Determination of Applicability for the King Devens, LLC Level One Unified Permit application request to relocate approximately 23,000 cu.yds. of material from 57 and 75 Jackson Road to the area of hole number 11 of the Red Tail Golf Course at 15 Bulge Road (Parcel ID 15.0-0018-0100) within the Devens Regional Enterprise Zone. To ensure there are no impacts to the nearby wetland resource areas, I have included the twelve (12) conditions as listed in the attached Level One Approval, dated September 26, 2023. These twelve conditions apply to the Negative Determination of Applicability as well. Please ensure you and your contractor are aware of and adhere to these conditions throughout the project.

This negative determination applies to the referenced plans only and is valid for three years. Any changes to the plan will require review and approval from the DEC prior to initiating. A copy of this Negative Determination has also been sent to the MA Department of Environmental Protection.

Please contact me for inspection of the erosion controls prior to commencing any soil relocation. Thank you for your continued cooperation.

Sincerely



Neil Angus, FAICP CEP, LEED AP
Director/Land Use Administrator

cc: Julie Farrar, King Street Properties
Erik Hokenson, MassDevelopment
Josh McKim, Red Tail Golf Course
MA DEP Central Region Office
file



DEVENS ENTERPRISE COMMISSION
33 Andrews Parkway • Devens, MA 01434 • Phone: (978) 772-8831 • Fax: (978) 772.8831



Massachusetts Department of Environmental Protection
 Bureau of Water Resources - Wetlands
WPA Form 2 – Determination of Applicability
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

 Municipality

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:

 Conservation Commission

To: Applicant

Property Owner (if different from applicant):

 Name

 Name

 Mailing Address

 Mailing Address

 City/Town

 State

 Zip Code

 City/Town

 State

 Zip Code

 Phone Number

 Phone Number

 Email Address

 Email Address (if known)

1. Project Location:

 Street Address

 City/Town

 Latitude (Decimal Degrees Format with 5 digits after decimal e.g. XX.XXXXX)

 Longitude (Decimal Degrees Format with 5 digits after decimal e.g. -XX.XXXXX)

 Assessors Map/Plat Number

 Parcel/Lot Number

2. Date Request Filed:

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):

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

 Title

 Date

 Title

 Date

 Title

 Date



Massachusetts Department of Environmental Protection
Bureau of Water Resources - Wetlands

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

Municipality

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) 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 jurisdiction 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 Wetlands Resource Area(s) and Buffer Zone(s) 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 jurisdiction 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 jurisdiction under the Act. Therefore, said work requires the filing of a Notice of Intent
- 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



WPA Form 2 – Determination of Applicability

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) 2. 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 jurisdiction under the Act or the Buffer Zone.
2. The work described in the Request is within an area subject to jurisdiction 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 jurisdiction 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 jurisdiction 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 jurisdiction under the Act.



Massachusetts Department of Environmental Protection
Bureau of Water Resources - Wetlands

WPA Form 2 – Determination of Applicability

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Municipality

B. Determination (cont.)

5. The area described in the Request is subject to jurisdiction 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:

Exempt Activity (site applicable statutory/regulatory provisions)

6. The area and/or work described in the Request is not subject to additional 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 request on

Date

Date

Certified Mail Number

A copy of this Determination has been sent on the same date, considered the date of issuance, to the appropriate DEP Regional Office and the property owner (if not the applicant) in the manner as follows:

DEP

- By [eDEP DOA Submittal Platform](#) (Attach this form and supporting documents)

- By USPS mail

- By hand delivery

Date

Date

Property Owner (if not applicant)

- By mail

- By hand delivery

Date

Date



Massachusetts Department of Environmental Protection
Bureau of Water Resources - Wetlands

WPA Form 2 – Determination of Applicability

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

Municipality

C. Authorization (cont.)

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. As noted above, 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) on the same date that the Applicant is issued this Determination.

Issuing Authority

Signatures:

Signature

Printed Name

Signature

Printed Name

Signature

Printed Name

Signature

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.

Devens Enterprise Commission Level One Approval

EARTH REMOVAL PERMIT (#D23-061)

Origin Site: 57 and 75 Jackson Road (King Devens, LLC), Devens, Massachusetts

Receiving Site: 15 Bulge Road (Red Tail Golf Course, portions of hole 11), Devens, Massachusetts

September 26, 2023

A Level One Development Permit application package was submitted to the Devens Enterprise Commission (DEC) on August 31, 2023 for King Devens, LLC.'s proposal to relocate approximately 23,000 cu.yds. of material from 57 and 75 Jackson Road to the area of hole number 11 of the Red Tail Golf Course at 15 Bulge Road. In accordance with 974 CMR 1.03(4) and condition #5 of the September 8, 2022 Unified Permit for 57 Jackson Road and condition #5 of the September 8, 2022 Unified Permit for 75 Jackson Road, I hereby issue and approve the proposed earth removal plan (DEC permit # D23-061) and associated Negative Wetland Determination of Applicability as a Level One Development Plan, subject to the following conditions:

1. Prior to relocating any soil to the 15 Bulge Road site, the Applicant shall install steel plates over the existing culvert along the Robbins Pond access road, in addition to the Perimeter erosion controls and turtle protection fencing and comply with the Natural Heritage Endangered Species program approval dated September 14, 2023 (contact DEC for inspection).
2. Existing erosion along the cart path and washout materials into the wooded area shall be repaired prior to the start of the work and the roadway shall be left in an improved condition following work. Washout materials shall be hand raked and manually removed from the buffer area to prevent soil compaction from machinery and heavy equipment. All exposed areas shall be properly stabilized to prevent erosion and invasive species colonization.
3. Prior to commencing any intrusive earth work within Devens (due diligence, construction of otherwise) all personnel to be on site shall receive Unexploded Ordinance/Munitions of Explosive Concern (UXO/MEC) training provided by the Devens Fire Department.
4. All soil relocation activities shall be coordinated with Anne-Marie Dowd at MassDevelopment in accordance with the Devens Soil Management Policy.
5. Erosion, siltation, and dust shall be controlled at all times and may include temporary anti-tracking pads, slope stabilization, watering, installation of ground cover/seeding, and street sweeping of public and private ways.
6. All earth removal activities shall comply with the reclamation standards in 974 CMR 4.07(12). If permanent stabilization is not achieved prior to winter, all exposed areas shall be seeded with a winter rye or approved equal. All erosion and sediment controls shall remain in place until all exposed areas are permanently stabilized (contact DEC for inspection prior to removal).
7. In accordance with the Devens By-Laws, Article III, Section K 1. a., no soil, loam, sand, gravel, or other earth materials shall be permanently removed from any lot within Devens, except in accordance with the Devens Soil Management Policy and approval from the DEC.
8. Hours of earthwork shall be limited and no work shall take place prior to 7:00a.m. after 7:00p.m., or on Sundays or Federal and State holidays, unless prior authorization is granted by the DEC Director.
9. Existing irrigation at the receiving site shall be properly capped and abandoned. Any new irrigation system details will need to comply with 974 CMR 8.09 and be approved by the DEC prior to installation.
10. Invasive species shall be removed within work area prior to work.
11. Upon completion of the project the temporary construction entrance shall be removed and the area restored with native New England seed mix. Seed mix to be approved by DEC staff.
12. The application included plans entitled "Red Tail Golf Club – Offsite Soil Placement Plan, 15 Bulge Road, Devens, MA", Sheets Title Sheet (T100), Existing Conditions Survey Hole – 11 Red Tail Gold Clube Site, Stockpiling Phase 2 – Site Preparation and Grading (C200), Detail & Notes Sheet (C300), dated August 30, 2023, prepared by Highpoint Engineering, Inc. Any changes must be reviewed and approved by the DEC prior to implementation.

This approval is based on the plans entitled "Red Tail Golf Club – Offsite Soil Placement Plan, 15 Bulge Road, Devens, MA", Sheets Title Sheet (T100), Existing Conditions Survey Hole – 11 Red Tail Golf Club Site; Stockpiling Phase 2 – Site Preparation and Grading (C200), Detail & Notes Sheet (C300), dated August 30, 2023, prepared by Highpoint Engineering, Inc. Any changes must be reviewed and approved by the DEC prior to implementation.

Issued on behalf of the Devens Enterprise Commission.



Neil Angus, FAICP CEP, LEED AP
Director/Land Use Administrator

Date: 9/28/23



DEVENS ENTERPRISE COMMISSION
33 Andrews Parkway • Devens, MA 01434 • Phone: (978) 772-8831 • Fax: (978) 772.8831



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
Request for Departmental Action Fee
Transmittal Form

DEP File Number: _____

 Provided by DEP

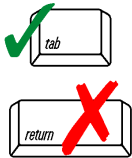
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

A. Request Information

1. Location of Project

_____	_____
a. Street Address	b. City/Town, Zip
_____	_____
c. Check number	d. Fee amount

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



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

 Name

 Mailing Address

_____	_____	_____
City/Town	State	Zip Code
_____	_____	
Phone Number	Fax Number (if applicable)	

3. Applicant (as shown on Determination of Applicability (Form 2), Order of Resource Area Delineation (Form 4B), Order of Conditions (Form 5), Restoration Order of Conditions (Form 5A), or Notice of Non-Significance (Form 6)):

 Name

 Mailing Address

_____	_____	_____
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 (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



Massachusetts Department of Environmental Protection

Bureau of Resource Protection - Wetlands

**Request for Departmental Action Fee
Transmittal Form**

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

DEP File Number:

Provided by DEP

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 (see <https://www.mass.gov/service-details/massdep-regional-offices-by-community>).
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.