

Lee Conservation Commission  
Berkshire Scenic Mountain Act – Form B  
Determination of Applicability

Massachusetts Scenic Mountain Act, MGL c. 131, §39a

SMA File Number: \_\_\_\_\_

**A. General Information**

**1. Applicant:**

Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City/Town: \_\_\_\_\_

State: \_\_\_\_\_

E-Mail: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

**Project Location:**

Street Address: \_\_\_\_\_

Assessors Map Number: \_\_\_\_\_ Lot Number: \_\_\_\_\_

Zone: 1 \_\_\_\_\_ 2 \_\_\_\_\_ Region: A \_\_\_\_ B \_\_\_\_ C \_\_\_\_

Pursuant to the authority of G.L.C.131, §39a, the Conservation Commission has considered your request for a Determination of Applicability and its supporting documentation and has made the following determination.

Check whichever Determination is applicable in the following:

2.

**This Determination is positive:**

1. \_\_\_\_\_ The **area** described above, which includes all/part of the area described in your request, is an **Area Subject to Protection Under the Act**.  
Therefore, any removing, filling, excavating or altering of that area requires the filing of a Notice of Intent.
2. \_\_\_\_\_ The **activity** described in your request, is in an **Area Subject to Protection Under the Act** and will remove, fill, excavate or alter that Area. Therefore, said activity requires the filing of a Notice of Intent.

**This Determination is negative:**

1. \_\_\_\_\_ The area described in your request is **not** an Area Subject to Protection Under the Act.
2. \_\_\_\_\_ The activity described in your request is within an Area Subject to Protection Under the Act, but will **not remove, fill, excavate, or alter** that area. Therefore, said work **does not** require the filing of a Notice of Intent.
3. \_\_\_\_\_ The area described in your request is Subject to Protection Under the Act, but since the activity described therein meets the requirements for the following exemption, \_\_\_\_\_ as specified in the Act and the Regulations, **no Notice of Intent is required**.
4. \_\_\_\_\_ The activity described will **not have a substantial impact** on the watershed resources or natural scenic qualities of the mountain region and is therefore not a regulated activity.
5. \_\_\_\_\_ This Determination has the following conditions:

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3.

This Determination is valid for **three years** from the date of issuance. 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 Lee Conservation Commission.

Issuing authority

Signatures:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

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Printed Name

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Signature

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Printed Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

This Determination is issued and delivered as follows:

- ☐ By hand delivery to the applicant and representative. Date: \_\_\_\_\_
- ☐ By certified mail, return receipt requested. Date: \_\_\_\_\_

Lee Conservation Commission  
Berkshire Scenic Mountain Act – Form A  
Request for Determination of Applicability  
Massachusetts Scenic Mountain Act, MGL c.131, §39a

SMA File Number: \_\_\_\_\_

Filing Fee: \$100

**A. General Information**

**1. Applicant:**

Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City/Town: \_\_\_\_\_

State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

E-Mail: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

**Representative (if any):**

Name & Company: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City/Town: \_\_\_\_\_

State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Email: \_\_\_\_\_ Phone Number: \_\_\_\_\_

Project Location: \_\_\_\_\_

Assessors Map and Lot Number: \_\_\_\_\_

Zone: 1 \_\_\_\_\_ 2 \_\_\_\_\_

Region: A \_\_\_\_\_ B \_\_\_\_\_ C \_\_\_\_\_ Elevation: \_\_\_\_\_

## **B. Determinations:**

As the applicant, I request the Lee Conservation Commission make the Following determination(s):

- ☐ Whether the area depicted on the plan(s) and/or map(s) referenced below is the subject of the Massachusetts Scenic Mountain Act (MGL 131 § 39a)
- ☐ Whether the Activity described in this request, which the applicant proposes to perform, is exempt from coverage of MGL 113 § 39a (Scenic Mountain Act) because the attached documents indicate:
  1. \_\_\_\_ The applicant has complied with the provisions of G.L.C.132 §40-46 (Forest Cutting Practices)
  2. \_\_\_\_ The activity is already subject to regulation under MGL 131 §40 (Wetland Protection Act).
  3. \_\_\_\_ The activity will consist of the maintenance, repair, reconstruction, replacement, or change in use of any lawfully located and constructed structure.
  4. \_\_\_\_ The activity will be conducted in connection with the construction or maintenance of any facility as that term is defined in MGL c.164 §69G (Energy Facility Siting Board).
  5. \_\_\_\_ The activity will be conducted in connection with the construction or maintenance of any electrical, transmission or distribution facilities or by telephone or otherwise for which locations in the public ways have been approved by the Selectboard under the provisions of MGL c.166 §22.
  6. \_\_\_\_ The activity will be conducted in connection with the construction or maintenance of electric distribution facilities required to serve a structure or building where construction has been approved under the provisions of this Act.
- ☐ If the Conservation Commission determines that all or part of the geographic area does not lie within a mapped mountain region, and that the proposed activity is not exempt from regulation, then I request the Commission determine whether the proposed activity will have a substantial impact on the watershed resources or the natural scenic qualities of the mountain

region within which it will be performed (i.e. whether the activity is a regulated activity.

### **C. Project Description**

1. Please describe the area:

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2. Please describe the nature and scope of the proposed activity and its effect on the watershed and scenic resources that are protected by this Act. Use additional paper if necessary. Attach any maps or plans that will better describe the location and nature of the proposed activity. Plans need not be detailed engineering or architectural plans as long as the nature and scope of the activity is reasonably described.

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### **D. Signature**

I certify that the documents, plans and supporting data submitted with this Request for Determination of Applicability are true and complete to the best of my knowledge.

I understand notification of this request will be placed in a local newspaper at my expense.

Signature of Applicant: \_\_\_\_\_ Date: \_\_\_\_\_