

Lee Conservation Commission
Berkshire Scenic Mountain Act – Form E
Order of Conditions

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

SMA File Number: _____

A. General Information

From: Lee Conservation Commission

1. Applicant:

Name: _____

Mailing Address: _____

City/Town: _____

State: _____ Zip Code _____

E-Mail: _____

Phone: _____ Fax: _____

2. Owner if different:

Name: _____

Mailing Address: _____

City/Town: _____

State: _____ Zip Code: _____

E-Mail: _____

Phone: _____ Fax: _____

3. Project Location:

Street Address: _____

Latitude: _____ Longitude: _____

Assessors Map Number: _____ Lot Number: _____

Region: A B C Elevation: _____

Middle Berkshire Registry of Deeds Book: _____ Page: _____

4. Dates:

Date NOI Filed: _____ Date Public Hearing Closed: _____ Date of Issuance: _____

5. Final Approved plans and other documents

Plan Title	
Prepared By	Signed and Stamped by
Final Revision Date	Scale
Additional plans or Document Title please attach	

B. Findings: The Lee Conservation Commission has reviewed the above-referenced Notice of Intent and plans and held a public hearing on the project. Based on the information available to the Commission at this time, the Conservation Commission has determined that the area in which the purposed activity is to be done is significant to one or more of the purposes described in the regulations. Therefore, the Conservation Commission hereby finds the project as proposed is (check one of the following boxes.). **Approved subject to:** The following general conditions that are necessary to protect the purposes of the Berkshire Scenic Mountain Act. The Conservation Commission orders that all work should be performed in accordance with the Notice of Intent and plans referenced above, with the following General Conditions, and with any other Special Conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications or other proposals submitted with the Notice of Intent, the conditions shall control.

- ☐ **Denied because:** The proposed work cannot be conditioned to meet the performance standards set forth in the Berkshire Scenic Mountain Act regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect the interests of the Act and a final Order of Conditions is issued.
- ☐ The information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Berkshire Scenic Mountain Act regulations. Therefore, the work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests and a final Order of Conditions is issued. A description of the specific information which is lacking is attached to this Order.

C. General Conditions: These Conditions apply **only** to Approved Projects

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.

2. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state or local statutes, ordinances, by-laws or regulations.

3. This Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.

4. The work authorized hereunder shall be commenced within one (1) year following the date of issuance of this Order and shall thereafter diligently prosecute such activity to completion. Failure to commence said activity within one (1) year of issuance shall constitute the abandonment of the project and the Conservation Commission, after reasonable notice to the applicant, may revoke the Order.

5. This Order shall expire two (2) years after the date of issuance and may be extended by the issuing authority for two periods of up to one (1) year each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.

6. Any fill used in connection with this project shall be clean fill, containing no trash, refuse, rubbish, branches, tree limbs, brush, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, appliances, motor vehicles or parts of any of the foregoing.

7. No work shall be undertaken until all administrative appeal periods from this Order have elapsed or, if such an appeal has been filed, until all proceedings before the Department of Conservation and Recreation have been completed.

8. No work shall be undertaken until the Final Order has been recorded in the Berkshire Middle District Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grant of Index under the name of the owner of the land upon which the proposed work is to be done. In the case of registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is to be done. The recording information shall be submitted to the Conservation Commission on the form at the end of this order prior to commencement of work.

9. These Order of Conditions shall be posted at the job site in a conspicuous location throughout the construction and until such time as a Certificate of Compliance is issued.

10. Where the Department of Conservation and Recreation is requested to issue a Superseding Order, the Conservation Commission shall be a part to all agency proceedings and hearings before DCR.

11. Upon completion of the work described herein, the applicant shall forthwith request in writing that a Certificate of Compliance be issued stating that the work has been satisfactorily completed. If a partial Certificate of Compliance is issued the Orders of Conditions shall remain in perpetuity.

12. The work shall conform to the plans and special conditions referenced in this Order.

13. Any change to the plans identified in Condition #12 above shall require the applicant to inquire of the Conservation Commission, in writing, whether the change is significant enough to require the filing of a new Notice of Intent.

14. The Agent or members of the Conservation Commission and DCR shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated

in this Order and may require the submittal of any data deemed necessary by the Conservation Commission or DCR for that evaluation.

15. This Order if Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by the Order.

16. Prior to the commencement of work, the limit or work in the vicinity of the work area shall be marked by wooden stakes, flagging or silt fencing. Once in place, the limit of work shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.

17. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers serve as the limit of work unless another limit of work line has been approved by the Order.

18. The work shall conform to the following Special Conditions attached to this document.

This Order is valid for two years, unless otherwise specified as a special condition pursuant to General Conditions #5, from the date of issuance.

This Order must be signed by a majority of the Conservation Commission.

This Order must be mailed by certified (return receipt requested) or hand delivered to the applicant or designee as requested and a copy to the land owner if different.

Date of Issuance: _____

Signature

Printed Name

Signature

Printed Name

Signature

Printed Name

Signature

Printed Name

Signature

Printed Name

Signature

Printed Name

Signature

Printed Name

Signature

Printed Name

☐ By hand delivery: Date: _____

☐ By certified mail: Date: _____
(return receipt requested)

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land upon which the proposed work is to be done or any 10 residents of the town in which such land is located are hereby notified of their right to request the Department of Conservation and Recreation to issue a Superseding Order, providing the request is made by certified mail or hand delivery to the Department within ten days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and the applicant.

SMA ORDER OF CONDITIONS RECORDING INFORMATION
Massachusetts Scenic Mountain Act, MGL c. 131, §39a

E. Recording Information (refer to general condition #8)

Conservation Commission

SMA File Number

Have the following stamped by the Registry of Deeds and submit it to the Conservation Commission.

Please be advised that the SMA Order of Conditions for the project at:

Project Location

SMA Project File Number

Has been recorded at the Registry of Deeds of:

County

Book

Page

And has been noted in the chain of title of the affected property in:

Book

Page

In accordance with the Order of Conditions issued on: _____

Date

If recorded land, the instrument number identifying this transaction is: _____

Instrument Number

If registered land, the document number identifying this transaction is: _____

Document Number

Signature of Applicant

Date