Shoreland Protection Individual Permit

Under 10 V.S.A. § 1441 *et seq.*

VERMONT DEPARTMENT OF ENVIRONMENTAL CONSERVATION
WATERSHED MANAGEMENT DIVISION
LAKES & PONDS PROGRAM

Permittee(s): John C. White Jr. and Jean White **Waterbody: Martins Pond** **Permit Number: 2164-SP**	**Parcel SPAN: 468-148-10688** **Parcel Address: 979 Devil's Hill Road, Peacham**

Based upon the findings contained in this permit, the Secretary has determined that the proposed project will comply with 10 V.S.A. § 1441 *et seq.* and is hereby approved under the following conditions and specifications.

a. Specific Conditions

1. All cleared area and impervious surface associated with this project shall be located at least 100 feet from mean water level.

2. In accordance with the plan proposed in the permit application to address a greater than 20% slope on the project site, the permittee shall establish vegetative cover within the first 25 feet from mean water level. Additionally, excavation of the soil layer for potential projects other than those identified under 10 V.S.A. § 1446 or for establishing vegetative cover shall not occur within the first 100 feet from mean water level to maintain a stable slope.

3. All impervious surfaces associated with this project shall not exceed 1,152 square feet.

4. All cleared area associated with this project, including that area cleared for the purposes of creating impervious surface, shall not exceed 1,152 square feet. All remaining vegetative cover shall be managed in accordance with the Vegetation Protection Standards contained within 10 V.S.A. § 1447. Cleared areas are those areas not managed in accordance with the Vegetation Protection Standards in 10 V.S.A. § 1447.

5. The project shall be completed as shown on the application, plans, and support documents as submitted by the permittee, and approved by this permit.

b. Standard Conditions

1. Demarcation of project areas. All authorized impervious surfaces and/or cleared areas shall be visibly demarcated prior to the commencement of the project.

2. Erosion control and bank stability management. Best management practices shall be used to provide erosion control and bank stability of the project area while completing the project and be maintained as necessary.

3. Requirement to record in the land records. The conditions of this permit shall run with the land and shall be binding upon and enforceable against the permittee and all assigns and successors in interest. The permittee shall record and index this permit in the associated municipal land records within 30 days of issuance of this permit and prior to the conveyance of any parcel subject to the jurisdiction of this permit. The permittee, or any other interested party, may request a copy of the approved application plans and support documents from Shoreland Permitting.

4. Compliance with other regulations. This permit does not relieve the permittee from obtaining all other approvals and permits prior to construction or the responsibility to comply with any other applicable federal, state, and local laws or regulations.

5. Authorization for substantial changes. No alterations to existing structures other than those indicated in this permit that would change or affect the authorized impervious surface or cleared area shall be

allowed without prior written approval by Shoreland Permitting. Construction of additional nonexempt impervious surface or cleared area may not be granted unless the proposal conforms to the applicable laws and regulations.

6. Transfer of parcel. Each purchaser of the parcel associated with this permit shall be provided a copy of this permit and related support materials prior to conveyance of any portion of the parcel to that purchaser.

7. Access to property. By acceptance of this permit, the permittee agrees to allow representatives of the state of Vermont access to the property covered by the permit, at reasonable times and upon presentation of credentials, for the purpose of ascertaining compliance with Vermont's statutes, regulations, and this permit.

8. Legal responsibilities for damages. The Secretary, by issuing this individual permit, accepts no legal responsibility for any damage direct or indirect of whatever nature and by whoever suffered arising out of the approved activity.

9. Rights and Privileges. This permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to public or private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations.

10. Duty to comply and enforcement. The permittee shall comply with all terms and conditions of this permit. Any permit noncompliance shall constitute a violation of 10 V.S.A. Chapter 49A and may be cause for an enforcement action and revocation, modification, or suspension of the permit. It shall not be a defense for the permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity to maintain compliance with the conditions of this permit.

11. Reopener. If, after granting this permit, the Secretary determines, at his or her discretion, that there is evidence indicating that an authorized activity does not comply with the requirements of 10 V.S.A. Chapter 49A, the Secretary may reopen and modify this permit to include different limitations and requirements. A reduction in the size of the parcel by dividing the land by sale, gift, lease, mortgage foreclosure, court-ordered partition or decree, or by filing of a plot, plan, or deed in the records of the municipality in which the act of division occurred, may require the reopener and modification of this permit to ensure compliance with the requirements of 10 V.S.A. Chapter 49A.

12. Municipal Delegation. If the Secretary delegates shoreland permitting authority to the municipality in which the permitted activity is located, this permit shall remain in effect and continue to be enforceable by the Secretary until such time that the municipality issues a new permit for the creation of cleared area or impervious surface for the same parcel. If the permittee has yet to commence construction of the project authorized by this permit, then, pursuant to 3. V.S.A. § 814, the permittee may request that the Secretary revoke the permit, and if it the Secretary revokes the permit, the permittee may proceed with his or her project under the requirements of the delegated municipality's bylaw/ordinance and any other applicable federal, state, and local laws and regulations.

13. Appeals. Pursuant to 10 V.S.A. Chapter 220, any appeal of this decision must be filed with the clerk of the Environmental Division of the Superior Court within 30 days of the date of the decision. The Notice of Appeal must specify the parties taking the appeal and the statutory provision under which each party claims party status; must designate the act or decision appealed from; must name the Environmental Division; and must be signed by the appellant or the appellant's attorney. In addition, the appeal must give the address or location and description of the property, project, or facility with which the appeal is concerned and the name of the applicant or any permit involved in the appeal. The appellant must also serve a copy of the Notice of Appeal in accordance with Rule 5(b)(4)(B) of the Vermont Rules for Environmental Court Proceedings. For further information, see the Vermont Rules for Environmental Court Proceedings, available on line at www.vermontjudiciary.org. The address for the Environmental Division is: 32 Cherry St.; 2nd Floor, Suite 303; Burlington, VT 05401; Telephone # 802-951-1740.

c. Findings

1. The Secretary received an application from John C. and Jean W. White for a Shoreland Permit under 10 V.S.A. § 1444(a), Permit Standards, on August 22, 2016. It was reviewed in accordance with the Department of Environmental Conservation's Permit Application Review Procedure, adopted May 22, 1996.

2. Within the protected shoreland area, and as described in Permit Application #2164-SP, the project involves the creation of 1,152 square feet of new impervious surface and 1,152 square feet of new cleared area. Two existing camps totaling 612 square feet will be removed and a 1,296 square foot habitable structure will be constructed over 144 square feet of the existing impervious surface footprint. The new habitable structure will be 101 feet from mean water level. In accordance with 10 V.S.A. § 1441, a permit is required for the creation of cleared area or impervious surface.

3. The subject parcel has a surface area of 26,400 square feet, 612 square feet of existing impervious surface, and 7,768 square feet of existing cleared area located within the protected shoreland area.

4. 10 V.S.A. § 1444(a)(1): All cleared area and impervious surface associated with the project is located at least 100 feet from mean water level.

5. 10 V.S.A. § 1444(a)(2)(B): The project area is located on a slope of 24%, more than 20%. The permittee has demonstrated that the project site will have a stable slope with minimal erosion and minimal negative impacts to water quality by establishing vegetative cover within the first 25 feet from mean water level. Additionally, excavation of the soil layer for potential projects other than those identified under 10 V.S.A. § 1446 or for establishing vegetative cover will not occur within the first 100 feet from mean water level to maintain a stable slope.

6. 10 V.S.A. § 1444(a)(3)(A): The project and existing impervious surface consists of no more than 1,764 square feet, 6.7% of the parcel within the protected shoreland area, resulting in no more than 20%.

7. 10 V.S.A. § 1444(a)(4)(A): The project and existing cleared area consists of no more than 8,920 square feet, 33.8% of the parcel within the protected shoreland area, resulting in no more than 40%.

8. 10 V.S.A. §1443(c)(3): No public comments were received in response to this permit application during the 30-day public notice period.

d. Authorization

By delegation from the Secretary, the Vermont Department of Environmental Conservation has made a determination that the project above qualifies for individual shoreland permit coverage if conducted in accordance with the Shoreland Protection Act, 10 V.S.A. § 1441 *et seq.*, and is subject to the conditions herein specified.

This permit shall be effective on the date of signing.

Alyssa B. Schuren, Commissioner
Department of Environmental Conservation

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Perry Thomas, Program Manager
Lakes and Ponds Management and Protection Program
Watershed Management Division