

Response Summary for Shoreland Protection Individual Permit Application



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

<p>Permittee(s): Kevin & Gail McGee</p> <p>Waterbody: Neal Pond</p> <p>Permit Number: 289</p>	<p>Parcel SPAN: 366-113-10586</p> <p>Parcel Address: 248 Boys Camp Road, Lunenburg</p>
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The above referenced Shoreland Protection Individual Permit #289 authorizes the creation of 2,307 square feet of new cleared area, 145 feet from mean water level.

The application was placed on public notice between May 12, 2016 and June 10, 2016. Public comments were received during the notice period.

The following is a summary of the comments and the Department's responses to those comments. Some of the comments were paraphrased and edited for clarity and combined where appropriate.

1. Comment:

1. The Applicants respond the slope of the project site area is between "8-10%." This is incorrect. The Applicants erected steep banks around one half of the affected area in December, 2015 without authorization, and in defiance of a mandate to cease work on said project area until a permit had been approved. A rough estimate for the slope of the banks runs from a minimum slope of approximately 60% (31 inch rise divided by a 50 inch run) to an approximate maximum of at least 75% slope (72 inch rise divided by a 96 inch run).
2. Applicants respond there will be zero (0) new impervious surface associated with this project. This is false. Views of the affected project area plainly indicate that the cleared area is currently largely comprised of earth (dirt). The Applicants intend to add more impervious surface, as stated in Section D1, Project Description, Number 2, by "...add[ing] more gravel to the area of 1,920 square feet of cleared area." The addition of gravel will count as new impervious surface. Section 5b – What is the total resulting impervious surface after completion of the project and prior to implementation of best management practices? Here, the Applicants respond that the total impervious area will not change from the impervious area they list prior to the project of 3,224 square feet. This is incorrect. Adding gravel to the affected area of 1,920 square feet will result in a total impervious surface area of 5,148 square feet.
3. Applicants note that the surface area of the parcel within the PSA is 13,456 square feet. The Applicants' survey represents that the surface area of the parcel within the PSA is actually 12,383 square feet.
4. The Applicants respond the surface of the new cleared area is 360 square feet. This is a misstatement of the actual unauthorized cleared area within the PSA. The surface area was documented immediately after the unauthorized clearing and was conservatively estimated to exceed 800 square feet.
5. The Applicants seek ANR's approval to create a drainage ditch to divert stormwater into the lake. The diversion of stormwater necessitates digging a trench across the private right-of-way. A drainage ditch, trench or otherwise altering the right-of-way on Boys Camp Road will result in yet another personal injury/property damage hazard erected in the road by the Applicants.
6. The Applicants installed a rock wall along the bank of the lake in front of their property without applying for or receiving the required Shoreland Encroachment Permit.
7. The Applicants installed a standard toilet to an unapproved and non-conforming septic tank, despite being warned not to do so by former VT Wastewater Manager. In a subsequent phone call, the health

officer stated the Applicants promised not to connect to the unapproved septic again and therefore the town considered the matter closed.

8. Applicants have multiple violations of environmental laws: On May 2, 2016 the ANR received a Shoreland Permit Application (Application Number 289) From Applicants Kevin and Gail McGee. This application has been submitted almost six (6) months after the Applicants created an unauthorized cleared area on November 5, 2015 and subsequently continued to perform unauthorized work in the affected area, despite repeated request by ANR during this period to submit said application prior to proceeding with additional site work. These requests from ANR include, but are not limited to repeated calls from ANR to apply for a permit, as well as a face-to-face meeting on December 3, 2015 between Mr. Kevin McGee and Mr. Dan Homeier, Regional Permit Analyst for Vermont's Lake and Shoreland Permitting. Mr. Homeier informed abutter after his December 3, 2015 meeting with Mr. McGee that he notified Applicants the clearing (which had already been completed), was unauthorized and a permit was required before any additional work to the affected area could be undertaken. The Applicants chose to ignore Mr. Homeier's directive and continued to do work within the affected area without the required permit.

1. Response:

1. The slope of the project site, as identified by the [Vermont Agency of Natural Resources Atlas](#) and confirmed by Department staff visiting the site on October 7, 2016, is no greater than 20%.
2. No new impervious surface is associated with this project. Gravel was applied to the top of a packed earth parking area, which is viewed as maintaining existing impervious surface without expansion, an exempt activity under the Shoreland Protection Act (§ 1446 (b)(5) Construction within footprint.).
3. Inaccuracies in the dimensions of the parcel within the PSA were updated by the Department in cooperation with the Applicant. The most accurate area is 12,992 square feet.
4. The new cleared area associated with this project, as confirmed by the Department in cooperation with the Applicant, was updated to 2,307 square feet during the technical review process.
5. The comment is outside of the scope of review under the Shoreland Protection Act.
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8. As directed by the Department, the Applicant applied for a Shoreland Protection Individual Permit after the fact to bring the parcel into compliance.