

Lake Encroachment Individual Permit
Under 29 V.S.A. § 401 et seq.



Permittee Information	
Permittee(s): Stephen L. Ferber and Cornelia V.H. Potter Trust Co-Permittee(s): Phil Beattie Waterbody: Caspian Lake Permit Number: 4883-LEP	Project Type: Shoreline Stabilization Parcel SPAN: 264-083-10741 Parcel Address: 79 Van Hook Road, Greensboro Coordinates: 44.593656, -72.318079
a. Specific Conditions	
Based upon the findings contained in this permit, the Department of Environmental Conservation (Department) has determined that the project located within a public lake or pond will comply with the criteria of 29 V.S.A. § 405, is consistent with the public trust doctrine, and is hereby approved under the following conditions. Completion of the project 1. Project completion. The project shall be completed up to the maximum extent of the approved encroachment as identified on the page titled "Final Site Plan – 9/10/2026" in the Approved Application, or as approved by the Department. The encroachment shall not be enlarged, extended, or added to without first obtaining additional authorization. 2. Co-permittee status. Any individual or entity other than the permittee that is engaging in the permitted jurisdictional activity shall notify the Department to obtain co-permittee status prior to any such work. Notification of the addition or termination of co-permittee status shall occur using a form provided by the Department. A co-permittee shall be subject to all terms and conditions in this permit. 3. Project commencement. Prior to starting the approved project, the permittee shall notify the Vermont Lakes & Ponds Program regional permit analyst via email (unless otherwise waived) of the date the project will begin. 4. Project completion schedule. The project shall be completed between July 1st and March 15th only, unless otherwise approved by the Department. This includes the use of erosion prevention and sediment control measures below mean water level, the establishment of the permitted encroachment, the removal of lakebed sediments, or any part of the project that results in a lakebed disturbing activity. Completion of the project shall not occur if the presence of ice within the project work area prohibits the use of sediment control measures. 5. Turbidity control. Heavy equipment shall work from shore only, unless specified in the Approved Application. A turbidity curtain, silt fence, cofferdam, or Department approved equivalent barrier (barriers), shall be used throughout the completion of the project as a sediment control measure in accordance with the following: A. Barriers shall be used around the project work area to prevent turbidity and any construction debris from moving past the barrier into the waterbody. If turbidity or construction debris is observed in the waterbody past the barrier, work shall stop immediately and shall not recommence until the source of the turbidity or construction debris is identified and corrected. B. Barriers shall remain in place and be maintained to function as designed until the project is completed and observations indicate turbidity within the barrier has decreased to the level of turbidity outside the barrier. C. Barriers installed in water shall extend above the surface of the water and be secured to the lakebed.	

6. Shoreline stabilization.

- A.** The project shall not reclaim lost land through placement of new fill beyond the location of the existing shoreline or create new land lakeward of the existing shoreline
- B.** The project shall not convert existing sloped shorelines to a vertical plane, unless specified in the Approved Application.

7. Limits of construction. There shall be no alteration of the lakebed beyond the approved project area. Large rocks, boulders, or large woody debris present in the project area shall not be removed from the waterbody unless approved otherwise.

8. Project completion report. Within 30 days of completion of the project, the permittee shall supply the [Vermont Lakes & Ponds Program regional permit analyst](#) with a report via email (unless otherwise waived) certifying that the project was completed in compliance with the conditions of this permit. Photographs showing the completed project shall be submitted with the report.

Operation of the project

9. Maintenance of encroachment. The encroachment shall not deteriorate to a point that it adversely affects the public good, as determined by the Secretary in accordance with 29 V.S.A. § 405(b), or discharges any waste, substance, or material into waters of the State.

10. Permit expiration. The project shall be completed within 5 years of the effective date of this permit, or this permit shall expire. Should the permitted encroachment be established prior to the expiration stated above, this permit shall expire 30 years from the effective date of this permit (section d.).

Prior to the expiration of this permit, a permit application shall be submitted to the Department to continue to encroach. The Department shall review the project area and determine if any site restoration or removal of the encroachment will be required. A renewal decision shall be based on the relevant statutory criteria and Department rules, procedures, and policies prevailing at that time.

b. Standard Conditions

- 1. Permit modification.** Permit modifications shall be reviewed in accordance with 10 V.S.A. Chapter 170 and any rules adopted thereunder.
- 2. Aquatic species spread prevention.** Prior to entering and upon leaving the water, vessels, motor vehicles transporting vessels, trailers, and all other equipment being used to complete the project shall be inspected and any aquatic plants, aquatic plant parts, or aquatic nuisance species shall be removed and disposed of properly.
- 3. Erosion prevention and sediment control.** Erosion prevention and sediment control best management practices shall be utilized and maintained to prevent erosion and control sediment to minimize and prevent adverse impacts to water quality during construction of the authorized project. In addition, the permittee shall comply with the following conditions:
 - A.** Areas above mean water level disturbed by the construction activities shall be protected from erosion through the application of seed and mulch upon completion of construction and shall be temporarily mulched during construction in advance of precipitation events.
 - B.** Work shall stop immediately if visible turbidity occurs in the water as a result of construction activities and shall not recommence until the source of the turbidity is identified and corrected.
- 4. Heavy equipment operation.** Heavy equipment shall work from shore and shall not work lakeward of mean water level unless approved in writing by the Department, and/or specified in the Approved Application.
- 5. Spill prevention.** Fuel and lubricants from equipment shall not be discharged into the water. Any spills shall be managed in accordance with all applicable local, state, and federal regulations.

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6. Waste management. Any pieces of concrete, stone, construction debris, or other temporary project materials (e.g., sandbags, barriers) deposited below mean water level during project implementation/construction shall be removed from the water and disposed of properly, in accordance with all applicable local, state, and federal regulations.
7. Compliance with other regulations. This permit does not relieve the permittee from obtaining all other approvals and permits prior to commencement of activity or from the responsibility to comply with any other applicable federal, state, and local laws or regulations, including but not limited to the Vermont Solid Waste Management Rules, the Vermont Wetland Rules, and the Vermont Shoreland Protection Act.
8. Transfer of permit. Prior to transferring ownership over the encroachment authorized by this permit or the portion of property associated with the encroachment authorized by this permit, the permittee shall give the Department notice of the transfer. The notice shall include the name and contact information for the current permittee and prospective permittee, the proposed date of permit transfer, and a statement signed by the prospective permittee stating that he/she has read and is familiar with this permit and agrees to comply with and be bound by its terms and conditions.
9. Access to property. The permittee shall allow the Commissioner of the Department, or a duly authorized representative, at reasonable times and upon presentation of credentials, to enter upon permittee's property, or to otherwise access the authorized encroachment, if necessary, to inspect the project to determine compliance with this permit.
10. Legal responsibilities for damages. The Department, 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 project.
11. Rights and Privileges. This permit does not authorize any damage to private property or invasion of private rights or the violation of federal, state, or local laws or regulations. In addition, this permit does not convey any title or interest to the lands lying under public waters or waters affected.
12. 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 29 V.S.A. Chapter 11 and may be cause for an enforcement action and revocation, modification, or suspension of this 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.
13. Reopener. If, after granting this permit, the Department determines that there is evidence indicating that an authorized activity does not comply with the requirements of 29 V.S.A. Chapter 11, the Department may reopen and modify this permit to include different limitations and requirements.
14. Revocation. This permit is subject to the conditions and specifications herein and may be suspended or revoked at any time for cause including: failure by the permittee to disclose all relevant facts during the application process which were known at that time; misrepresentation of any relevant fact at any time; non-compliance with the conditions and specifications of the permit; or a change in the factors associated with the encroachment's effect on the public trust or public good so that on balance the Department finds that the encroachment adversely affects the public trust or public good.
15. Severance. The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.
16. Appeals. Pursuant to 10 V.S.A. Chapter 220 and the Vermont Rules for Environmental Court Proceedings, 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. An aggrieved person shall not appeal this permit unless the person submitted to the Secretary a written comment during the applicable public comment period or an

oral comment at the public meeting conducted by the Secretary. Absent a determination of the Environmental judge to the contrary, an aggrieved person may only appeal issues related to the person's comments to the Secretary as prescribed by 10 V.S.A. § 8504(d)(2). 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. 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 at www.vermontjudiciary.org. The address for the Environmental Division is: 32 Cherry Street; 2nd Floor, Suite 303; Burlington, VT 05401 Telephone #: 802-951-1740.

c. Findings

1. Jurisdiction - 29 V.S.A. § 403: Caspian Lake in Greensboro is a public water of the State of Vermont. The project encroaches beyond the shoreline as delineated by the mean water level. Therefore, the Department has jurisdiction under 29 V.S.A. Chapter 11.
2. Application receipt and review - 29 V.S.A. § 404 and § 405: On August 26, 2026, the Department received an application from Stephen L. Ferber and Cornelia V.H. Potter Trust (permittee) and Phil Beattie (co-permittee), under the provisions of 29 V.S.A. Chapter 11. Upon receipt of the application, the Department proceeded in accordance with the permit process as identified under 10 V.S.A. Chapter 170. The application was reviewed in accordance with:
 - A. The Department's *Permit Application Review Guidance* adopted March 14, 2019.
 - B. The Department's *Interim Procedures for the Issuance or Denial of Encroachment Permits* dated October 4, 1989, excluding Section 3, which was invalidated by Lamoille County Superior Court, Docket No. S96-91, 9/04/92. In accordance with this procedure, a three-part test (c.6 – c.8 below) is applied to reviewing whether the encroachment will adversely affect the public good. All three tests must be passed for a permit to be issued.
 - C. The Department's *Lake Encroachment Individual Permit Application Public Trust Review Procedure* dated July 15, 2024.
3. Background; Lake Encroachment Permit History: None
4. Project description: The project is to repair 50 linear feet of an existing, failing stacked stone retaining wall. The existing wall is approximately 4-feet wide by 4-feet tall by 50-feet long. To complete the project, a turbidity curtain will be installed around the project area. Working from shore, the existing wall will be removed and then reset using a combination of reused material retrieved from the lakebed and new material brought in. Approximately 15 cubic yards of natural stone no greater than 1-foot by 4-feet in size will be installed set at a slope along 50-feet of shoreline to stabilize the bank within the same footprint of the existing wall. Approximately 4-6-inch clean drainage stone will be used as backfill between the dry-laid stacked stone and shoreline. Topsoil will be added on top of the backfill and a 5-foot-wide vegetative buffer will be planted behind the repaired wall.
5. Project purpose: The project purpose is to repair a failing dry-laid stone wall to prevent erosion along the shoreline.
6. Assessment of the encroachment
 - A. Whether the extent of the proposed encroachment is excessive for its stated purpose: The project is not excessive for the stated purpose.

- B. Whether there is a feasible alternative to the proposed encroachment which is less intrusive: To achieve the project purpose, this project is considered a less intrusive feasible alternative.
- C. Whether all practical measures have been taken to reduce the impacts on the public resources: All practical measures will be taken to reduce impacts on the public resources.
- D. Whether the encroachment involves the placement of fill, borrow material, concrete, sand, or other similar materials beyond the mean water level: The project involves the addition of fill as identified under c.4 above and is the result of a repair to existing encroachments of similar material. The addition of fill beyond mean water level has been determined to be the minimum amount needed to achieve the project purpose.
7. Effect of the encroachment on:
- A. Water quality: Impacts on water quality are anticipated to be temporary and limited to the project area during construction of the project. To contain impacts to water quality, a turbidity curtain, silt fence, cofferdam, or Department approved equivalent barrier, will be used throughout the completion of the project as a sediment control measure. Heavy equipment will work from shore only to minimize lakebed disturbances and minimizing fuels and lubricants from entering the water. The project may be completed up until March 15th provided sediment control measures can be installed and maintained to function as designed. After that time, ice flows and sudden spring high-water conditions will likely negatively impact construction of the project and the ability to maintain sediment control measures. The design of the project includes the use of dry-laid natural stone boulders/riprap set at an angle to stabilize the shoreline.
- This design is anticipated to minimize erosive wave energy from reflecting back into the waterbody or onto other sections of nearby shoreline. The non-structural design of the natural stone installation is not anticipated to have adverse impacts to water quality. Upon completion of the project, it is anticipated that shoreline erosion will be reduced and result in a benefit to water quality.
- B. Fish and wildlife habitat: To avoid impacts to spring fish spawning, the project will not be initiated prior to July 1st within the calendar year. Heavy equipment will work from shore only to minimize impacts to the lakebed. The project is for angular dry-laid boulders set at an angle against the shoreline (i.e., not a vertical wall), which is not anticipated to reduce connectivity between aquatic and terrestrial ecosystems. It is not anticipated that the completed project will have an adverse effect on fish and wildlife habitat.
- C. Aquatic and shoreline vegetation: No removal of aquatic or shoreline vegetation is proposed to complete the project. It is not anticipated that this project will have an adverse effect on aquatic and shoreline vegetation.
- D. Navigation and other recreational and public uses, including fishing and swimming: Impacts to navigation and other recreational and public uses are anticipated to be temporary and limited to the project area during construction of the project. Upon completing the construction of the project, it is not anticipated that the project will have an adverse effect on navigation and other recreational and public uses.
- E. Consistency with the natural surroundings: The surrounding shoreline is developed with homes and stabilized with structural and non-structural methods. The project is considered consistent the existing surroundings.
- F. Consistency with municipal shoreland zoning ordinances and applicable state plans: No adverse comments were received during the investigation from local and state officers and the project is

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therefore considered to be consistent with municipal shoreland zoning ordinances and applicable state plans.

8. Cumulative impact: The project is the minimum necessary encroachment to achieve the purpose of the project. The project is not anticipated to result in adverse cumulative impacts.
9. Public good determination summary: Based upon findings c.6 – c.8, the project will not adversely affect the public good.
10. Public trust determination: To review whether a project is in keeping with the Public Trust Doctrine, there must be a public purpose, a public benefit, or both, that outweighs any adverse impact on the public resource. The state, as trustee, cannot sell or give away these public resources to individuals or corporations for purely private purposes. Under this doctrine, the state cannot approve a non-exempt encroachment that is exclusively for private purposes.

The intended public purpose(s) relevant to the proposed project include:

- The project will stabilize the shoreline and control erosion

The anticipated public benefit(s) relevant to the proposed project include:

- Erosion control

The potential adverse impacts of the proposed project and cumulative impacts of existing encroachments on the public resource are relative to how the project may impact the public good, public trust uses, or both, as well as the extent of the project reserved for private use and the area occupied by the project relative to the surrounding waters. The Department has determined that the intended public purpose(s), the anticipated public benefit(s), or both, outweighs any adverse impact on the public resource. Therefore, the Department has determined that the project is consistent with the public trust doctrine.

d. Authorization

The Department determined that the project above qualifies for Lake Encroachment individual permit coverage if conducted in accordance with the public good criteria of 29 V.S.A. § 405, remains consistent with the public trust doctrine, and complies with the conditions herein specified.

This permit shall be effective on the date of signing and shall be effective for a term specified in the Specific Conditions, provided that the permittee complies with the requirements of this permit and takes no additional action for which an individual permit is required.

Julia S. Moore, Secretary
Vermont Agency of Natural Resources

By: _____

Misha Cetner, Environmental Analyst
Lakes and Ponds Management and Protection Program
Watershed Management Division