



PAUL R. LePAGE  
GOVERNOR

STATE OF MAINE  
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY  
LAND USE PLANNING COMMISSION  
194 MAIN STREET  
EAST MILLINOCKET, MAINE 04430

# PERMIT

## GREAT PONDS PERMIT GP 3397; EC 2009-50 WATER QUALITY CERTIFICATION

The staff of the Maine Land Use Regulation Commission, after reviewing the application and supporting documents submitted by Richard Tetlow for Great Ponds Permit GP 3397, finds the following facts:

1. Applicant: Richard Tetlow  
445 North Guilford Rd.  
Monson, ME 04464
2. Date of Completed Application: July 8, 2014
3. Location of Proposal: Orneville Township, Piscataquis County  
Lot #43, 43.2, 44, & 44.2 on Plan 06, Map PI082
4. Zoning: (D-RS) Residential Development Subdistrict  
(P-WL1) Wetland Protection Subdistrict  
(P-FP) Flood Prone Protection Subdistrict by virtue of Section 10.23, C, 2 of the Commission's Land Use Districts and Standards
5. Affected Waterbody: Boyd Lake

The Commission has identified Boyd Lake as a resource class 1B, management class 5, relatively developed, relatively accessible waterbody with significant fisheries, cultural and physical resources.

### Administrative History:

6. The applicant's 0.52 acre lot with approximately 100 feet of shore frontage is historically developed with a 25 foot by 23 foot pre-Commission seasonal camp with attached 25 foot by 8 foot porch located 25 feet from the normal high water mark of Boyd Lake and is served by a combined sewage disposal system. The lot is further developed with an 8 foot by 10 foot shed located 75 feet from the normal high water mark of Boyd Lake, 25 feet from the access road, and greater than 15 feet from the nearest property boundary line.
7. In 2006, applicant constructed, or caused to be constructed, a 25 foot by 31 foot second-story addition to the dwelling located 25 feet from the normal high water mark of Boyd Lake without prior approval from the Commission. In addition, the applicant constructed a 9 foot by 15 foot deck located 4.5 feet over the normal high water mark of Boyd Lake, including a wooden

retaining wall/cement support structure located 1 foot below the normal high water mark of the lake; constructed a stone patio within 4 feet of the normal high water mark, and filled and graded within 100 feet of the normal high water mark without prior approval from the Commission and in excess of standards. [Reference: Enforcement Case EC 14-05; Active].

Proposal:

8. The applicant now seeks approval to remove the unauthorized retaining wall, slope back the shoreline by removing the fill material, and to stabilize the shoreline with riprap and plantings at the top of the bank. The regraded area would extend from the normal high water mark to approximately three (3) feet shoreward for a distance of approximately 16 linear feet along the shore. The grade would be no steeper than one and a half horizontal to one vertical (1.5:1). The applicant also proposes to install a filter layer on top of the exposed slope by placing filter fabric and/or a layer of clean  $\frac{3}{4}$  inch crushed stone. The applicant further proposes to place an anchoring row of large rocks at the base of the bank approximately one (1) foot below the normal high water mark in a trench at the toe of the bank and extending riprap a distance of approximately 3 feet landward from the normal high water mark, with a maximum 3 foot vertical height, and planting native shrubs at the top of the bank.
9. The applicant also proposes to remove the existing unauthorized stone patio located 4 feet from the normal high water mark and immediately stabilizing the area with erosion control bark mulch.
10. The total area altered by the shoreline stabilization project would be approximately 48 square feet (16 square feet below the normal high water mark of the lake and 32 square feet above the normal high water mark). All work would be done from the shore during a period when the water level is lower than the work area. Hay bales and/or silt fence will be used to control sedimentation and erosion during construction.

Review Criteria:

11. Under provisions of Section 10.21,J,3,c,(16) and 10.23,N,3,c,(11), and 10.23,C,3,c(15) of the Commission's Land Use Districts and Standards, shoreland alterations, including temporary docking structures, on-shore structures used to secure docks and moorings, and reconstruction of permanent docking structures; but excluding marinas, new or expanded permanent docking facilities, water-access ways, trailered ramps, hand-carry launches, and water crossings of minor flowing waters may be allowed upon issuance of a permit from the Commission within (D-RS) Residential Development Subdistrict, (P-WL1) Wetland Protection Subdistrict, and (P-FP) Flood Prone Protection Subdistrict, respectively.
12. Under provisions of Section 10.25,P,1,c(3) of the Commission's Land Use Districts and Standards, projects altering any area of P-WL1 wetlands require a Tier 3 review. Alterations of P-WL1 wetlands may be eligible for Tier 1 or Tier 2 review if the Commission determines, at the applicant's request, that the activity will have no undue adverse impact on the freshwater wetlands or other protected resources present. In making this determination, consideration shall include but not be limited to, such factors as the size of the alteration, functions of the impacted area, existing development or character of the area in and around the alteration site, elevation differences and hydrological connection to surface water or other protected features.

13. Under the provisions of Section 10.25,P,2,a(2) of the Commission's Land Use Districts and Standards, projects requiring Tier 2 review must: (a) not cause a loss in wetland area, functions and values if there is a practicable alternative to the project that would be less damaging to the environment; (b) limit the amount of wetland to be altered to the minimum amount necessary to complete the project; (c) comply with applicable water quality standards; i.e., the activity will not violate any state water quality law, including those governing the classification of the State's waters; and (d) must use erosion control measures to prevent sedimentation of surface waters.
14. Pursuant to Section I,C,1,a of the Commission's Compensation Guidelines, neither a functional assessment nor compensation is required for alterations of less than 500 square feet in a freshwater wetland of special significance, provided the Commission determines there will be only a minimal effect on freshwater wetland functions and values, significant wildlife habitat, or imperiled or critically imperiled communities due to the activity.

#### Review Comments

15. The Army Corps of Engineers has reviewed this proposal and states that the project qualifies as a Category 1, non-reporting project and no further action is needed.
16. The Department of Inland Fisheries and Wildlife has reviewed this proposal and has no wildlife or fisheries concerns.
17. The Maine Natural Areas program has reviewed this proposal and stated there are no rare botanical features that will be disturbed within the project site.
18. The facts are otherwise as represented in Great Ponds Permit Application GP3397 and supporting documents.

#### **Based upon the above Findings, the staff concludes that:**

1. The proposed shoreland alteration would not have any undue adverse impact on surrounding uses and resources. The slope of the riprap area is too steep to simply fill and grade the area and the proposed riprap and grading would stabilize the shoreline and prevent erosion, and therefore, may be allowed upon the issuance of a permit under provisions of Sections 10.21,J,3,c,(16), 10.23,N,3,c,(11), and 10.23,C,3,c(15) of the Commission's Land Use Districts and Standards.
2. The applicants' proposal would meet the criteria for a reduction of the level of wetlands review from Tier 3 to Tier 2 under Section 10.25,P,1,c(3) of the Commission's Land Use Districts and Standards. Specifically, the impact to the P-WL1 wetland would be limited to that which is needed to anchor the riprap at the toe of the bank; is small in size and depth (approximately 16 square feet of direct impact below the normal high water mark of the lake); excavation below the normal high water mark would be done with machinery operating from the shore; the project would be completed when the water level is low, and erosion control measures would be implemented. No significant adverse impact to the lake, fisheries habitat, or other wetland functions and values has been identified.
3. The applicants' proposal meets the criteria for approval under Section 10.25,P,2,a(2) of the Commission's Land Use Districts and Standards. Specifically, there exists no practicable alternative that would impact a smaller wetland area, the project would be completed when the water level is low, and recognized erosion and sedimentation control devices would be used

which will prevent sedimentation and erosion and minimize water quality impacts. No significant adverse impact to the water quality of the lake has been identified.

4. If carried out in compliance with the Conditions below, the proposal will meet the Criteria for Approval, Section 685-B(4) of the Commission's Statutes, 12 M.R.S.A.

**Therefore, the staff approves the application of Richard Tetlow for the removal of the existing stone patio and retaining wall and installation of riprap with the following conditions:**

1. The Standard Conditions for Shoreland Alterations (ver. 4/91), a copy of which is attached.

Notwithstanding Condition #3 of the Standard Conditions for Shoreland Alterations, activities authorized by this permit must be begun in the summer/fall of 2014 during a period of low water and completed by October 1, 2014. [Reference Enforcement Case EC 09-50, Active]

2. The Standards for Installation of Riprap (ver. 4/91), a a copy of which is attached.
3. Two days prior to the start of commencing the permitted activities, the permittee must notify the Commission staff of the start of the activity.
4. The applicant shall plant a minimum of three native trees and shrubs interspersed at the top of the bank above the riprap. The applicant shall monitor plantings and plantings must be replaced or maintained as necessary to achieve 85% survival after one full growing season.
5. Staked hay bales or silt fencing anchored with rock or gravel must be placed between the work area and the water, prior to construction activities, to prevent sedimentation to the lake. Once implemented or put in place, erosion control devices and measures must be maintained to ensure proper functioning. Should any erosion or sedimentation occur during construction, the permittee shall cease construction and contact the Commission immediately, notifying it of the problem and describing all proposed corrective measures.
6. All solid waste and other debris must be disposed of in a proper manner, in accordance with all applicable state and federal solid waste laws and rules.
7. Wheeled or tracked, heavy equipment must not be driven below the normal high water mark of Boyd Lake.
8. Rock used for the riprap must not be taken from the waterbody or the existing shoreline of Boyd Lake. Filter fabric and/or clean ¾ inch crushed stone must be installed under the rocks in order to prevent fine particles from washing into the waterbody.
9. All areas of exposed mineral soil above the normal high water mark of Boyd Lake disturbed by the authorized activity must be promptly mulched to avoid soil erosion and lake sedimentation.
10. Should any erosion or sedimentation occur during construction, the permittee shall cease construction and contact the Land Use Planning Commission immediately, notifying it of the problem and describing all proposed corrective measures.

11. Nothing in this permit shall be construed to release the permittee from any liability or responsibility arising from any violation, including Enforcement Case EC 2009-50, or to be considered a waiver of the authority of the Commission or the State to fully pursue or prosecute such violations.

This permit is approved only upon the above stated conditions and remains valid only if the permittee complies with all of these conditions. In addition, any person aggrieved by this decision of the staff may, within 30 days, request that the Commission review the decision.

DONE AND DATED AT EAST MILLINOCKET, MAINE,  
THIS 24th DAY OF JULY, 2014.

By:   
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for Nicholas D. Livesay, Executive Director