

Response Summary for Lake Encroachment Individual Permit

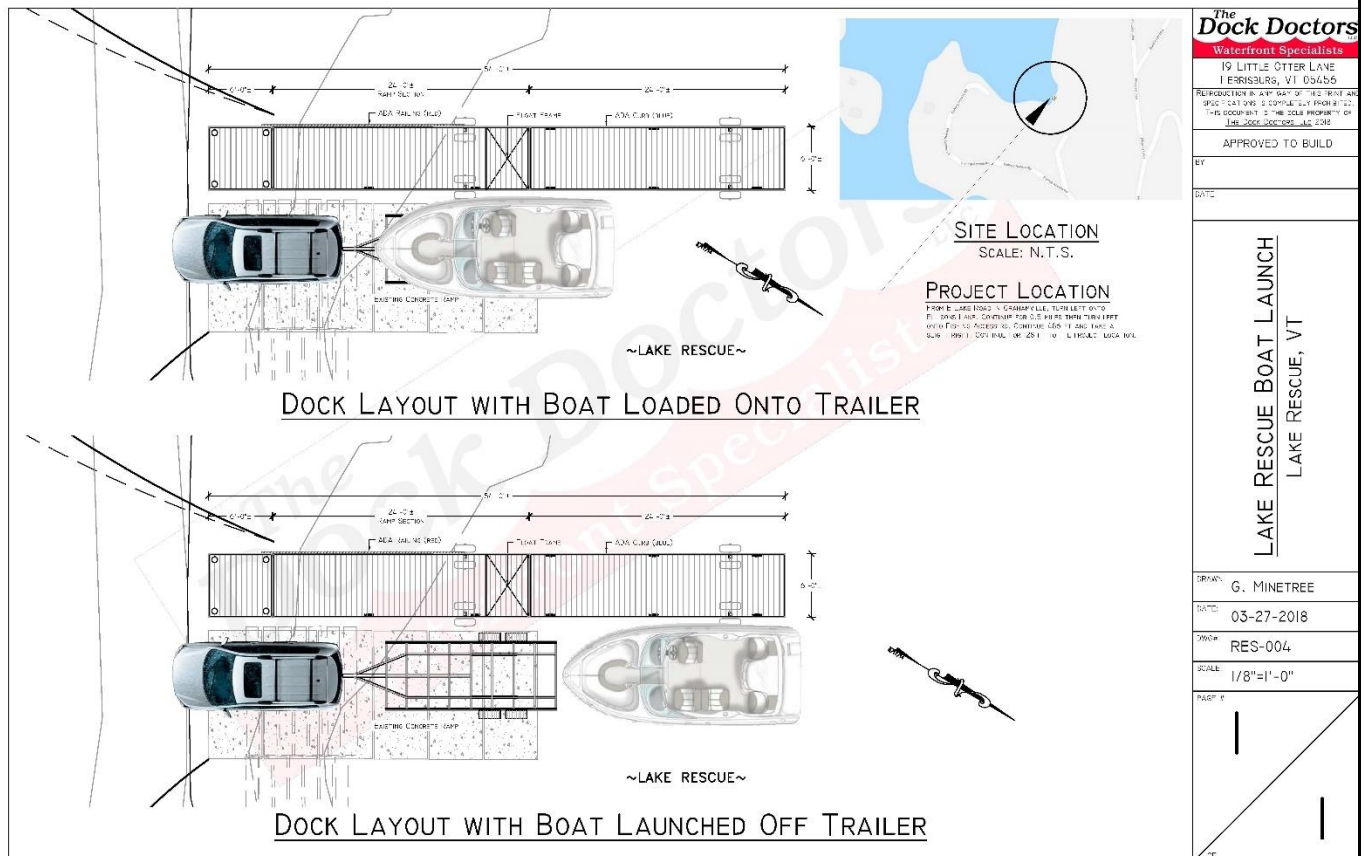


VERMONT DEPARTMENT OF
ENVIRONMENTAL CONSERVATION
WATERSHED
MANAGEMENT DIVISION
LAKES & PONDS PROGRAM

<p>Permittee: Vermont Department of Fish and Wildlife</p> <p>Waterbody: Lake Rescue</p> <p>Permit Number: 2536-LEP</p>	<p>Project Description: Floating Dock Installation</p> <p>Parcel Address: Fishing Access Road, Ludlow</p> <p>Coordinates: 43.4553840, -72.7017850</p>
<p>The above referenced Lake Encroachment Individual Permit #2536-LEP authorizes the installation of a floating dock at a public access area managed by the Vermont Department of Fish and Wildlife.</p> <p>The application was placed on public notice between February 16, 2018 and April 4, 2018. Public comments were received during the notice period.</p> <p>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. Duplicative comments were combined where appropriate.</p>	
<p>1. Comment: As proposed, the dock is to be located on the west side of the boat ramp. As proposed, the dock and any activity on or about the dock will be out of sight of a driver backing a boat trailer down the boat ramp. If the dock was located on the east side of the boat ramp the dock and any activity by pedestrians, swimmers, boats or fishermen would be in clear view of a driver backing a boat trailer on to the ramp. Secondly, when launching a fixed prop boat (like many ski boats on the lake), will only back to the starboard (right) side due to "prop walk", therefore causing a boat backing off a trailer to drift towards the dock and anyone on or about the dock. If the dock was located on the east side of the boat ramp then a boat backing off a trailer will drift away from the dock and any pedestrian, swimmer, boat using the dock. For these reasons it would be safer to have the dock located on the east side of the boat ramp.</p> <p>1. Response: The Department requested additional technical information from the applicant to explain how a decision was made as to where to place the dock and whether it was possible to move the dock to the other side. The applicant provided the Department with information that they originally planned to locate the dock and ADA compliant parking on the east side of the ramp, but due to the limited space, the applicant determined that it would be difficult to get an ADA parking space on the east side of the ramp. The Vermont Department of Fish and Wildlife plans to install a fully compliant ADA parking space in front of the kiosk and will improve it with a paved parking space and path to the dock. The applicant supplied information stating that the placement of an ADA compliant path across the top of the boat ramp is difficult due to the slope requirements for ADA compliant paths. The location of the dock, as permitted, has been determined that it will not adversely affect the public good and is consistent with the public trust doctrine.</p> <p>2. Comment: The proposed project will bring increased traffic of people on the dock, fishing, loitering, etc. This will bring noise, car traffic, boat traffic, and increased trash at the access area.</p> <p>2. Response: Beyond the potential for increased boat traffic, this comment is outside the scope of review under Lake Encroachment. The project is proposed at an existing public access area. The jurisdiction of Lake Encroachment permitting extends to public waters of the State and the lands lying thereunder, which lie beyond the shoreline or shorelines delineated by the mean water level. Use of the access area above mean water level is beyond the scope of what is regulated under this permit. See response to comment #4 relating to the potential for increased boat traffic.</p> <p>3. Comment: The dock is excessive in length and inappropriately sized. The current proposal of a 48-foot-long dock would extend very far into what is a small cove. The size of the dock on such a small cove of the lake</p>	

seems to be out of proportion. This dock is larger than any of the other surrounding docks on Round Pond. There is simply no space on the water for the dock of this size.

3. Response: The Department requested additional information from the applicant to explain the need for a 48-foot long dock. The applicant provided the following drawing showing a minimum functional length of a dock as about 50 feet for an average vehicle with a trailered boat. As shown, an average vehicle and a trailered boat extend beyond the 30-foot mark of the dock. Once the boat is floating, the remaining 20 feet of the dock is used to tie up the boat. The applicant demonstrated that if the dock were shortened, there would not be sufficient space on the dock for a boater to tie up, as the trailer and vehicle would be in the way. The Department assessed the length of the dock in the context of this information, dock sizes at other access areas, average motor boat sizes (20 feet in length), and the use of public waters rules that requires boats within 200 feet from shore to be traveling at a no wake speed (5 mph). The proposed dock has been determined to not be excessive in length for the stated purpose.



4. Comment: The small cove is a very congested area, especially on weekends, and there are safety concerns. During periods of increased activity and traffic, we have witnessed some unsafe occurrences. When the area is congested, boats wait to the side or in the cove to use the ramp. Often these boats are revving and idling their engines, creating noise and air pollution. During the summer, the water area surrounding the boat ramp becomes very active not only with boats entering and exiting the lake from the ramp, but also with all ages of resident swimmers, kayakers and paddleboarders, motorboats, paddleboats and numerous other private dock/floating dock activities. Many children swim in this cove. With a smaller area for boats to navigate, due to the proposed dock, the children will be put in harm's way. The area will be much more dangerous for swimmers and non-motorized craft. We have experienced crowded weekends with boats cutting too close or on the inside of our swim dock, dangerously close to where our children swim. The dock will attract swimmers and other unintended uses. We are concerned that a large dock will attract swimmers, particularly children, and since there is no supervision or lifeguards in the area there is a real safety risk.

4. Response: Swimming from the public fishing access area is a prohibited activity. The Department assessed the length of the dock and reviewed the use of public waters rules that requires boats within 200 feet from shore to be traveling at a no wake speed. The proposed dock installation has not been determined to adversely impact navigation, or other permitted recreational uses.

5. Comment: I am not opposed to having an ADA accessible ramp, but I feel this is not the correct location for a dock.

5. Response: The Department has determined that the project will not adversely affect the public good and is consistent with the public trust doctrine, therefore the application must be approved.

6. Comment: While we are generally in support of increasing ADA access to recreational activities on Lake Rescue, we do have some questions and concerns about how this particular proposal might affect this specific area of the lake. The current boat launch area is small, especially with the current docks that surround it. Adding the very large proposed dock would significantly decrease the area for boats to navigate in the cove. The launch area is a pinch point; it currently requires careful navigation around swim platforms, docks, kayaks, paddle boarders and boat traffic. The extraordinary length and location of this dock will significantly worsen this situation. We believe that the 48-foot dock design submitted in the application may very well be a hazard to navigation. With the addition of a 54-foot structure – 48 of which will be protruding in the water- the navigation channel will become even more congested. We do not see how it will be feasible for multiple motor boats to navigate into and out of the cove without causing safety hazards to the public and private kayakers, paddle boaters and for the swimmers from the privately-owned docks. In addition to motor boats, the public boat launch attracts kayakers and non-motor boats. The safety of these types of vessels will be significantly compromised when there are multiple motor boats in the navigation channel. The addition of the dock will decrease the area for boat navigation. It is already the case that the public boat ramp is often heavily trafficked and the addition of the ramp and corresponding reduction in the area available for use by trailers would increase the difficulty boaters already have in navigation in and out of the water. An unintended negative consequence from this dock are potential hazards to navigation.

6. Response: Based on the Department's review of the proposed dock, the project will not adversely affect the public good, including navigation and recreational activities, and is consistent with the public trust doctrine, therefore the application must be approved. The Department assessed the length of the dock, the size of the access area, average boat sizes, and the use of public waters rules that requires boats within 200 feet from shore to be traveling at a no wake speed (5 mph). The proposed dock has not been determined to adversely impact navigation, or the public good. Laws related to the operation of watercraft are primarily enforced by the VT State Police, but VT Fish and Wildlife game wardens will also enforce these laws when on the water.

7. Comment: Having a dock on the public ramp invites swimmers and recreational play, which again would be extremely dangerous to have in a boat launch area. In addition, it might bring a large increase in traffic both boating and swimming, which our small pond is not equipped to handle. This dock will increase traffic and activity significantly. We are concerned that the access ramp will become an attractive nuisance that will encourage the public to swim, fish, tether boats and picnic at the public access site. As you know, all of those activities are prohibited, yet to date have rarely been enforced. I am speaking from my own experiences of having to remind public boaters that our swim dock and our neighbor's swim dock are not public property. We have had to ask boaters to please not tether up to them or allow their children to swim off them. Moreover, although the boat ramp is supposed to be a no swimming zone, enforcement of these rules is sporadic by the game wardens and auxiliary state police officers. We are afraid people will be thinking the dock is granting them permission to fish and swim from the dock. We are concerned the new and improved accessibility of the dock will increase traffic from able bodied boaters in what is a very small cove on the small part (Round Pond) part of Lake Rescue. Additionally, our children swim in the cove and we have experienced crowded weekends with boats cutting too close or on the inside of our swim dock, dangerously close to where our children swim. It is illegal to swim and fish off of the boat launch, and who will be there to enforce this law? Unintended

consequence dangerous overcrowding from inappropriate recreational usage by the public, and overcrowding at the boat ramp parking area

7. Response: Swimming and picnicking are prohibited activities at public access areas, which are managed by the Vermont Department of Fish and Wildlife. In accordance with 29 V.S.A. § 405(b), in determining whether the proposed dock will adversely affect the public good, the Department considered the effect of the proposed encroachment as well as the potential cumulative effect of existing encroachments on water quality, fish and wildlife habitat, aquatic and shoreline vegetation, navigation and other recreational and public uses, including fishing and swimming, consistency with the natural surroundings and consistency with municipal shoreland zoning ordinances or any applicable State plans.

Signage containing the rules of use is posted at the Vermont Department of Fish and Wildlife Access Area kiosk. To address concerns related to multiple public good uses occurring within the waters immediately adjacent to the dock, the applicant has agreed to post an additional sign adjacent to the dock that identifies the rules that prohibit swimming, picnicking, loitering, littering, fires, and camping.

The proposed dock is located at an existing Vermont Department of Fish and Wildlife access area. The Department determined that the dock will not adversely affect the public good based on the aforementioned review criteria.

8. Comment: We are concerned about the already overcrowded parking lot at the public access. Additional boat traffic will increase the volume in the parking lot with the overflow going into the public right of way. Fishing Access street is already very narrow and steep, so overflow truck and trailer parking will have nowhere to go! Most summer days, particularly on weekends, the boat ramp parking area is overcrowded with cars, trucks, and trailers. It's already difficult to back a boat trailer down the ramp. The proposed boat dock will make this situation even worse. It will make launching a boat even more of a challenge. Traffic and parking is already a big problem in this area. There is limited parking in that area and more cars bringing swimmers to that part of the lake will be a nuisance to the homeowners at the fishing access point. We are concerned about the adequacy of the Access parking area to provide sufficient space for parking motor vehicles and their attached trailers as well as for vehicles parked by people who swim from the Access. Adding new traffic will make the congestion even more problematic (and will exacerbate the ongoing trash problem caused by the absence of trash receptacles and removal). The winding, narrow and dirt roads to the launch and parking area. Please see for yourself how small this area is and how this long dock will affect a quiet, local launch enjoyed by area boaters

8. Response: This project is proposed to be installed at an existing public access area. The jurisdiction of Lake Encroachment permitting extends to public waters and the lands lying thereunder, which lie beyond the shoreline or shorelines delineated by the mean water level of any lake or pond which is a public water of the State. Recreational usage of the access area and issues concerning parking congestion above mean water level is beyond the scope of review under this permit.

9. Comment: A review of the publication of the Vermont Department of Fish and Wildlife "Fishing Access Area Program 2017 Maintenance and Construction Report" details how money has been spent recently on fishing access points. I noted that the ADA ramp improvements are mainly on larger lake systems, such as various access points on Lake Champlain. I pose the question if perhaps this type of improvement might be more impactful on a larger lake in our area, of which there are several.

9. Response: The review of the permit application specifically investigates how the proposed encroachment at that location of public water may affect the public good. Whether the applicant should be requesting this type of project on an alternate waterbody is outside the scope of review under this permit.

10. Comment: We disagree with the draft decision finding #15 Consistency with Natural Surroundings: The proposed floating dock system will replace an existing dock that has historically been used for recreation purposes. The project is considered consistent with the natural surroundings. There is not (nor ever has been to our knowledge) an "existing dock" of any kind above the water line at this facility. The existing concrete

ramp is 100% at ground level, largely disappears under water and has absolutely no effect on the natural surroundings, neither physically nor visually. The proposed floating dock appears to be parallel to the concrete ramp, is 100% above ground and water, and will take up at least 6 feet of inland space currently used to facilitate turn-taking for launching boats. The proposed dock will also visually affect the shoreline of the adjacent wooded area quite severely and could disrupt any wildlife habitats already existing in that area.

10. Response: The Department acknowledges this error. The permit finding has been updated accordingly.

11. Comment: Is it possible to reduce the length of either the ramp section and/or the floating section?

11. Response: The Department has determined that the project will not adversely affect the public good and is consistent with the public trust doctrine, therefore the application, as submitted, must be approved. Please see response to comment #3 for more information about dock length.

12. Comment: We believe the proposed dock carries the potential to attract individuals for social gatherings rather than boat launchings, similar to the spillway at Red Bridge. The boat access area is already very small relative to its purpose, is easily crowded with vehicles and trailers and has very limited parking. As previously stated it is very close to private homes/properties where trespassing is already an issue. Under this proposal, who would monitor and enforce the no swimming/fishing/picnicking rule? Who would ensure that the dock is used as it is intended? The proposed dock will increase non-boat launch related congestion which will actually reduce access to recreational boaters and sportsmen. During the summer and fall, the horseshoe dam at Red Bridge becomes extremely congested. Swimmers illegally park along the road creating a concern for walkers, bikers and motorist using that stretch of road. With ample parking and a long dock, the launch area will attract similar crowds.

12. Response: Swimming and picnicking are prohibited activities at public access areas, which are managed by the Vermont Department of Fish and Wildlife. In accordance with 29 V.S.A. § 405(b), in determining whether the proposed dock will adversely affect the public good, the Department considered the effect of the proposed encroachment as well as the potential cumulative effect of existing encroachments on water quality, fish and wildlife habitat, aquatic and shoreline vegetation, navigation and other recreational and public uses, including fishing and swimming, consistency with the natural surroundings and consistency with municipal shoreland zoning ordinances or any applicable State plans.

Signage containing the rules of use is posted at the Vermont Department of Fish and Wildlife Access Area kiosk. To address concerns related to multiple public good uses occurring within the waters immediately adjacent to the dock, the applicant has agreed to post an additional sign adjacent to the dock that identifies the rules that prohibit swimming, picnicking, loitering, littering, fires, and camping.

The proposed dock is located at an existing Vermont Department of Fish and Wildlife access area. The Department determined that the dock will not adversely affect the public good based on the aforementioned review criteria.

The jurisdiction of Lake Encroachment permitting extends to public waters and the lands lying thereunder, which lie beyond the shoreline or shorelines delineated by the mean water level of any lake or pond which is a public water of the State. Recreational usage of the access area and issues concerning parking congestion above mean water level is beyond the scope of review under this permit.

13. Comment: What would the dock be made of? Trex? Pressure treated wood? Who would be responsible for dock-in and dock-out each season? What about upkeep?

13. Response: The platform and floating dock are pre-fabricated steel structures, which are hot dipped galvanized with 2" x 6" pressure treated decking. The platform will be supported by driving four 5" galvanized steel pilings into the shoreline. The Vermont Department of Fish and Wildlife is responsible for all maintenance, repairs, upkeep, and dock-in and dock-out each season.

14. Comment: Adding more watercraft to Lake Rescue would only increase the risks that have developed as a result of the silt build up over the years. The silt build-up has made navigating the area around the channel

and the inlet from Black River difficult and a challenge (and possibly an added danger) with power boats when multiple watercraft are trying to navigate that area at the same time. In addition, the silt build-up has changed the pattern of water flowing through the channel, so it no longer freezes solidly in the winter, making it dangerous to use the lake in the winter for recreational purposes such as cross-country skiing. I encourage the State to resolve safety issues caused by the silt build up before adding facilities such as a dock that will increase activity in the lake.

14. Response: The applicant did not propose to remove sediment for this project. A review of sediment accumulation in the lake from watershed sources is beyond the scope of what is reviewed in this permit. If navigation is impeded in areas of the lake due to sediment build-up, interested parties are advised to apply for a Lake Encroachment permit to propose sediment removal for the purposes of restoring navigation.

15. Comment: Lake Rescue is a small and fragile ecosystem that faces several existential threats such as sediment build-up and invasive aquatic plant life. Our small lake association has fought to protect this natural resource largely through the dues and donations from concerned lake residents and other private citizens concerned about the Black River Watershed. The LRA does not have the resources to hire full time boat launch "spotters" to inspect boat props and bilge areas for Eurasian Milfoil. As well, the lake is not adequately patrolled to ensure boaters follow applicable rules regarding no wake zones and distance to shore rules which threatens further shore erosion. The proposed project will result in increased activities that will further degrade and threaten the lake for all users.

15. Response: Compliance with boat speed rules and the management of a greeter program is beyond the jurisdiction of what is reviewed for a Lake Encroachment permit. The Department provides support for aquatic invasive species management and spread prevention on Lake Rescue through greeter trainings and grant funding. Opportunities for additional support are available. The Department has determined that the project will not adversely affect the public good and is consistent with the public trust doctrine, therefore the application must be approved. Laws related to the operation of watercraft are primarily enforced by the VT State Police, but VT Fish and Wildlife game wardens will also enforce these laws when on the water.

16. Comment: This project has ambiguous demonstrated need: Our home is less than 75 feet away from the boat ramp. In the nearly 18 years we have lived on Lake Rescue we have not observed the need for the proposed accommodations. We have never observed a disabled person struggling on the boat ramp. This begs the question was this an arbitrary decision by the Department of Fish and Wildlife to install a dock, or was there a specific request for this type of installation? We also wonder why Lake Rescue as opposed to Echo Lake or other bodies of water in the region? As observers of the activity that takes place at the boat launch, we have not seen instances of persons struggling to access a boat at Lake Rescue. We are interested in knowing if a demonstrated need has been identified for this location. We pose the inquiry because anecdotal evidence has indicated that the selection of Lake Rescue for the project was random and arbitrary.

16. Response: The review of the permit application specifically investigates how the proposed encroachment at that location of public water may affect the public good. Reviewing whether the applicant should be requesting this type of project on an alternate waterbody is outside the scope of review under this permit. The applicant provided courtesy information on how Lake Rescue was selected for the proposed installation of an ADA compliant dock at the Lake Rescue Access Area:

When determining where to provide courtesy docks at access areas, the Department of Fish and Wildlife tries to determine where usage is highest, so it can provide the largest benefit to the most boaters. The Department works to evenly spread access to docks around the state so that Lake Champlain does not end up with all the docks and Vermonters do not have to drive 1-2 hrs to find a lake or pond with an ADA compliant dock. In 2017, the Department completed dock projects in the following counties: 4 docks in Orleans, 2 in Addison and Rutland, and 1 Essex County. In 2018, the Department has proposed 2 in Orange and Rutland Counties and 1 in Windsor (Lake Rescue), Essex, and Franklin Counties.

17. Comment: The project will create an undue nuisance and burden to nearby homeowners: The proposed dock will likely hamper sightlines and the views of nearby homeowners. The dock will attract traffic, create more noise, and could negatively affect the way of life of people living nearby.

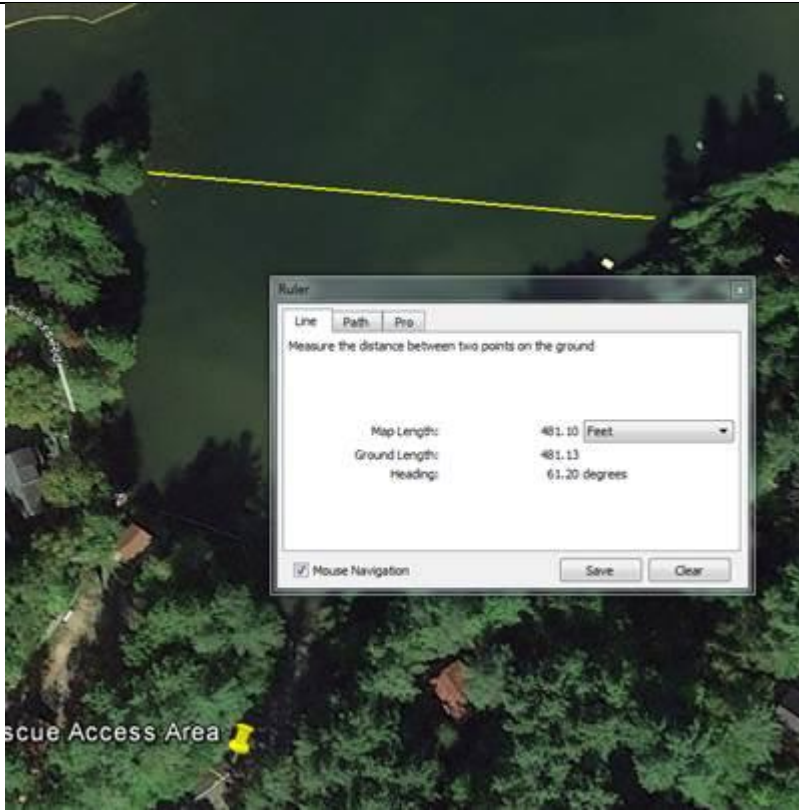
17. Response: This proposed project is to be installed at an existing public access area. Signage containing the rules of use is posted at the Vermont Department of Fish and Wildlife Access Area kiosk. To address concerns related to multiple public good uses occurring within the waters immediately adjacent to the dock, the applicant has agreed to post an additional sign adjacent to the dock that identifies the rules that prohibit swimming, picnicking, loitering, littering, fires, and camping. The Department has determined that the project will not adversely affect the public good and is consistent with the public trust doctrine, therefore the application must be approved.

18. Comment: I request if this permit is to be granted, one condition would be for the state department of Fish and Wildlife post "no swimming signs". It would also be helpful to establish accepted hours of operations. I realize many anglers use the boat ramp before sunup and after sundown. However, it seems reasonable to me that some reasonable hours of operation be posted. I suggest the ramp be closed for use between 10 PM and 5 AM.

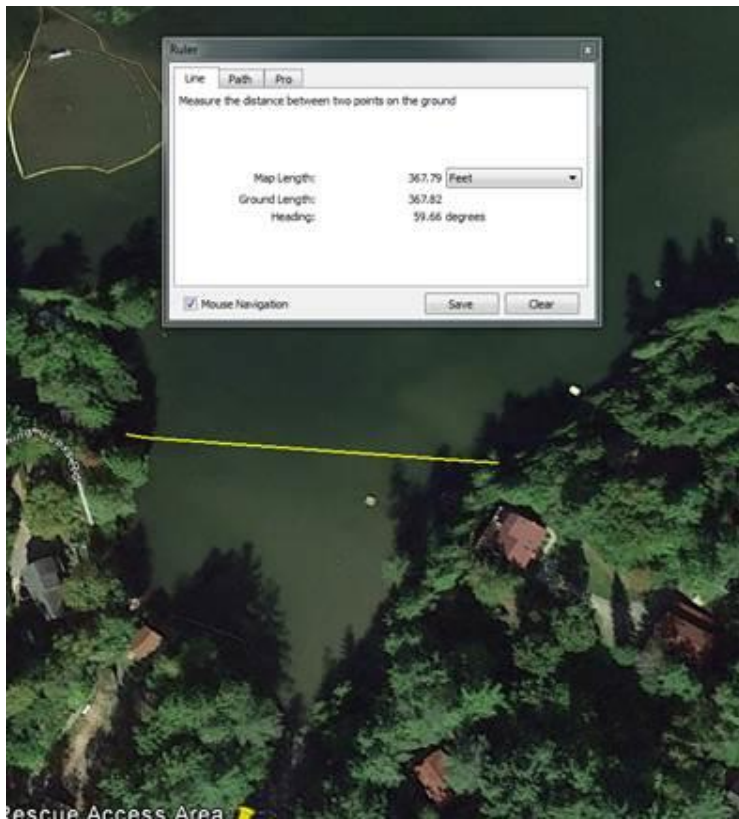
18. Response: Signage containing the rules of use at the public access area is posted at the Vermont Department of Fish and Wildlife Access Area kiosk. The applicant has agreed to post an additional sign adjacent to the dock that identifies the rules that prohibit swimming, picnicking, loitering, littering, fires, and camping.

19. Comment: Before this permit gets approved we would like to see a good measurement of the width of the cove. The measurement given at the meeting was false as it was the width of the entrance of the cove not the area that will be affected the most from this dock. All the pictures shown of other docks in the state were of boat launches with very wide-open areas. None were shown of a boat launch in such a tiny cove like Lake Rescue with homes and water fronts so close.

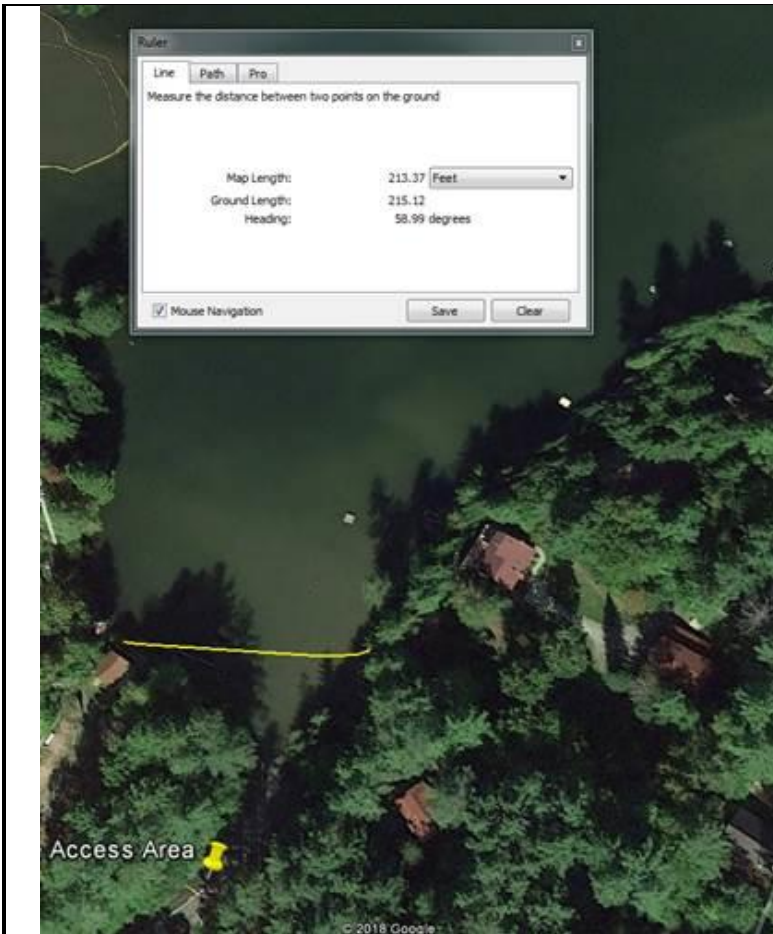
19. Response: The installation of an ADA compliant dock at the Lake Rescue public access area has not been determined to adversely impact the public good or public trust uses of the water. Boats within 200 feet from shore are required to travel at a no wake speed (5mph). The Department requested cove width measurements at various locations from the applicant. The applicant provided the following information: Upon entering the cove, it is approximately 480 feet and it quickly becomes less than 400 feet wide. Boats will be within 200 feet of the shore at all times when using the access area and should proceed at 5 mph or no wake speed. Cove widths are provided in the images below:



481 feet at widest point



367 feet wide in a narrower point



213 feet wide at a narrower point

20. Comment: To our knowledge no one requested this dock.

20. Response: The review of the permit application specifically investigates how the proposed encroachment at that location of public water may affect the public good. Whether the applicant should be requesting this type of project on an alternate waterbody is outside the scope of review under this permit. Although it is outside the scope of review for this permit, the applicant has provided the following information:

Federal ADA standards require that when conducting significant upgrades to a facility (i.e. adding a dock or rebuilding a ramp), that ADA features must be included in these upgrades.

For further information about the Department of Fish and Wildlife's determination of where to construct ADA-accessible facilities, please see the response to comment 16.

21. Comment: If the state has extra money to spend, why not put it towards the Hatcheries and stock more fish. This will promote more fishing and sell more fishing licenses for more revenue for the state. It will also help the small business owners in the area that sell bait and tackle.

21. Response: The review of the permit application specifically investigates how the proposed encroachment at that location of public water may affect the public good. Reviewing whether the applicant should be conducting alternative activities is outside the scope of review under this permit.

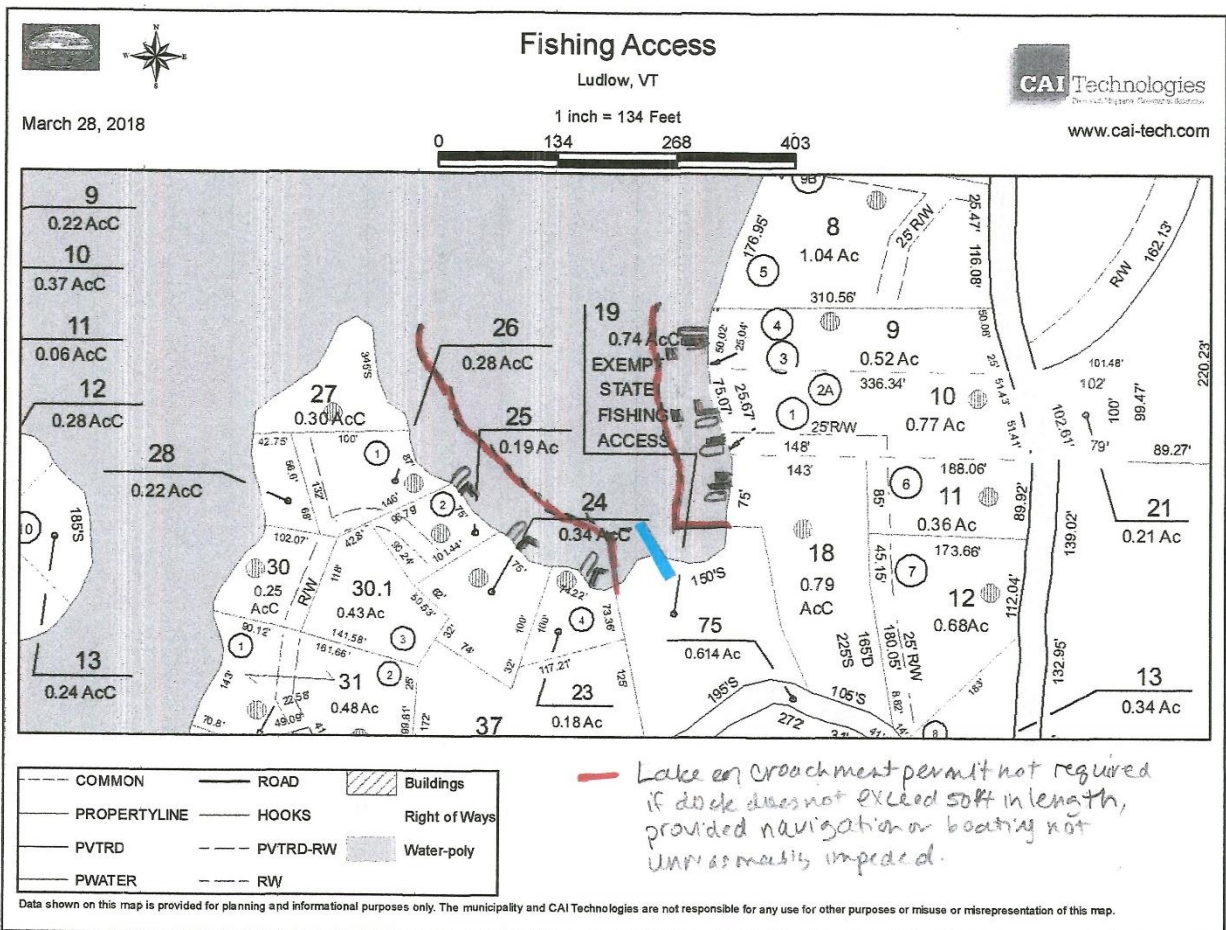
22. Comment: The Department of Fish and Wildlife (F&W) has public boat launches at Lake Echo, Amherst Lake and Woodward Reservoir within this region. I am familiar with all of those lakes and each of them can afford an unobtrusive route to provide public access. I request that your Department familiarize yourself with these other water systems before making a determination. These other lakes provide access right off of a main highway and the existing boat launches are surrounded by undeveloped parcels on most sides. These other accesses appear to be a better alternative than routing public boat traffic through a residential neighborhood

and to a launch that is surrounded by a dense development of houses and permissible docks. Given the relative small size of the lake, one would think that other lakes that are larger than Lake Rescue and are enjoyed by more people would produce a greater “bang for the buck.”

22. Response: The review of the permit application specifically investigates how the proposed encroachment at that location of public water may affect the public good, including impacts on water quality, fish and wildlife habitat, aquatic and shoreline vegetation, navigation and other recreational and public uses, including fishing and swimming, consistency with the natural surroundings and consistency with municipal shoreland zoning ordinances or any applicable State plans. Reviewing whether the applicant should be requesting this type of project on an alternate waterbody is outside the scope of review under this permit.

Although it is outside the scope of review for this permit, the applicant has provided the following information: Within Windsor County there are 13 Access Areas. Lake Rescue (229 acres) is the largest lake and the next is Woodward Reservoir (106 acres). Neither have docks, but the Department did construct a shore fishing platform for users with disabilities or mobility impairments at Woodward. Lake Rescue is an extremely popular access and is the largest lake in the Plymouth Lakes region, so it was identified as a top priority for outfitting with a dock.

23. Comment: The following diagram shows the 50-foot line in which existing private owners are permitted to install their own dock systems. No one’s dock extends even close to the 50-foot limit, yet the cove can already feel congested when there is a moderate amount of boat traffic. Adding a 54-foot structure plus the potential for additional boat traffic . . . we have serious concerns about navigation and safety.



23. Response: Based on the Department's review of the proposed dock, it was determined that the dock will not adversely affect the public good. The Department assessed the length of the dock, the size of the access area, average boat sizes, and the use of public waters rules that requires boats within 200 feet of shore to be traveling at a no wake speed (5 mph). The Department has determined that the project will not adversely affect the public good and is consistent with the public trust doctrine, therefore the application must be approved.

24. Comment: Fishing is a permitted on the dock! How does your Department envision the co-existence of boats navigating in and out of the cove with fishing lines from the public dock in the water? There simply is NOT ENOUGH SPACE!

24. Response: Fishing is an allowed recreational use of the proposed dock at Vermont Fish and Wildlife public access areas. The review of this permit application investigates how the proposed encroachment on public waters will affect the public good, restricting an allowed use at this dock is outside the scope of this permit application review.

25. Comment: The boat access ramp was replaced recently and is half the size it used to be which makes it a challenge when loading and unloading boats. Having a dock to deal with just amps up the challenge.

25. Response: The proposed dock is planned to be installed adjacent to the existing boat ramp. The dock will not be placed within the footprint of the boat ramp. The proposed dock has been determined to not be excessive for the stated purpose.

26. Comment: Are there any other of these docks at boating access areas in the state?

26. Response: Yes, there are docks at 31 of the 141 access areas with boat ramps at Vermont's Fish and Wildlife Access Areas. The majority of the Department of Fish and Wildlife's access areas are in the northern and western part of the state, where many courtesy docks have been installed at the busiest fishing access areas. Fewer docks have been installed in other regions of the state.

In Rutland County there are 19 Access Areas – The 4 largest waterbodies all have ADA compliant docks: one access on Lake Champlain and St. Catherine and 2 on Lake Bomoseen. The next largest waterbody is Chittenden Reservoir (702 acres) and it has been permitted for a dock, which is planned for installation this summer (2018). Additionally, The Department of Fish and Wildlife is replacing and upgrading an older dock at the Kehoe access on Lake Bomoseen.

In Orange County there are 8 Access Areas – The 2 largest lakes are Morey (547 acres) and Fairlee (457 acres). Both have been permitted to install ADA complaint docks, which are planned for installation this summer (2018).

In Addison County there are 19 Access Areas – Three of the 6 Champlain ramps have ADA compliant docks. The next largest lake is Lake Dunmore (1037 acres); Lake Dunmore has an ADA compliant dock.

There are currently no ADA complaint docks in Windsor (where there are 13 public fishing access areas) and Windham (where there are 8 public fishing access areas) counties.

27. Comment: I am doubtful that it will be utilized by the targeted population of people with a physical disability.

27. Response: The proposed dock is at a public access area and is designed to be used by any member of the public.

28. Comment: As the pictures clearly depict this is a small Access. It is not paved and has parking for 15 cars and/or trucks and vehicles pulling trailers. There is one handicapped Parking Space. Most summer weekends the parking lot is full. People launching boats use the launch and the waiting areas to the right and left dirt areas while they load passengers or gear. If one area is blocked by a proposed dock it will make it more difficult and longer to launch and/or return to the Fishing Access. Also, boats having engine problems dock the disabled

boat to the left or right clearing until the boat can be repaired. This happens quite a bit in the beginning of the boating season. There is not enough room for this structure.

28. Response: This project is proposed to be installed at an existing public access area. The jurisdiction of Lake Encroachment permitting extends to public waters and the lands lying thereunder, which lie beyond the shoreline or shorelines delineated by the mean water level of any lake or pond which is a public water of the State. Recreational usage of the access area and issues concerning parking congestion above mean water level is beyond the scope of review under this permit. The Department has reviewed the size of the dock and it has been determined to not adversely impact navigation or the public good, therefore the project shall be approved.

29. Comment: Who will patrol it, will hours for use be posted? Will signs be posted clearly stating it is specifically to be used for handicapped individuals?

29. Response: The Vermont Department of Fish and Wildlife Game Wardens patrol fishing access areas. Signage containing the rules of use is posted at the Vermont Department of Fish and Wildlife Access Area kiosk. To address concerns related to multiple public good uses occurring within the waters immediately adjacent to the dock, the applicant has agreed to post an additional sign adjacent to the dock that identifies the rules that prohibit swimming, picnicking, loitering, littering, fires, and camping. The dock will be located at a public access area and is designed to be used by any member of the public. Federal ADA standards require that this new facility must be ADA accessible, for use by all members of the public.

30. Comment: There will be a permanent structure on land that will go into the water 48 feet. What an attraction for swimming, diving and fishing—all prohibited by the State of Vermont.

30. Response: The dock is a seasonal structure that is removed from below mean water level at the close of boating season. Fishing is an allowed recreational use at all Vermont Department of Fish and Wildlife public fishing access areas. To address concerns related to multiple public good uses occurring within the waters immediately adjacent to the dock, signage containing the rules of use is posted at the Vermont Department of Fish and Wildlife Access Area kiosk. The applicant has agreed to post an additional sign adjacent to the dock that identifies the rules that prohibit swimming, picnicking, loitering, littering, fires, and camping. The Department has determined that the project will not adversely affect the public good and is consistent with the public trust doctrine, therefore the application must be approved.

31. Comment: As a preliminary matter, even though we assume the public notice of the application meets the minimum statutory requirements, we are concerned that in the context of this property, given that many of the persons most directly impacted maintain residences outside of the area and therefore may be unaware of the pendency of the application. Good cause exists for extending the period of public comment so that no one perceives that this project was considered after an effort designed to minimize public input was put in place. Many interested persons are out-of-state during the winter months. We have made an informal canvas of some of our members for feedback and learned that many of them were unaware of the proposal.

31. Response: The public comment period was extended for 14 days beyond the date of the public meeting, as required by statute 10. V.S.A. Chapter 170: Permit procedures; standard provisions. The public comment period began on February 16, 2018 and closed on April 4, 2018.

32. Comment: The proposal does not indicate where and how the dock will be stored during the winter months. If it is intended to be kept at the site, we believe it would be an “attractive nuisance” that could be used by children in ways that present additional safety concerns.

32. Response: The dock will be removed at the end of the season and stored at the access area during the winter months.

33. Comment: There is very limited use for a floating dock at the fishing access point. It will make it more difficult to bring boats in and out of the water at that narrow part of the pond. There is a nice concrete ramp

there that works perfectly well. The extra maintenance to take the floating dock in and out of the pond each year makes no financial sense.

33. Response: The purpose of the proposed project is to update the existing public boat launch dock with an ADA compliant floating dock system to improve recreational access. The existing ramp provides access for some boaters. The ADA compliant dock will extend accessibility to additional boaters.

34. Comment: The current boating access does supply [recreation]that as is. I feel that these type docks can be appropriate in the proper setting but Round Pond is not that type place. The addition of this dock would cause more issues than conveniences. I have had a house at the cross roads of Ellison Lake Road and Fishing Access Road in Ludlow for 24 years. I have seen many boats, trucks and cars with kayaks atop go to the Lake Rescue Fishing Access and return

34. Response: Based on the Department's review of the proposed dock, the project will not adversely affect the public good and is consistent with the public trust doctrine, therefore the application must be approved. The Department assessed the length of the dock, the size of the access area, average boat sizes, and the use of public waters rules that requires boats within 200 feet from shore to be traveling at a no wake speed (5 mph). The proposed dock has not been determined to adversely impact navigation, or the public good. Laws related to the operation of watercraft are primarily enforced by the VT State Police, but VT Fish and Wildlife game wardens will also enforce these laws when on the water.

35. Comment: We are not sure what the purpose of this dock is.

35. Response: The purpose of this project is to update the existing public boat launch dock with an ADA compliant floating dock system to improve recreational access. The existing ramp provides access for some boaters. The ADA compliant dock will extend accessibility to additional boaters. The project is not considered excessive for the purpose.

36. Comment: There are already too many speedboats on our small lake causing shoreline erosion and we certainly do not need more.

36. Response: The review of the permit application specifically investigates how the proposed encroachment at that location of public water may affect the public good. Review of existing recreational activities' impact on shoreline erosion is outside the scope of review under this permit.

37. Comment: A dock of the proposed size is unnecessary for people swimming from it. Has there been a study or similar undertaking to determine if a dock of the proposed size is necessary?

37. Response: Swimming is a prohibited activity at all Vermont Department of Fish and Wildlife Access Areas.

38. Comment: Is there any regulation as to whether boats may be left at the proposed dock overnight or for any period beyond one day?

38. Response: A boat may not be moored, beached, or unattended at a Vermont Department of Fish and Wildlife Access Area. These rules apply to the ramp area, the dock, and on land. Violators of these rules can be ticketed and towed.

39. Comment: I'd also like to address the claim that this is the ONLY lake in the region into which to put a dock. No one in the community has had any time to refute or prove this claim. But, if Lake Rescue is one of a few ideal locations, the access point is clearly not able to take on more traffic and less navigational space. I believe that Lake Rescue should have been taken off of the list because the proposed dock simply is too large for the small cove on the small side of a small lake.

39. Response: The review of the permit application specifically investigates how the proposed encroachment at that location of public water may affect the public good. Reviewing whether the applicant should be requesting this type of project on an alternate waterbody is outside the scope of review under this permit.

Based on the Department's review of the proposed dock at Lake Rescue, it was determined that the dock will not adversely affect the public good. The Department assessed the length of the dock, the size of the access

area, average boat sizes, and the use of public waters rules that requires boats within 200 feet from shore to be traveling at a no wake speed (5 mph). The Department has determined that the project will not adversely affect the public good and is consistent with the public trust doctrine, therefore the application must be approved.

The applicant supplied the following supporting information. In Windsor County there are 13 Vermont Fish and Wildlife Public Access Areas. None of these access areas have an ADA dock. Lake Rescue (229 acres) is the largest lake and the next largest is Woodward Reservoir (106 acres). The Department did construct a shore fishing platform for users with disabilities or mobility impairments at Woodward. Lake Rescue is an extremely popular access and is the largest lake in the Plymouth Lakes region, so it was identified as a top priority for outfitting with a dock.

40. Comment: The two questions about the width of the Fishing Access at the water line and the possibility of the dock interfering with navigation lanes seemed to be issues that were at odds with the presentation. We estimate the width of the water line at the launch to be less than 50 feet while Fish and Wildlife stated the opening is 150 feet. We agree with our neighbors that the opening at the water line or cove is too small and that the dock will interfere with boats launching and docking.

40. Response: The applicant provided the following information. The access area has 170 feet of shoreline. The boat ramp at the access area is 12 feet wide and 30 feet long. The developed area in the access area is about 50 feet wide. The width of the ramp and developed area is an adequate size for launching boats.

The installation of an ADA compliant dock at the Lake Rescue public access area has not been determined to adversely impact public trust uses of the water or the public good. Boats within 200 feet from shore are required to travel at a no wake speed (5mph). The applicant provided the following information: Upon entering the cove, it is approximately 480 feet and it quickly becomes less than 400 feet wide. Boats will be close to the 200 feet from shore when in the cove and should proceed at 5 mph or no wake speed. See Comment # 20 for more information about cove widths.

41. Comment: Regarding the dock itself, regulations listed on ADA.gov and ADA. Department of Justice state that docks, piers or gangplanks must be accompanied by an accessible route to the dock. This “clear path” must be “firm, stable and slip resistant”. We have used the Fishing Access for 23 years and there is no stable and safe path on any part of the launch opening. There is dirt, loose gravel and debris at the Access. It is not safe for walkers and definitely not suitable for wheel chairs approaching the proposed dock. In addition, there should be two handicapped parking spaces, including one for vans in the parking area. There is one sign for a handicapped parking space and it is close to the water but clearly in the way of drivers backing up their boats. It is not a safe handicapped parking space. There is no handicapped restroom. A temporary unisex Port A Let is delivered in June and taken out in October. In 2016 the facility was not delivered until mid-August, causing lots of complaints. A bathroom also requires an “accessible and clear path”. There is no clear path to the bathroom and a person in a wheel chair would not be able to traverse the area. Based on these issues we feel Lake Rescue is not suitable for an ADA Dock.

41. Response: The review of the permit application specifically investigates how the proposed encroachment at that location of public water may affect the public good. Review of whether this project complies with ADA regulations is outside the scope of review under this permit. As a courtesy, the applicant provided the following information:

An ADA accessible parking space and path is planned for this access area as the next phase of this project. Typically, access areas first receive ADA accessible docks followed by ADA accessible parking and access paths. The third phase of these access area upgrades are the provision of ADA accessible restroom facilities. Where accessible parking has been created, accessible restrooms have been installed.

42. Comment: I am handicapped and elderly and I drive to the Fishing Access, park my car and my husband picks me up with our pontoon boat. He has to park on the right or left clearing to the launch and helps me up to the boat with a step stool. This has worked for many years.

42. Response: The purpose of the proposed project is to update the existing public boat launch dock with an ADA compliant floating dock system to improve recreational access. The existing ramp provides access for some boaters. The ADA compliant dock will extend accessibility to additional boaters.

43. Comment: With this added traffic, will my property become a place where people wait while loading and unloading their boats? Are my small children going to be safe on our own property?

43. Response: This project is proposed to be installed at an existing public access area. The jurisdiction of Lake Encroachment permitting extends to public waters and the lands lying thereunder, which lie beyond the shoreline or shorelines delineated by the mean water level of any lake or pond which is a public water of the State. Use of the access area above mean water level is beyond the scope of review under this permit.

44. Comment: That encroachment would bring the boaters even closer to the area where we use our own boat and where our children swim. We are concerned that the proposed new dock will create further congestion and create dangerous swimming conditions and impede our own navigation of our boats and paddleboards. The overall size of the new dock looks like it will further constrict the already narrow boat navigation lane, possibly leading to overlap with homeowners' navigation lanes and increased safety concerns for swimmers, kayakers, etc. who are using private docks in the same general area.

44. Response: The installation of an ADA compliant dock at the Lake Rescue public access area has not been determined to adversely impact public trust uses of the water or the public good, therefore the project shall be approved. Boats within 200 feet from shore are required to travel at a no wake speed (5mph), reducing safety concerns for other recreational users of the public water.

45. Comment: What specifications or circumstances require the proposed dock to be 54' long? I fail to see the reason for such a long dock (a 6-foot permanent dock plus 48 feet floating dock= 54 feet !!!).

45. Response: The dock is installed seasonally and is proposed to extend 48 feet beyond mean water level. The applicant provided information to support the need for a 48-foot long dock. The applicant provided supporting information to demonstrate that a minimum functional length of an ADA compliant dock in this area is about 50 feet for an average vehicle with a trailered boat (see the response to Comment #3).

46. Comment: Such a long dock will likely attract a different kind of "wild life" and be used for partying and tying up boats overnight.

46. Response: A boat may not be moored, beached, or unattended at a Vermont Department of Fish and Wildlife Access Area. These rules apply to both the ramp area, the dock, and on land. Violators of these rules can be ticketed and towed. Loitering is also prohibited at Vermont Fish and Wildlife Access Areas.

47. Comment: That encroachment would bring the boaters even closer to the area where we use our own boat and where our children swim. The Round Pond section of Lake Rescue is fairly small and a dock that is nearly 50 feet long would create a high level of congestion in that area.

47. Response: The installation of an ADA compliant dock at the Lake Rescue public access area has not been determined to adversely impact public trust uses of the water or the public good. Boats within 200 feet from shore are required to travel at a no wake speed (5mph).

48. Comment: After four years of regularly observing the goings on at the public ramp, I am doubtful that it will be utilized by the targeted population of people with a physical disability. Instead, we are concerned the new and improved accessibility of the dock will increase traffic from able bodied boaters in what is a very small cove on the small part (Round Pond) part of Lake Rescue.

48. Response: The proposed dock is at a public access area and is designed to be used by any member of the public. Boats using the access area will be within 200 feet of the shore within the cove and should proceed at 5 mph or no wake speed. See Comment # 20 for more information about cove widths.

49. Comment: The issue of congestion is likely to be made much worse by the high risk that the proposed dock will attract swimmers, especially children, wanting to take advantage of the opportunity to jump into the water

in an area of the lake that is often dark because of tree cover. There are no lifeguards and the enforcement of the “No Swimming” directive by Game Wardens and Auxiliary State Police has been sporadic, at best. There are no posted rules, permitted hours of operation or curfew and we can well imagine the problems that will present themselves in the dark (when the access ramp is already being used).

49. Response: Currently, signage containing the rules of use is posted at the Vermont Department of Fish and Wildlife Access Area kiosk. To address concerns related to multiple public good uses occurring within the waters immediately adjacent to the dock, the applicant has agreed to post an additional sign adjacent to the dock that identifies the rules that prohibit swimming, picnicking, loitering, littering, fires, and camping. Swimming is a prohibited activity at Vermont Department of Fish and Wildlife Access Areas.

50. Comment: It would likely be the case that the presence of the proposed dock would attract numerous boaters who do not need the ADA accommodation. And this increased usage by the general population is not in any way furthering the public good of increased accessibility for people with a disability.

50. Response: The proposed dock is at a public access area and is designed to be used by any member of the public. The purpose of the proposed project is to update the existing public boat launch dock with an ADA compliant floating dock system to improve recreational access. The existing ramp provides access for some boaters. The ADA compliant dock will extend accessibility to additional boaters.

51. Comment: The proposed design will negatively affect boat ramp operations. A nearly 50-foot boat dock will essentially reduce the area on the boat ramp by half. It’s already difficult to back a boat trailer into the water. A large boat dock will make this task even more difficult. Moreover, on many summer days there is a significant wait for ingress and egress to the water. Currently there is enough room for one boat and trailer to be backing into the water while another boat and trailer are exiting the water. With the installation of the boat dock this will no longer be possible. The water side is narrow and is regularly full of kayakers, swimmers, and boaters. The land side has a small parking lot at the base of a steep hill. Without the addition of a dock, this is an unsafe area. I have witnessed many close calls between boaters, and I fear that with less area to navigate launching and landing boats, there will most definitely be accidents. More boats cueing up to come onto land also will mean more idling, noise, and fuel in the water.

51. Response: This project is proposed to be installed at an existing public access area. The jurisdiction of Lake Encroachment permitting extends to public waters and the lands lying thereunder, which lie beyond the shoreline or shorelines delineated by the mean water level of any lake or pond which is a public water of the State. Recreational usage of the access area and issues concerning parking congestion above mean water level are beyond the scope of review under this permit. The Department has reviewed the size of the dock and it has been determined to not adversely impact navigation or the public good, therefore the project shall be approved. The proposed dock is planned to be installed adjacent to the existing boat ramp. The dock will not be placed within the footprint of the boat ramp.

52. Comment: More boats could also bring in milfoil.

52. Response: The review of the permit application specifically investigates how the proposed encroachment at that location of public water may affect the public good. Installation of the dock is required to meet the following permit condition:

Prior to placing any equipment (e.g., boat, trailer, vehicle, or gear) that has been in or on any other waterbody into public waters for the project implementation/construction, the permittee shall decontaminate the equipment in compliance with the [Voluntary Guidelines to Prevent the Spread of Aquatic Invasive Species through Recreational Activities, Aquatic Nuisance Species Task Force, November 2013](#).

Additionally, 10 V.S.A. § 1454 prohibits the transport of nuisance aquatic plant species.

53. Comment: What happens to this dock during an “Irene-type” event, where the water raises 6 feet or more?

53. Response: The review of the permit application specifically investigates how the proposed encroachment at that location of public water may affect the public good. Reviewing how this project would be impacted by

future rare weather events is outside the scope of review under this permit. The dock is a floating structure that is designed to handle seasonal water level fluctuation.

54. Comment: Are any of the other Fish and Wildlife docks close to private homes?

54. Response: Yes, nearly all access areas were once camp lots with adjacent seasonal and year-round property owners. Some examples include access areas at Lake St. Catherine, Lake Bomoseen, Crystal Lake, in St. Albans Bay on Lake Champlain, Lake Dunmore, Island Pond, Norton Pond, and Lake Fairlee.

55. Comment: What makes this dock ADA compatible?

55. Response: The dock is designed according to the 2010 ADA Standards of Accessible Design so that someone who has mobility impairment can launch a boat by themselves without assistance. There is space to tie up a boat when parking a car and trailer and have a safe platform to enter and exit a boat.

56. Comment: What are the unintended consequences of the placement of this dock?

56. Response: In accordance with 29 V.S.A. § 405(b), in determining whether the encroachment will adversely affect the public good, the Department shall consider the effect of the proposed encroachment as well as the potential cumulative effect of existing encroachments on water quality, fish and wildlife habitat, aquatic and shoreline vegetation, navigation and other recreational and public uses, including fishing and swimming, consistency with the natural surroundings and consistency with municipal shoreland zoning ordinances or any applicable State plans. If the Department determines, after reviewing the applications, the written comments filed within the notice period and the results of the investigation, that the proposed encroachment will not adversely affect the public good, the application shall be approved.

Based on the Department's review of the proposed dock, it was determined that the project will not adversely affect the public good and is consistent with the public trust doctrine. The Department assessed the length of the dock, the size of the access area, average boat sizes, and the use of public waters rules that requires boats within 200 feet from shore to be traveling at a no wake speed (5 mph). The proposed dock has not been determined to adversely impact navigation, or the public good.

57. Comment: I am worried about my privacy and feel this dock will reduce my privacy at my nearby property.

57. Response: The dock will be placed at an existing public access area. The review of the permit application specifically investigates how the proposed encroachment at that location of public water may affect the public good. This comment is outside the scope of review under this permit.

58. Comment: Why not put the dock at Lake Echo or Lake Amherst?

58. Response: The review of the permit application specifically investigates how the proposed encroachment at that location of public water may affect the public good. Reviewing whether the applicant should be requesting this type of project on an alternate waterbody is outside the scope of review under this permit.