

SHEEHAN PHINNEY

Courtney H.G. Herz, Esq.
Direct Dial: 603-627-8131
cherz@sheehan.com

Reply to: Manchester Office
1000 Elm Street, 17th floor
Manchester, NH 03101

May 6, 2026

Jeffrey Blecharczyk
LRM Compliance Administrator
Department of Environmental Services

Via email only (jeffrey.blecharczyk@des.nh.gov)

Re: Unpermitted boat launch in Barrington, N.H.

Dear Mr. Blecharczyk,

This firm represents Camp Fireside, a summer camp located in Barrington, N.H. The Camp owns property along Ayers Lake, including the parcel discussed in this letter, which is outlined in yellow in the screenshot of a portion of the tax map below:



The Town of Barrington has long been attempting to establish a public boat launch in this area – over Camp Fireside’s objection. When it was unable to obtain approval from the Department to do so (being twice denied Wetlands Permits by Notification (“PBN”) for this very purpose), the Town proceeded nonetheless, making an end run around the State’s

Wetlands statute and regulations, and simply establishing the public “Ayers Lake Boat Launch” without a permit to do so.

Specifically, relying on a Shoreland PBN that it obtained to widen the road in this area, the Town has – among other things – widened and graveled the opening from Daniel Cater Road to the lake, installed signage advertising the “Ayers Lake Boat Launch,” and published a four-page statement asserting its purported right to operate a public boat launch in this location. This is notwithstanding the fact that the Department has never permitted a boat launch in this location and has explicitly stated that the Town has failed to demonstrate that there was a previously existing legal boat launch sufficient to establish “grandfathering.”

If the Town’s actions here were allowed to stand unchecked, NHDES will have ceded its authority over boat launch locations statewide, effectively allowing any person or community to put in a boat launch practically anywhere without obtaining a Wetlands permit, by incrementally taking steps that either go unnoticed by the Department or that are – in isolation – unobjectionable, until, suddenly, a widely-advertised public boat launch is in operation without Department approval.

The Town’s Relentless Efforts to “Improve” the Non-Permitted Boat Launch

A brief summary of the Town’s many efforts to establish a public boat launch puts its current actions in context:

- Some years ago – but most certainly after 1991 – some unpermitted clearing and alteration of the shoreline area was done by an unknown third party, without Camp Fireside’s authorization, creating an opening and access to the water, contrary to minimum shoreland protection standards.¹ This unpermitted activity made it

¹ RSA 483-B:9,V(a)(2) states the following:

Within the waterfront buffer all of the following prohibitions and limitations shall apply: ...

- (B) Rocks and stumps and their root systems shall be left intact in the ground unless removal is specifically approved by the department, pursuant to RSA 482-A or RSA 483-B:11, II or unless rocks are removed to improve runoff control or the planting in the waterfront buffer, and stumps that are removed are replaced with pervious surfaces, new trees, or other woody vegetation....
- (C) No natural ground cover shall be removed except as necessary for a foot path to water and access ways as provided under RSA 483-B:9, V(a)(2)(D), (viii) and (ix), for normal maintenance, to protect the waterfront buffer, cutting those portions that have grown over 3 feet in height for the purpose of providing a view, to provide access to natural

possible for members of the public to launch small boats, such as kayaks, that could be carried from rooftops into the water. The cleared area was periodically used in this manner, despite the Camp’s objections. A photo contained in the one of the Town’s applications to the Department (discussed in detail below) shows what the area looked like (of note, the Town labeled the photo as depicting an “Existing Boat Launch”):



- In the past few years, the Town has significantly intensified its efforts to expand this unpermitted boat launch. In fact, it applied for and, in October 2023, was awarded

areas or shoreline, or as specifically approved by the department, pursuant to RSA 482-A or RSA 483-B.

a grant of \$100,000 from the State² “to improve the Ayers Lake Boat Launch on Daniel Cater Road.”³ It then began a series of efforts to use that money.

- On May 30, 2024, the Town applied for a Wetlands PBN, seeking permission to “improve” what it referred to as an “existing boat launch,” to install a new seasonal floating dock, and to expand Daniel Cater Road to “create more parking and provide better access to the lake.” (NHDES File Number 2024-01526).

The Department denied that application, holding – among other things – that the Town had not established that the “existing boat launch” was grandfathered:

The Department finds that the applicant has failed to provide material evidence that the boat ramp existed prior to July 2, 1969, therefore, the notification fails to meet the qualifying criteria in Env-Wt 309.08(b) and the notification is denied.

- The Town then proceeded to what it calls “Plan B,” submitting a new Wetlands PBN application to the Department in September 2025.⁴ In Plan B, the Town again asked for permission to “improve” the “existing boat launch,” but – this time – omitted the seasonal floating dock element of Plan A. This new application proposed installing “a boat launch comprised of 4 precast concrete planks,” as well as the previously proposed expansion of Daniel Cater Road. (NHDES File Number 2025-02657).

Once again, the Department denied the Town’s application, finding that the requested work did not qualify for a PBN under Env-Wt 309.06(a)(8) because the Town still had not established that it was seeking to repair or replace an existing legal boat launch.

- Undeterred, the Town moved to “Plan C,” through which it sought to “improve” the unpermitted boat launch while bypassing Wetlands permitting altogether.⁵ Specifically, on October 7, 2025 (the day after “Plan B” was denied), the Town

² The grant was awarded by the NH Department of Fish & Game upon recommendation of the Public Water Access Advisory Board. See RSA 233-A:2, I, II(e) and 233-A:4, I.

³ See Town Administrator Report, September 23, 2025 (the “Administrator’s Report”), available at https://www.barrington.nh.gov/sites/g/files/vyhlf2766/f/uploads/town_administrator_report_20250923_0.pdf, page 4, par. 5(D)(i).

⁴ See Administrator’s Report at page 4, par. 5(D)(iii).

⁵ See Administrator’s Report at page 4, par. 5(D)(vii).

submitted a *Shoreland* PBN application (NHDES File Number 2025-02746), describing the scope of work as follows:

The Town of Barrington, New Hampshire is proposing improvements to the public road (Daniel Cater Road) and public access facility (Ayers Lake Boat Launch).

The traveled surface of the southbound lane of Daniel Cater Road (gravel) will be widened by 5 ft in the area of the boat launch through vegetation management and gravel road improvements. Parking regulation signs and an informational kiosk will be installed.

The Shoreland Bureau granted this PBN, apparently premised on the fact that the Town’s application asserted that the work would be limited to road improvements within the right of way. Accordingly, the Shoreland Bureau granted the PBN, authorizing the Town to “[i]mpact 2,920 square feet (SF) within the protected shoreland in order to widen the existing roadway by 5 feet in the area of the boat launch through vegetation management and gravel road improvements.”⁶

The Town’s Violations of the Wetlands Statute and Regulations

The Town’s actions have constituted multiple violations of the statute and regulations governing the protection of wetlands in the State. I write to you here to outline those violations and to request that the Department initiate an investigation and, ultimately, an enforcement action against the Town.

1. The Town is unapologetically operating a boat launch that was never permitted and is not grandfathered.

It is, of course, beyond dispute that boat launches are within the Department’s jurisdiction and – unless a launch is grandfathered – it must be permitted by the Wetlands Bureau.⁷ While boat launches that were in existence as of July 2, 1969, might qualify as

⁶ Camp Fireside has appealed that decision, in a matter pending before the Wetlands Council. However, the issue raised by this letter (whether the Town may operate a public boat launch despite never receiving a permit to do so or establishing to the Department that the boat launch is grandfathered) is distinct from the issue raised in that appeal (whether the Shoreland Bureau should have granted the Shoreland PBN to widen the road under the circumstances).

⁷ See, e.g., RSA 483-B:9, II(c) (“A water dependent structure ... shall be constructed only as approved by the department, pursuant to RSA 482-A [relative to Wetlands protection].”); RSA 483-B:4, XXVI (defining a “water dependent structure” as including a “launching ramp”); Env-Wt 518.01(a) (“This part shall apply to construction of water-related non-docking structures including ... boat launches.”); Env-Wt 518.04 (“In addition to meeting all applicable criteria established in Env-Wt 300, the department shall not approve an application for a permit to construct or modify a boat launch unless the applicant demonstrates that the

“grandfathered” and, therefore, avoid the need for permitting, see Env-Wt 103.60(b), as noted above, the Department has already determined that this has not been established:

The Department finds that the applicant has failed to provide material evidence that the boat ramp existed prior to July 2, 1969, therefore, the notification fails to meet the qualifying criteria in Env-Wt 309.08(b) and the notification is denied.

Nevertheless, the Town has simply decided to proceed with increasing access to, promoting, and otherwise “improving” the unpermitted boat launch on Daniel Cater Road. A comparison of the conditions from 2024:



to the same area post-construction:

project will provide a public benefit in terms of navigation, rights of public passage, and the rights of the general public to use the resource accessed by the boat launch for commerce and recreation.”).



demonstrates that the Town did significantly more work than simply expanding the road within the right of way. There can be little doubt even from just viewing these photos that the Town impacted areas beyond the bank, including significant regrading to make it easier to back boat trailers down the slope, in its effort to expand public access to a boat launch that it knows this Department has never approved.

The Town’s actions did not stop there, even installing a large kiosk proclaiming “Ayers Lake Boat Launch,” as can be seen above, and posting a statement on its website, proclaiming its asserted right to use this area as a public boat launch.⁸

⁸ Select Board File Summary: Ayers Lake Boat Launch, March 17, 2026 (the “Select Board Statement”), available at: https://www.barrington.nh.gov/sites/g/files/vyhlf2766/f/uploads/ayers_lake_boat_launch_select_board_statement_20260317.pdf

The Select Board Statement contains multiple inaccuracies, including the assertion that the boat launch “has been in use since the 1960’s.” It is Camp Fireside’s adamant position that this is false. Importantly –

2. Increased access to and use of the unpermitted boat launch will damage the lake.

It is, perhaps, self-evident that increased use of the unpermitted boat launch will increase detrimental impacts to Ayers Lake. Public boat launches, of course, present increased risk of aquatic invasive species being introduced into waterbodies. Moreover, as noted, the Town has created a significantly larger opening from the road toward the waterbody in the vicinity of the unpermitted “boat launch” (as can be seen in the above photos), increasing the height of the roadway and otherwise changing the grade of the road in the vicinity of the lake, and leading to more – not less – runoff into Ayers Lake. The work performed in the area of the “boat launch” was specifically designed to allow for the public to make it easier to put larger boats into the waterbody in that location, with the signage proclaiming “boat trailer parking”:



whatever evidence the Town believes it might have – there is no doubt that it has failed to persuade the Department of the correctness of its position.

For example, the Select Board Statement proclaims that the Town has six sworn affidavits which establish that the boat launch has existed since the 1960s. Presumably, those are the same six affidavits that the Town submitted in support of its Wetlands PBN application in File #2025-2657. As noted, given that the Department denied that application for, among other things, failing to establish that the Town was seeking to repair or replace an existing legal boat launch, there can be no doubt that the Department was not persuaded by those affidavits. This is unsurprising, for the reasons outlined in Camp Fireside’s letter in opposition to that application.

By increasing the public’s access to the waterbody – specifically by making it easier to launch boats of a size that are not simply carried into the water by human efforts (such as kayaks and canoes), but rather are launched with the use of vehicles and boat trailers – the Town’s actions impact water quality on Ayers Lake by allowing for increased disturbance of the lake bottom and the generation of turbidity in the water by vehicles during launch operations, as well as the potential release of contaminants (e.g., oil and grease from wheel bearings and axles).

Remarkably, the Town has essentially admitted that its recent work will likely damage the lake. Specifically, in the Select Board Statement, the Town makes the following extraordinary assertion:

- **Erosion and Lakebed Turbidity**
 - Although many gravel boat launches exist across the state, other ramp surfaces are preferred due to erosion and the introduction of turbidity into the lake. Barrington’s initial project plans called for a concrete ramp which would greatly reduce the impact of erosion and disturbance of the lakebed. As previously discussed, these plans were objected to by Camp Fireside and the Ayers Lake Association and, due to the grant timeline, the Town was left with no choice but to keep the ramp surface gravel.

Of course, it was not the fact that Camp Fireside and the Ayers Lake Association objected to the Wetlands PBN applications that prevented the Town from installing the concrete boat ramp it most wanted. It was, rather, the Department’s correct assessment that the Town had failed to satisfy the regulations that govern whether such an impact is approvable or not. Refusing to take “no” for an answer, the Town seems to have interpreted the denial of its efforts to install a *concrete* ramp to be an invitation to operate a *gravel* boat launch. The Town, of course, is incorrect.

3. In executing on the work approved by the Shoreland PBN, the Town went beyond the scope of that approval, impacting areas within wetlands jurisdiction.

Finally, even if all of the foregoing were not enough, it is also the case that – when performing the work on the road that was authorized by the Shoreland PBN – the Town went beyond that authorization, impacting non-permitted areas within wetlands jurisdiction. This is evident by comparing photos of the work performed with the permitted plan.

Specifically, in the plan approved by the Shoreland Bureau, the Town depicted the Slope Impact Line (highlighted green below):



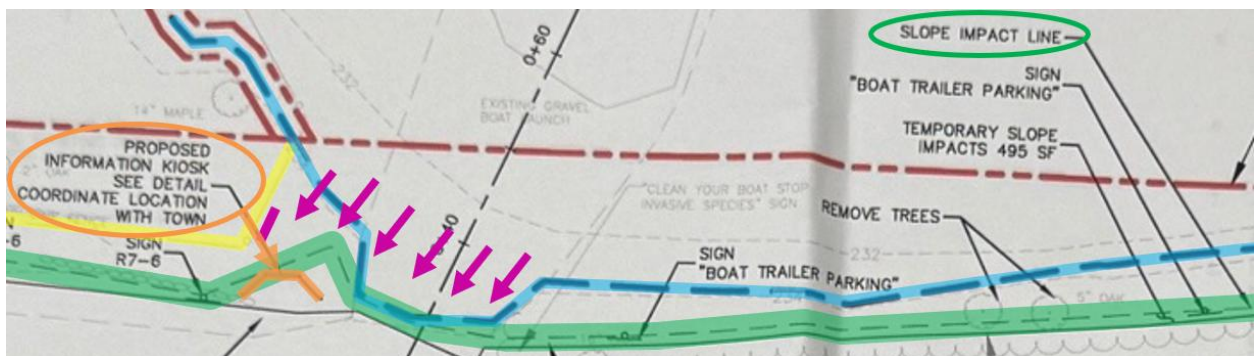
The plan also shows the location of the preexisting chain-link fence (highlighted yellow) and the Town’s depiction of the “Spillway Crest/Full Lake Elevation” (highlighted blue). With the chain-link fence as an easily identifiable location marker from both pre- and post-construction, photos of the work performed show clearly that the Town did significant clearing, grading, and dredging lakeward of the Slope Impact Line. For example, pre-construction photos illustrate that the fence (which, as the plan clearly depicts, is lakeward of the Slope Impact Line) was not even visible through the vegetation:



Yet, post-construction, the entire area – all the way into the water – was cleared all the way up to the fence, with the kiosk installed directly against the fence:



In short, the Town appears to have installed the kiosk in the area roughly shown below with a pink rectangle, and conducted additional clearing, grading, and other work in the areas roughly shown with pink arrows – all lakeward of the Slope Impact Line (the location the Town *proposed* for the kiosk is shown in orange – landward of the line):



Conclusion

It cannot be the case that the Department would condone the following sequence of events:

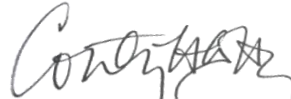
- Applicant has, for some time, been using and/or promoting to its citizens the use of an unpermitted structure, i.e., a boat launch, within a waterbody;
- Applicant then twice seeks a Wetlands PBN to repair or replace that shoreline area used as a boat launch;
- Twice the Department denies the applications because, among other reasons, the applicant has not established that the boat launch was grandfathered;
- Applicant changes course and obtains a Shoreland PBN with the explicit purpose of expanding a roadway by purportedly only doing work outside of wetlands jurisdiction, yet performing the work in such a way as to promote and facilitate use of the unpermitted boat launch;
- Applicant then advertises access to that boat launch to the public – encouraging expanded use of a structure that is likely to have adverse impacts on water quality, that has never been permitted, and that the Department has held has not been shown to be grandfathered.

Yet, this is *exactly* what the Town has done here – flaunting the purposes and intent of state environmental statutes, the Department’s findings and regulations, and simply doing what it wanted to do all along.

In sum, the Town’s blatant disregard for the Department’s regulations concerning boat launches cannot be allowed to stand. It is Camp Fireside’s position that there are multiple other problems in this situation (including those involving property ownership rights). However, one need to go no further than the immediately evident Wetlands violations to realize that the Town’s actions are improper. **At its core, the Town’s position is that it is allowed to operate a boat launch on a great pond without a Wetlands permit and without satisfying the Department that a lawful launch preexisted permitting jurisdiction in that location. The Town is clearly incorrect in its approach, and the Department should take action to halt use of the unpermitted and unauthorized boat launch at Ayers Lake.** This includes immediately taking enforcement action, such as issuing an Administrative Order requiring the Town to place solid concrete (i.e., “jersey”) barriers at the top of the ramp area to prevent its use as a boat launch, to remove all signage indicating boat accessibility, and to remove the kiosk advertising the

existence of a boat launch unless and until the Town secures the necessary Wetlands permit for a boat launch in this location.

Sincerely,



Courtney H.G. Herz

cc: Camp Fireside Board of Directors
Courtney Lockwood, Esq.