

## PERMIT

Permit No: 201503315-SJ

Municipality: Lyme

Work Area: Hamburg Cove off property located at  
111Cove Road

Permittee: Michael Lech  
6 Vista Drive, Suite 200  
Old Lyme, CT 06371

Pursuant to sections 22a-359 through 22a-363g and sections 22a-28 through 22a-35 of the Connecticut General Statutes (“CGS”) and in accordance with CGS section 22a-98 and the Connecticut Water Quality Standards, effective February 25, 2011, a permit is hereby granted by the Commissioner of Energy and Environmental Protection (“Commissioner”) to install a dock for recreational boating access and retain and replace a seawall for flood and erosion control and install an anchor tree system as is more specifically described below in the SCOPE OF AUTHORIZATION, off property identified as the “work area” above.

### **\*\*\*\*\*NOTICE TO PERMITTEES AND CONTRACTORS\*\*\*\*\***

**UPON INITIATION OF ANY WORK AUTHORIZED HEREIN, THE PERMITTEE ACCEPTS AND AGREES TO COMPLY WITH ALL TERMS AND CONDITIONS OF THIS PERMIT. FAILURE TO CONFORM TO THE TERMS AND CONDITIONS OF THIS PERMIT MAY SUBJECT THE PERMITTEE AND ANY CONTRACTOR TO ENFORCEMENT ACTIONS, INCLUDING INJUNCTIONS AS PROVIDED BY LAW AND PENALTIES UP TO \$1,000.00 PER DAY PURSUANT TO THE ADMINISTRATIVE CIVIL PENALTY POLICY DESCRIBED IN SECTIONS 22a-6b-1 THROUGH 22a-6b-15 OF THE REGULATIONS OF CONNECTICUT STATE AGENCIES.**

### **SCOPE OF AUTHORIZATION**

The Permittee is hereby authorized to conduct the following work as described in application #201503315-SJ, including five sheets of plans with sheets 1-4 revised March 16, 2015 and sheet 4A dated May 25, 2016, submitted by the Permittee to the Commissioner and attached hereto, as follows:

1. retain, rebuild, and modify an 80 linear foot stone seawall by:
  - a. installing sediment and erosion controls in accordance with SPECIAL TERMS AND CONDITIONS, paragraph 10., below;

- b. excavating landward of the seawall;
  - c. removing existing stone;
  - d. placing base layer and adding new stone;
  - e. relocating a 4' wide recessed stone stairway; and
  - f. adding a 12" concrete cap;
2. install, off the seawall, a 4' x 57' fixed pier including a pile-supported boat lift, utilities, ladders, railings, lower step platform and tie-off pilings; and
  3. anchor a tree trunk system along the base of a steep slope in accordance with SPECIAL TERMS AND CONDITIONS, paragraph 6., below.

### SPECIAL TERMS AND CONDITIONS

1. Prior to initiating work authorized herein between December 31<sup>st</sup> and August 1<sup>st</sup>, the Permittee shall hire a qualified ornithologist to survey within a 600' radius of the site for roosting and/or nesting Bald Eagle (*Haliaeetus leucocephalus*).
  - a. The ornithologist shall submit a report summarizing the results of such survey which shall include:
    1. survey date(s) and duration;
    2. site description and photographs;
    3. map of the surveyed area; and
    4. ornithologist qualifications.
  - b. If Bald Eagles are observed within the 600' radius, the following work prohibition periods shall apply, unless otherwise authorized in writing by the Commissioner:
    1. December 31<sup>st</sup> through March 1<sup>st</sup> in order to protect roosting Bald Eagles; and
    2. February 1<sup>st</sup> through August 1<sup>st</sup> in order to protect nesting Bald Eagles.
2. Not later than two (2) weeks prior to the commencement of any work authorized herein, the Permittee shall submit to the Commissioner, on the form attached hereto as Appendix A, the name(s) and address(es) of all contractor(s) employed to conduct such work and the expected date for commencement and completion of such work, if any.
3. The Permittee shall file Appendix B on the land records of the municipality in which the subject property is located not later than thirty days after permit issuance pursuant to CGS Section 22a-363g. A copy of Appendix B with a stamp or other such proof of filing with the municipality shall be submitted to the Commissioner no later than sixty (60) days after permit issuance.
4. At no time shall any work barge be stored over intertidal flats, submerged aquatic vegetation or tidal wetland vegetation or in a location that interferes with navigation.
5. a. Prior to the initiation of work authorized herein, a qualified wetland ecologist shall flag any tidal wetland vegetation including Parker's Pipewort (*Eriocaulon parkeri*). The flags

- shall be visible at all tidal levels.
- b. The Permittee shall establish a minimum of a five foot setback from these wetlands. Such setback area(s) shall be flagged so as to be readily identifiable by contractor personnel until the work authorized hereunder is completed.
  - c. Except as specifically authorized by this permit, no equipment or material, including but not limited to, fill, construction materials, excavated material or debris, shall be deposited, placed or stored in any wetland or within any delineated setback area, nor shall any wetland or delineated setback area be used as a staging area or access way other than as provided herein.
6. The anchor tree system authorized herein may be maintained for a period of five years as follows:
    - a. large natural woody debris may be added within the authorized footprint as the older material deteriorates;
    - b. the anchoring system may be modified as needed without the use of stone, fill, excavation or anchoring to living trees along the bank;
    - c. notification and explanation shall be provided to the Commissioner prior to modification; and
    - d. a monitoring report shall be submitted to the Commissioner, between three and five years of the installation date, and shall include photographs taken at low water and a brief summary of the project's status.
  7. Barge access shall occur only during periods of higher water. In the event any barge associated with the work authorized herein is grounded, no dragging or prop dredging shall occur to free the barge.
  8. The Permittee is prohibited, during periods of low water, from berthing, mooring, or otherwise affixing to the fixed pier, any vessel with a draft deeper than 12". Such prohibition is valid for the life of the pier authorized herein.
  9. The Permittee shall install the boat lift authorized herein to store a boat during periods of lower water to minimize shading impacts to submerged aquatic vegetation. Such structure shall be maintained in optimal operating condition for the life of the dock.
  10. Prior to the commencement of seawall replacement authorized in SCOPE OF AUTHORIZATION, paragraph 1., above, the Permittee shall install, waterward and for the length of the seawall, turbidity curtains extending from the water surface to the substrate or erosion control fencing of a height sufficient to reach the elevation of mean high water. Such erosion and sediment control structures shall be maintained in optimal operating condition until project completion at which time the erosion and sediment controls shall be removed to an upland location.
  11. The Permittee shall give a copy of this permit to the contractor(s) who will be carrying out the activities authorized herein prior to the start of construction and shall receive a written receipt for such copy, signed and dated by such contractor(s). The Permittee's contractor(s) shall conduct all operations at the site in full compliance with this permit and, to the extent

provided by law, may be held liable for any violation of the terms and conditions of this permit. At the work area the contractor(s) shall, whenever work is being performed, make available for inspection a copy of this permit and the final plans for the work authorized herein.

12. The Permittee shall post the attached Permit Notice in a conspicuous place at the work area while the work authorized herein is undertaken.
13. All waste material generated by the performance of the work authorized herein shall be disposed of by the Permittee at an upland site approved for the disposal of such waste material, as applicable.
14. On or before ninety (90) days after completion of the work authorized herein, the Permittee shall submit to the Commissioner "as-built" plans of the work area showing all tidal datums and structures, including any proposed elevation views and cross sections included in the permit. Such plans shall be the original ones and be signed and sealed by an engineer, surveyor or architect, as applicable, who is licensed in the State of Connecticut.

#### **GENERAL TERMS AND CONDITIONS**

1. All work authorized by this permit shall be completed within five (5) years from date of issuance of this permit ("work completion date") in accordance with all conditions of this permit and any other applicable law.
  - a. The Permittee may request a one-year extension of the work completion date. Such request shall be in writing and shall be submitted to the Commissioner at least thirty (30) days prior to said work completion date. Such request shall describe the work done to date, what work still needs to be completed, and the reason for such extension. It shall be the Commissioner's sole discretion to grant or deny such request.
  - b. Any work authorized herein conducted after said work completion date or any authorized one year extension thereof is a violation of this permit and may subject the Permittee to enforcement action, including penalties, as provided by law.
2. In conducting the work authorized herein, the Permittee shall not deviate from the attached plans, as may be modified by this permit. The Permittee shall not make de minimis changes from said plans without prior written approval of the Commissioner.
3. The Permittee may not conduct work waterward of the coastal jurisdiction line or in tidal wetlands at this permit site other than the work authorized herein, unless otherwise authorized by the Commissioner pursuant to CGS section 22a-359 et. seq. and/or CGS section 22a-32 et. seq.
4. The Permittee shall maintain all structures or other work authorized herein in good condition. Any such maintenance shall be conducted in accordance with applicable law including, but not limited to, CGS sections 22a-28 through 22a-35 and CGS sections 22a-359 through 22a-363g.

5. In undertaking the work authorized hereunder, the Permittee shall not cause or allow pollution of wetlands or watercourses, including pollution resulting from sedimentation and erosion. For purposes of this permit, “pollution” means “pollution” as that term is defined by CGS section 22a-423.
6. Upon completion of any work authorized herein, the Permittee shall restore all areas impacted by construction, or used as a staging area or access way in connection with such work, to their condition prior to the commencement of such work.
7. The work specified in the SCOPE OF AUTHORIZATION is authorized solely for the purpose set out in this permit. No change in the purpose or use of the authorized work or facilities as set forth in this permit may occur without the prior written authorization of the Commissioner. The Permittee shall, prior to undertaking or allowing any change in use or purpose from that which is authorized by this permit, request authorization from the Commissioner for such change. Said request shall be in writing and shall describe the proposed change and the reason for the change.
8. The Permittee shall allow any representative of the Commissioner to inspect the work authorized herein at reasonable times to ensure that it is being or has been accomplished in accordance with the terms and conditions of this permit.
9. This permit is not transferable without prior written authorization of the Commissioner. A request to transfer a permit shall be submitted in writing and shall describe the proposed transfer and the reason for such transfer. The Permittee’s obligations under this permit shall not be affected by the passage of title to the work area to any other person or municipality until such time as a transfer is authorized by the Commissioner.
10. Any document required to be submitted to the Commissioner under this permit or any contact required to be made with the Commissioner shall, unless otherwise specified in writing by the Commissioner, be directed to:  

Permit Section  
Office of Long Island Sound Programs  
Department of Energy and Environmental Protection  
79 Elm Street  
Hartford, Connecticut 06106-5127  
(860) 424-3034  
Fax # (860) 424-4054
11. The date of submission to the Commissioner of any document required by this permit shall be the date such document is received by the Commissioner. The date of any notice by the Commissioner under this permit, including but not limited to notice of approval or disapproval of any document or other action, shall be the date such notice is personally delivered or the date three (3) days after it is mailed by the Commissioner, whichever is earlier. Except as otherwise specified in this permit, the word “day” as used in this permit means calendar day. Any document or action which is required by this permit to be submitted or performed by a date which falls on a Saturday, Sunday or a Connecticut or federal holiday shall be submitted or performed on or before the next day which is not a Saturday, Sunday, or a Connecticut or

federal holiday.

12. Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this permit shall be signed by the Permittee and by the individual or individuals responsible for actually preparing such document, each of whom shall certify in writing as follows: “I have personally examined and am familiar with the information submitted in this document and all attachments and certify that based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief, and I understand that any false statement made in this document or its attachments may be punishable as a criminal offense.”
13. In evaluating the application for this permit the Commissioner has relied on information and data provided by the Permittee and on the Permittee’s representations concerning site conditions, design specifications and the proposed work authorized herein, including but not limited to representations concerning the commercial, public or private nature of the work or structures authorized herein, the water-dependency of said work or structures, its availability for access by the general public, and the ownership of regulated structures or filled areas. If such information proves to be false, deceptive, incomplete or inaccurate, this permit may be modified, suspended or revoked, and any unauthorized activities may be subject to enforcement action.
14. In granting this permit, the Commissioner has relied on representations of the Permittee, including information and data provided in support of the Permittee’s application. Neither the Permittee's representations nor the issuance of this permit shall constitute an assurance by the Commissioner as to the structural integrity, the engineering feasibility or the efficacy of such design.
15. In the event the Permittee becomes aware that they did not or may not comply, or did not or may not comply on time, with any provision of this permit or of any document required hereunder, the Permittee shall immediately notify the Commissioner and shall take all reasonable steps to ensure that any noncompliance or delay is avoided or, if unavoidable, is minimized to the greatest extent possible. In so notifying the Commissioner, the Permittee shall state in writing the reasons for the noncompliance or delay and propose, for the review and written approval of the Commissioner, dates by which compliance will be achieved, and the Permittee shall comply with any dates which may be approved in writing by the Commissioner. Notification by the Permittee shall not excuse noncompliance or delay and the Commissioner’s approval of any compliance dates proposed shall not excuse noncompliance or delay unless specifically stated by the Commissioner in writing.
16. This permit may be revoked, suspended, or modified in accordance with applicable law.
17. The issuance of this permit does not relieve the Permittee of their obligations to obtain any other approvals required by applicable federal, state and local law.
18. This permit is subject to and does not derogate any present or future property rights or powers of the State of Connecticut, and conveys no property rights in real estate or material nor any exclusive privileges, and is further subject to any and all public and private rights and to any

federal, state or local laws or regulations pertinent to the property or activity affected hereby.

Issued on \_\_\_\_\_, 2016

STATE OF CONNECTICUT  
DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION

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Betsey C. Wingfield  
Bureau Chief  
Bureau of Water Protection and Land Reuse

Permit #201503315-SJ  
Michael Lech