



M E M O R A N D U M

TO: Regulatory Programs Committee

FROM: Richard Weber, Deputy Director, Regulatory Programs

DATE: October 1, 2014

RE: Sykes Variance (P2013-21)

SUMMARY

Joan M. Sykes ("applicant") is the owner of a 0.5±-acre property located in the Town of Russia, Herkimer County, on the shoreline of Hinckley Reservoir in an area classified Low Intensity Use by the Adirondack Park Land Use and Development Plan.

A 75± ft. variance from the minimum 75 ft. setback to the mean high water mark of Hinckley Reservoir is requested for construction at the shoreline of a concrete retaining wall, stone-filled basket wall extensions and restored embankment with stabilizing vegetation (totaling 1,140 square feet in face area). The goal is to stabilize and prevent further erosion of a 50 foot high unstable embankment composed largely of unconsolidated soils. The shoreline has been subject to accelerating erosion due to continual wave action and high water levels of the Reservoir. The 14± foot high concrete wall (colored to blend with the background sand slope and overhung with plants) will not only protect the slope from water and wave action but will support the backfill of soil and vegetation to further stabilize and restore the embankment.

The Agency was notified by letter dated May 14, 2014 from the Town of Russia Codes Officer that no approval is required for the retaining wall from the Town of Russia. Three other agencies (DEC, Army Corps Of Engineers, and the Canal Corporation) have previously issued approvals for the earlier version of this project. Army Corps Of Engineers and the Canal Corporation will amend their approvals following Agency authorization; DEC issued an amended permit dated September 25, 2014 based on the current plans.

Attached is a photograph (Exhibit 20G; July 1, 2014) indicating the instability of the shoreline, the height and steepness of the embankment, and the trees and other debris that have tumbled to the bottom due to erosion. Note the tree identified by the red arrow. Also attached is a photograph (Exhibit 21B; July 10, 2014) showing the recent undercutting of a large tree, and the close location of the well head (375 foot deep well) to the eroding cliff edge. The tree identified by the red arrow in Exhibit 20G (July 1, 2014) is the same downed tree in Exhibit 21B (July 10, 2014) that was toppled in a storm a week later.

Staff Analysis

In arriving at its determination whether to grant a variance, the Agency must consider the criteria set forth in 9 NYCRR §576.1. All of the factors are to be taken into consideration, on balance, when making this determination. It is not required that the proposal meet each criteria. It is the staff opinion that this application is approvable as, on balance, the factors in 576.1 can be resolved while achieving the applicant's objectives.

The detailed staff review of the variance criteria is found under the heading "Discussion" on pages 4-7 of the attached Draft Variance Order [Attachment 1]. The most important criteria are the discussions of alternatives that can either eliminate or minimize the variance while meeting the goals of the proposed project. There is no feasible alternative that will not require a variance. Due to the steepness and unconsolidated soils of the embankment, and the impacts of high water and weather, softer design alternatives such as bank plantings alone will not be successful. Although visual impacts can be mitigated, the size of the retaining wall is the minimum necessary to protect the embankment and the backfilling of soil supporting protective vegetation.

Based on its analysis of the applicants' proposal, staff recommends that the Agency grant the requested variance. Denial of the variance would, through ongoing erosion, continue the adverse impacts to water quality, the embankment and the applicant's well and property. The proposed shoreline stabilization design (including visual mitigation), storm water and erosion controls, and native plantings limit the necessity of many additional site specific conditions in the Draft Variance Order.