

# NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 7  
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March 19, 2021

Supervisor Nancy Ridgeway  
Town of Sandy Creek  
1992 Harwood Drive, P.O. Box 52  
Sandy Creek, NY 13145

RE: Notice of Incomplete Application  
Sandy Creek/Richland WSA permit modification and CEHA variance request  
DEC ID 7-3599-00040

Dear Supervisor Ridgeway,

Please be advised that the Town's permit modification request will be treated as a new application per 6 NYCRR Part 621.11(h)(1), and a 15-day public comment period will be required once a complete application has been received.

DEC has completed an initial review of the permit modification and variance request material. The application is incomplete and additional details are needed. Please provide the following:

## Project Plans

Laterals are described in the planned sequence of activities but are not shown on the project plans. Please update the plans showing all service laterals, the limits of all ground disturbances, and all structures to be serviced by this proposed water line.

Please label the NPFA line on each plan and show the entire width of the line.

Please provide a profile plan view of the waterline installation under the waterbody at the Ford Drive YMCA bridge. Please be advised that a Protection of Waters Permit would be required if a minimum 6-foot separation is not maintained between the top of the bore and the watercourse bed and banks.

Please provide cross sections indicating the depth below grade of the water line.

Please provide details on construction methods and equipment.

Please identify the location of staging areas.

Is frac-out a concern for directional drilling through the dune? How has this been addressed?

### **Joint Application**

The Joint Application states there will be construction within the adjacent area to NYS Freshwater Wetland PI-1 and EL-10, and a modification to the Town's Freshwater Wetland Permit was applied for. Please be advised that the 100-foot adjacent area to EL-10 stops at the east edge of South Sandy Pond Inlet Road. If the Town installs the waterline in the middle of the road, then a freshwater wetlands permit is not required for this work. Please confirm.

The mapped boundary to Wetland PL-1 is approximately 1,200 feet south of where the southern end of the proposed waterline will connect to the existing waterline on N. Rainbow Shores Road. It does not appear the proposed construction would intersect the regulated boundaries to wetland PL-1. Please clarify.

Based upon the information, it is likely that the proposed waterline would not require an ECL Article 24 Freshwater Wetland Permit; please confirm.

### **Variance Request**

#### Attachment 1-1

The narrative states DEC's denial of this segment of the waterline has created an unnecessary hardship. During the initial permit application process in 2019, the Town removed this section of the waterline from consideration after receiving comments from DEC; DEC did not deny the permit. Please update your response accordingly.

The narrative states that some residents currently and have historically carried in their potable water. If this has been the method for obtaining potable water past and present, what prevents this method from continuing?

Please clarify the hardship. Please describe what alternatives for water have been evaluated. With each alternative, please provide the test, studies, investigations, and/or analyses used to reach this conclusion of hardship.

#### Attachment 2-1

The narrative states that DEC denied the waterline CEHA permit application. As previously stated, during the initial permit application process in 2019, the Town

removed this section of the waterline from consideration after receiving DEC's comments; DEC did not deny the permit. Please update your response accordingly.

The narrative states that "This action leaves no opportunity or alternative to clean water for the affected residents." Please describe the evaluation and conclusion regarding such alternative options, including but not limited to new wells, lake water, water filling stations, and bottled water to provide potable water to the seasonal residents. Please include with the alternatives that were evaluated the corresponding tests, studies, investigations, and/or analyses used to reach this conclusion.

#### Attachment 2-2

Please describe how the Town would repair and restore areas along the dune in the event of a water main break or service line if the water main becomes exposed from erosion or flooding. How many areas are currently unprotected, and would those unprotected areas need to be protected (such as, through additional shoreline hardening)?

#### Attachment 2-3

The narrative states, "data documenting historical amounts of erosion for this area have been sought unsuccessfully by the Town/residents; and the affected residents are not aware of any data in DEC's possession documenting historical erosion figures." DEC is not aware of any such request from either the Town of Sandy Creek or Barton and Loguidice. Please clarify accordingly.

DEC received a request via email from a landowner on S. Sandy Pond Inlet Road for erosion-related data. DEC received the initial email on 10/21/2020 and responded on 11/10/2020. The response included an FTS link to download 2011 and historic imagery files and a website link to Lake Ontario Lidar elevation data which the National Oceanic and Atmospheric Administration (NOAA) maintains. The landowner requested this information again on 12/18/2020, 01/11/2021, and 03/01/2021. DEC responded to these requests on 12/23/2020, 01/22/21, and 03/10/2021.

The Lake Ontario LiDAR elevation data is maintained by the National Oceanic and Atmospheric Administration (NOAA) and can be accessed at <https://coast.noaa.gov/dataviewer/#/lidar/search/where:id=1407>

A new FTS link can be created to transfer the imagery files again. Please contact Kevin Balduzzi at [Kevin.balduzzi@dec.ny.gov](mailto:Kevin.balduzzi@dec.ny.gov) if this additional FTS access to these files is needed.

The second to last paragraph states that DEC used rip rap to provide erosion protection at Sandy Island Beach State Park. The park's repair work was designed and installed by the Office of Parks, Recreation, and Historic Places, not DEC. Please update this section accordingly.

#### Attachment 2-4

This section states, in part, that the waterline is the minimum necessary to overcome the practical difficulty or hardship for “the lack of a clean, reliable, potable uncontaminated water supply and the lack of adequate fire protection.” Please include a comprehensive alternatives analysis of potable water options including but not limited to new wells, lake water, water filling stations, and bottled water to provide potable water to the seasonal residents. Please include all tests, studies, investigations, and analyses used to evaluate each alternative water source.

#### Attachment 2-5

The narrative states, “third, even if there arguably were room for additional development (e.g., the backlot dune) or for expansion of existing residences (which there is not), DEC controls approval of any further development in the CEHA and can deny a requested permit accordingly...” DEC will coordinate with Sandy Creek to compare Town building permits and Coastal Erosion permits for residences on the South Sandy Pond Barrier Dune.

If the Town and Barton and Loguidice would like to discuss the alternatives analysis, please contact Kevin Balduzzi at [kevin.balduzzi@dec.ny.gov](mailto:kevin.balduzzi@dec.ny.gov) or 315-426-7493

Sincerely,

Kevin M. Balduzzi  
Deputy Regional Permit Administrator  
Division of Environmental Permits

Ecc. Matt Marko, P.E., Regional Director, NYSDEC Region 7  
Elizabeth Tracy, Regional Permit Administrator, NYSDEC Region 7  
Margaret Sheen, Regional Attorney, NYSDEC Region 7  
Tim Eidle, NYSDEC Albany  
Beth Geldard, NYSDEC Flood Hub, Region 8  
Town of Richland Supervisor  
Barton and Loguidice