

23-42-09

RESOLUTION AUTHORIZING STAFF TO ACCEPT AN APPLICATION FOR A PERMIT AUTHORIZING ACCESS TO STATE LANDS FORMERLY PERMITTED TO MICHAEL & LINDA BELL, AND TO ISSUE SAME UPON COMPLETION OF REQUIRED WORK

WHEREAS, on August 1, 2022, Michael Bell contacted the Executive Director to express interest in securing an access permit to state land adjacent to their private property on North Shore Road in Hadley, New York; and

WHEREAS, on or about July 13, 2011, Regulating District staff had identified violations of Board policy and the Regulating District's Rules and Regulations on Access Permit Area #15874, which area was then-permitted to Michael and Linda Bell; and

WHEREAS, during July 2011 inspections staff observed placement of fill far exceeding that which had been permitted in a June 30, 2011 work permit issued to Michael and Linda Bell as well as the use of a bulldozer; which use was expressly prohibited in said work permit; and

WHEREAS, staff made multiple unsuccessful attempts to compel Michael and Linda Bell to address these violations; including written correspondence on July 13, August 4, and August 25, 2011; and

WHEREAS, staff's multiple subsequent site visits confirmed that these violations had not been addressed; and

WHEREAS, Regulating District staff subsequently recommended revocation of Access Permit #15874; and

WHEREAS, the Board voted unanimously at its October 12, 2011 meeting to revoke Permit #15874, pursuant to Regulating District Rules and Regulations; and

WHEREAS, in revoking Permit #15874, the Board conditioned any future reinstatement or renewal of said access permit on Michael and/or Linda Bell, and/or their successors, removing the unauthorized fill placed on State land and restoring the area to its pre-construction natural state; and

WHEREAS, in revoking Permit #15874, the Board also conditioned any future reinstatement or renewal of said permit upon Michael and/or Linda Bell, and/or their successors, providing payment in full to the Regulating District equal to the Regulating District's costs, if applicable, for removing the unauthorized fill placed on State land and restoring the area to its pre-construction natural state; and

WHEREAS, Regulating District has not incurred any costs related to the removal of the unauthorized fill placed on State land and restoring the area to its pre-construction natural state; and

WHEREAS, Michael and Linda Bell have expressed an interest in completing any prescribed remedial work, and remitting any prescribed fees, necessary to apply for and be issued a permit for access to the State land formerly comprising Access Permit Area #15874; and

WHEREAS, staff have conducted site visits to former Access Permit Area #15874, and have met with Michael and Linda Bell to discuss remediation measures required prior to reissuance of an access permit; and

WHEREAS, removal of all material from former Access Permit Area #15874 may not be in the best interest of the Regulating District and may require a level of construction activity inconsistent, at this point, with the best stewardship of State land under the Regulating District's jurisdiction; and

WHEREAS, staff have developed an alternate scope of remediation work consistent with the intent expressed in the Board's October 12, 2011 revocation determination;

NOW THEREFORE BE IT RESOLVED, that the Board of the Hudson River-Black River Regulating District authorizes the Executive Director to accept an access permit application for former Access Permit Area #15874; and

BE IT FURTHER RESOLVED, that the application fee for said permit will be equal to the fees that would apply to a new permit application for the said permit area, plus an amount equal to the permit fees in place at the time had the applicants timely renewed for each of the twelve years between 2012 and 2023, pursuant to Resolution 93-29-6 adopted by the Board in 1993; and

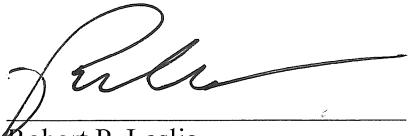
BE IT FURTHER RESOLVED, that, with the application, the applicant must pay a \$100 administrative penalty prescribed by the Board's current access permit fee structure for each year the applicant failed to perform the required remediation from the Board's first authorization for the imposition of such penalties, on October 14, 2020, through completion of the requirements enumerated herein warranting the issuance of an access permit; and

BE IT FURTHER RESOLVED, that staff are authorized to issue a work permit specifying the prescribed remediation work to be performed at the applicant's expense to include: the planting of three native trees, no less than 3 inches in diameter at 'breast height' or 'dbh' ('dbh' = 4.5 feet above forest floor on the uphill side of the tree); placement of stabilizing rip-rap stone along the shoreline to Regulating District specifications; and reestablishment, above ground, of three monuments used to establish the New York State Property Boundary; which may remain on site but may be buried; and replacement of a fourth property line monument which is no longer present. All monuments utilized shall be to Regulating District specifications; and

BE IT FURTHER RESOLVED, that the Executive Director is authorized to process said application upon receipt of the fees and penalties described above and, following the completion of required remediation work to be conducted under the work permit issued by the Regulating District, to issue said access permit.

Approved as to form:

Approved at the September 12, 2023 Board Meeting



Robert P. Leslie
General Counsel

Motion was made by Mr. Reagan and seconded by Mr. DeWitt that the Resolution be approved.

Present and voting:

| <u>MEMBER</u> | <u>AYE</u> | <u>NOE</u> | <u>ABSTAIN</u> |
|------------------|--------------|---------------|----------------|
| Mr. Finkle..... | <u> X </u> | <u> </u> | <u> </u> |
| Mr. DeWitt..... | <u> X </u> | <u> </u> | <u> </u> |
| Mr. Candido..... | <u> X </u> | <u> </u> | <u> </u> |
| Mr. Hayes..... | <u> X </u> | <u> </u> | <u> </u> |
| Mr. Bird..... | <u> X </u> | <u> </u> | <u> </u> |
| Mr. Reagan..... | <u> X </u> | <u> </u> | <u> </u> |
| Ms. Allen..... | <u> X </u> | <u> </u> | <u> </u> |