

State of New York
Water Resources Commission
Stream Protection

Fill of Navigable Waters

In the Matter of
Application No. 5-4-69

by

HARLAND H. STUBING

DETERMINATION OF CENTRAL PERMIT AGENT

Application Dated	January 16, 1969
Hearing Held	July 9, 1969
Determination Dated	August 8, 1969

HISTORY OF APPLICATION

Application number 5-4-69, signed by Harland H. Stubing, Route 73, Ticonderoga, New York, dated January 16, 1969, was submitted to the Regional Office of Fish and Game in Ray Brook, New York.

Notice of application was mailed to the applicant by the Regional Office on January 16, 1969 and published in the Ticonderoga Sentinel on January 23, 1969.

The notice of hearing was sent out by the Acting Central Permit Agent on June 9, 1969 and published in the Ticonderoga Sentinel on June 26 and July 3, 1969.

A proof of publication has been received for both published notices.

The public hearing was held in the Auditorium, Ticonderoga Community Building, Montcalm Street, Ticonderoga, New York, on July 9, 1969 commencing at 10:00 o'clock in the forenoon before J. R. Dineen, Senior Hydraulic Engineer, Division of Water Resources, New York State Conservation Department.

The applicant, Harland H. Stubing, appeared at the hearing and was also represented by his attorney, David White, Esq.

The Division of Fish and Game was not a party in the proceeding and was represented at the hearing by Dirck Benson, Regional Supervisor.

Objections to the application were filed by the Eagle Lake Property Owners Association represented at the hearing by its attorney, Lawson and Lawson; John Lawson, Esq. of counsel. Clifford V. Tobin, President of the Association and an individual objector in the proceeding, also attended the hearing.

The following objectors appeared at the hearing as individual objectors and also as members of the Eagle Lake Property Owners Association and were represented by counsel of the Association; John Lawson, Esq.: Mr. Joseph Muehleck, Mrs. Grant Johnson, Mr. Ben W. Hill, Mr. E. J. Tobin and Mrs. Gladys Lodge.

Other objectors at the hearing and representing themselves were Honorable Sheldon F. Wickes, County Judge and Francis A. Wickes, Esq.

Notice of objection was received from the following individuals who did not appear at the hearing: Mrs. Jean Archbald, George H. Martin, Mrs. Edward S. Knauss, B. A. Lefevre, Harry H. Vollmer, Charles S. Conklin II, Robert A. Hunter, F. Edward Thomson, Carl W. Harris, George W. Conklin, Mrs. Karl R. Blanchard, C. O. Danes, Alfred E. Runge, Edwin A. Buechner, and Mary T. Scott.

Some of the above objectors are members of the Eagle Lake Property Owners Association and as members of the Association were represented at the hearing by counsel of the Association, John Lawson, Esq.

Charles Schwerdtfeger, Supervisor, represented the Town of Ticonderoga at the hearing and was not a party in interest in the proceeding.

Three letters were received from individuals who own property on Eagle Lake and approve of the work proposed in the application by Mr. Stubing. .

PROJECT

In application number 5-4-69, Harland H. Stubing proposes to place sand fill along 150 feet of his shorefront property and extending approximately 15 feet into Eagle Lake and place stone riprap slope protection on the fill located on property of the applicant fronting on Eagle Lake adjacent to New York State Highway Route No. 73 in the Town of Ticonderoga, Essex County.

In the original application dated January 16, 1969, the applicant proposed a timber crib to act as a retaining wall and protect the new fill from erosion. In a subsequent letter dated February 18, 1969 the applicant revised his original proposal to eliminate the timber crib and substitute a stone riprap slope protection.

OBJECTIONS

The objectors contend that completion of the project as proposed will unduly encroach into the waters of Eagle Lake, will destroy a portion of a black bass spawning ground located in the lake, that the proposed fill will further extend the existing unauthorized fill made by a former owner and will result in a project that is unsightly, unnatural and objectionable.

The objectors further contend that the small amount of debris presently at the location of the proposed fill could easily be removed and should be removed instead of covered with earth fill as proposed in the application, that the real purpose of the application is to enable the applicant to enlarge an already substantial and adequate parking area used by patrons of an Inn on the property, and that the proposal is not in the public interest and is solely for the promotion of a restaurant and bar business at the Inn.

In addition to the above, the Eagle Lake Property Owners Association contend that the drawings submitted with the application do not clearly define the extent of the proposed work, are vague and meaningless and do not give exact locations for the fill; that the type of construction is not detailed and provides no guarantee against erosion of the fill and pollution of the waters of the lake; that the silt content of the proposed fill is not given, that silt or fine material in the proposed fill could destroy black bass spawning beds near the fill by leaching of fine material into the water and that cribbing or riprap on the shores of the lake will detract from the natural beauty of the area.

After due consideration of the stenographic record and the evidence and arguments given at the public hearing the Central Permit Agent finds the following:

FINDINGS OF FACT

1. The applicant in this proceeding, Harland H. Stubing, is owner of approximately one-quarter of an acre of land fronting on Eagle Lake in the

Town of Ticonderoga, Essex County. The property is located on the north side of New York State Highway Route No. 73 and between that highway and Eagle Lake approximately 10 miles west of the Village of Ticonderoga. The property was recently acquired by Mr. Stubing in the spring of this year.

2. The subject property includes a tavern, Eagle Lake Inn, and several summer cottages which are operated by the applicant. The cottages are rented by the applicant to individuals for summer recreational use. The cottages are located approximately 200 feet west of the tavern. The area bounded by that tavern, the cottages, Route 73 and Eagle Lake is used for parking cars, mainly by customers of the tavern.

3. The north side of the parking lot consists of a steep earth slope extending from the parking lot to the edge of water of Eagle Lake. The parking lot is approximately 7 feet higher in elevation than the water surface of Eagle Lake. The slope of the earth bank separating the lake and the parking lot is approximately one foot vertical to two feet horizontal. Some of the bank is vegetated and at several locations has deep gullies due to erosion from runoff from the parking lot. The bank is not presently protected from erosion due to runoff from the parking area and wave action.

4. The parcel of land owned by the applicant was a portion of property formerly owned by one Mario W. Grannini and subdivided by him into several lots. Some fill has been previously placed in the shallow water of the lake by a former owner of this parcel sometime in the 1950's. This old portion of fill was completed prior to January 1, 1966, the effective date of Conservation Law, Section 429-b and therefore was not subject to this statute.

5. The applicant proposes to place run-of-bank gravel fill along 150 feet of the shore of Eagle Lake between the tavern and the cottages. The proposed fill will extend a maximum of 15 feet into the lake from the location of the existing shoreline.

6. In the original application dated January 16, 1969, the applicant proposed to construct a timber crib wall on the lakeward portion of the new fill to act as a retaining wall and prevent erosion of the new fill into the lake. In a subsequent letter dated February 18, 1969, the applicant revised his proposal to eliminate the timber crib wall and substitute a stone riprap on the slope of the new fill exposed to the lake.

7. Prior to the hearing, the applicant met with several of the objectors at the site of the proposed construction and placed stakes in the water to indicate the lakeward extent of the proposed fill. The stakes were referenced on the ground to a base line established in the parking lot. At the hearing, the applicant submitted a new sketch, exhibit number 4, which gave the exact location of the stakes and proposed fill and indicated in a sectional view of the fill, the type, location and extent of stone riprap which will be placed on the slope to prevent erosion. At the hearing the objectors indicated they would not object to the proposal if it were constructed in the manner shown in exhibit number 4 and as detailed in testimony of the applicant at the hearing.

8. The proposed construction as revised by the applicant includes placing clean fill consisting of run-of-bank gravel extending into the lake a maximum distance of ten feet from the existing shoreline. The toe of slope will not be a straight line along the shore as originally proposed but will follow the stakes as outlined in the field on a gradual curve. The new fill will be graded on a three horizontal to one vertical slope, covered with topsoil and seeded. Broken stone riprap shall protect the lakeward portion of fill from erosion and extend to an elevation three feet above the water level of Eagle Lake. A base line has been established in the field from which the offset distance to the new shoreline can be established and checked during construction.

9. Eagle Lake is located approximately 10 miles west of the Village of Ticonderoga on State Highway Route 73. The state road crosses the lake and also an island located in the lake which is now a portion of the highway right-of-way. The shore of the lake is essentially undisturbed by encroachments due to fills or other types of construction. It is an important source of recreation for many individuals who use cottages on the lake for summer homes. Many of the owners of cottages on the lake are residents of Ticonderoga but some summer residents come from other portions of New York State, New Jersey and other nearby states.

10. The existing bank of the lake in the subject application provides drainage from the parking lot. The surface of the parking lot is gravel and stone dust and is not presently paved. Considerable surface water runoff from the parking lot combined with wave action has resulted in erosion of the existing shoreline at the site of the proposed fill. Some method of slope protection is necessary to protect the existing slopes from further damage caused by erosion.

11. The proposed fill will be graded to approximately a slope of three horizontal to one vertical lakeward of the parking area, topsoil placed and grass seed planted on the slope. The applicant further proposes to construct a rustic type guardrail to define the parking area and prevent cars from extending over the new grass covered fill area. None of the new fill will be used to create an extension of the parking lot.

12. The principle game species of Eagle Lake is small mouth bass (black bass). Black bass have been known to spawn in the general vicinity of the site of the proposed fill. Completion of the project will result in a loss of a small portion of the shallow water area at Eagle Lake available for spawning by black bass. There is no indication that existing areas available for spawning in the lake are limited nor that completion of the project, if properly engineered and constructed, would have any adverse effect on black bass spawning in the lake.

13. If the fill proposed to be used in the project contains a large amount of silt or other fine material that would pass a 200 mesh sieve, completion of the work would result in turbidity of the adjacent waters of Eagle Lake and a continued leaching of fine material through the stone riprap into the lake. Some sedimentation of the suspended solids would occur in adjoining underwater lands due to the turbidity. Such a deposition could adversely effect the lake bottom by covering organisms and aquatic plants in the lake bottom. The collection of fine material would interfere with growth of aquatic vegetation and may interfere with use of the lake bottom by black bass for spawning. At the hearing, the

applicant testified that he proposed to use clean sand and run-of-bank gravel for his fill material and it would be obtained at a borrow pit remote from the applicant's property. The applicant further stated that he would accept the recommendations of the Conservation Department or Department of Transportation as to the type of material to be used for fill so as to minimize any possible turbidity of the water of Eagle Lake.

14. Some debris and litter have accumulated on the slope and in the shallow water at the site of the proposed fill. At the hearing the applicant stated that he would clean up the site, including the shallow water area that will not be covered by new fill, to eliminate any unsightly appearance of the shore of the lake caused by litter.

On the basis of the stenographic record of the hearing and the above Findings of Facts, the Central Permit Agent determines the following:

CONCLUSIONS

1. The proposal, as revised, provides for proper and safe construction of all work incorporated in the application.

2. The project will be in the public interest and will not adversely affect the health, safety and welfare of the people of the State or the natural resources of the State if a permit is issued with the following special conditions amended to and made a part of the permit:

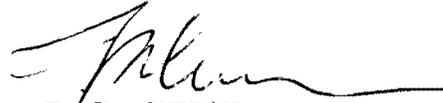
- a) Fill material to consist of run-of-bank gravel placed and compacted on the existing slope, neatly graded to conform to line and grade and location as shown on the attached drawing.
- b) No run-of-bank (ROB) gravel material is to be delivered to the job site or placed as fill until the material in the borrow pit proposed to be used as fill is inspected and approved by a representative of the Central Permit Agent. ROB gravel is to be relatively free of fine silt and clay material that would pass a 200 mesh sieve.
- c) Stone riprap shall consist of sharp angular broken stone of 50 to 300 pound size carefully placed on the slope and chinked together by machine or hand. Some field boulders may be combined with the broken stone if they can be adequately secured into the riprap to present a dense, durable and serviceable surface.
- d) The portion of stone riprap located below the surface of the water of Eagle Lake is to be in place prior to placing ROB gravel fill. All necessary precautions are to be taken to prevent erosion of fill material and resultant turbidity of the waters of the lake.

- e) ROB gravel fill shall not be placed in the water until the portion of stone riprap below the water level is completed and approved by a representative of the Central Permit Agent.
- f) All work is to be done in a satisfactory manner in accordance with accepted engineering and construction practices.

DETERMINATION

Accordingly, a permit will be issued to Harland H. Stubing for work proposed in application number 5-4-69 and will be in the public interest when done in accordance with the enclosed drawing and conditions included in the permit.

The permit and drawing are incorporated in and made a part of this determination.


T. P. CURRAN
Central Permit Agent

Dated: August 8, 1969
Albany, New York

Other Conditions:

13. Fill material to consist of run-of-bank gravel placed and compacted on the existing slope, neatly graded to conform to line and grade and location as shown on the attached drawing.
14. No run-of-bank (ROB) gravel material is to be delivered to the job site or placed as fill until the material in the borrow pit proposed to be used as fill is inspected and approved by a representative of the Central Permit Agent. ROB gravel is to be relatively free of fine silt and clay material that would pass a 200 mesh sieve.
15. Stone riprap shall consist of sharp angular broken stone of 50 to 300 pound size carefully placed on the slope and chinked together by machine or hand. Some field

The issuance of this permit certifies that it is not contrary to the public interest that the proposed works be done.

The applicant in accepting this permit signifies his agreement to abide by the conditions set forth above.

Application Date January 16, 1969

Expiration Date December 31, 1970

Permit Issued August 8, 1969

By /s/ T. P. CURRAN

State Campus Site, Albany, New York, 12226

Central (Permit Agent)

(Name and Address)

Conditions continued:

15. boulders may be combined with the broken stone if they can be adequately secured into the riprap to present a dense, durable and serviceable surface.
16. The portion of stone riprap located below the surface of the water of Eagle Lake is to be in place prior to placing ROB gravel fill. All necessary precautions are to be taken to prevent erosion of fill material and resultant turbidity of the waters of the lake.
17. ROB gravel fill shall not be placed in the water until the portion of stone riprap below the water level is completed and approved by a representative of the Central Permit Agent.
18. All work is to be done in a satisfactory manner in accordance with accepted engineering and construction practices.

Distribution:

Mr. D. Eenson (2)

Mr. W. Masten

Mr. W. Barnum (3)

Mr. D. Kennedy

Regional Supervisor 1,2,3,4,6-9

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Mr. E. Dietsch

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Mr. W. Redmond

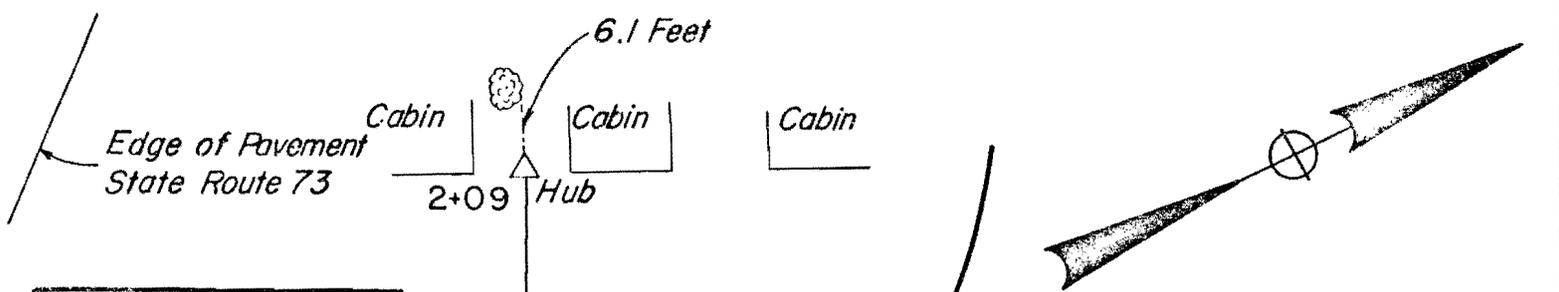
Mr. R. Abendschein

Applicant

Objectors

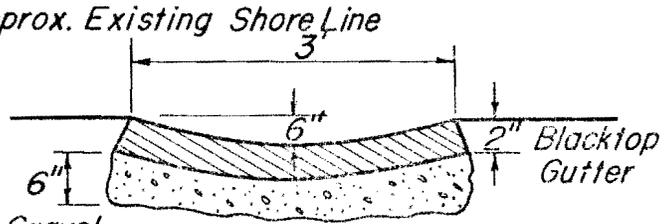
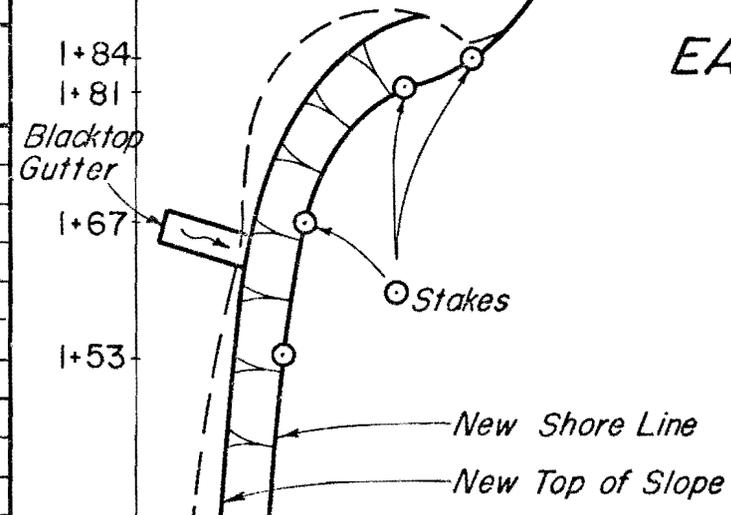
Mr. D. White, Esq.

Lawson & Lawson, Esqs.

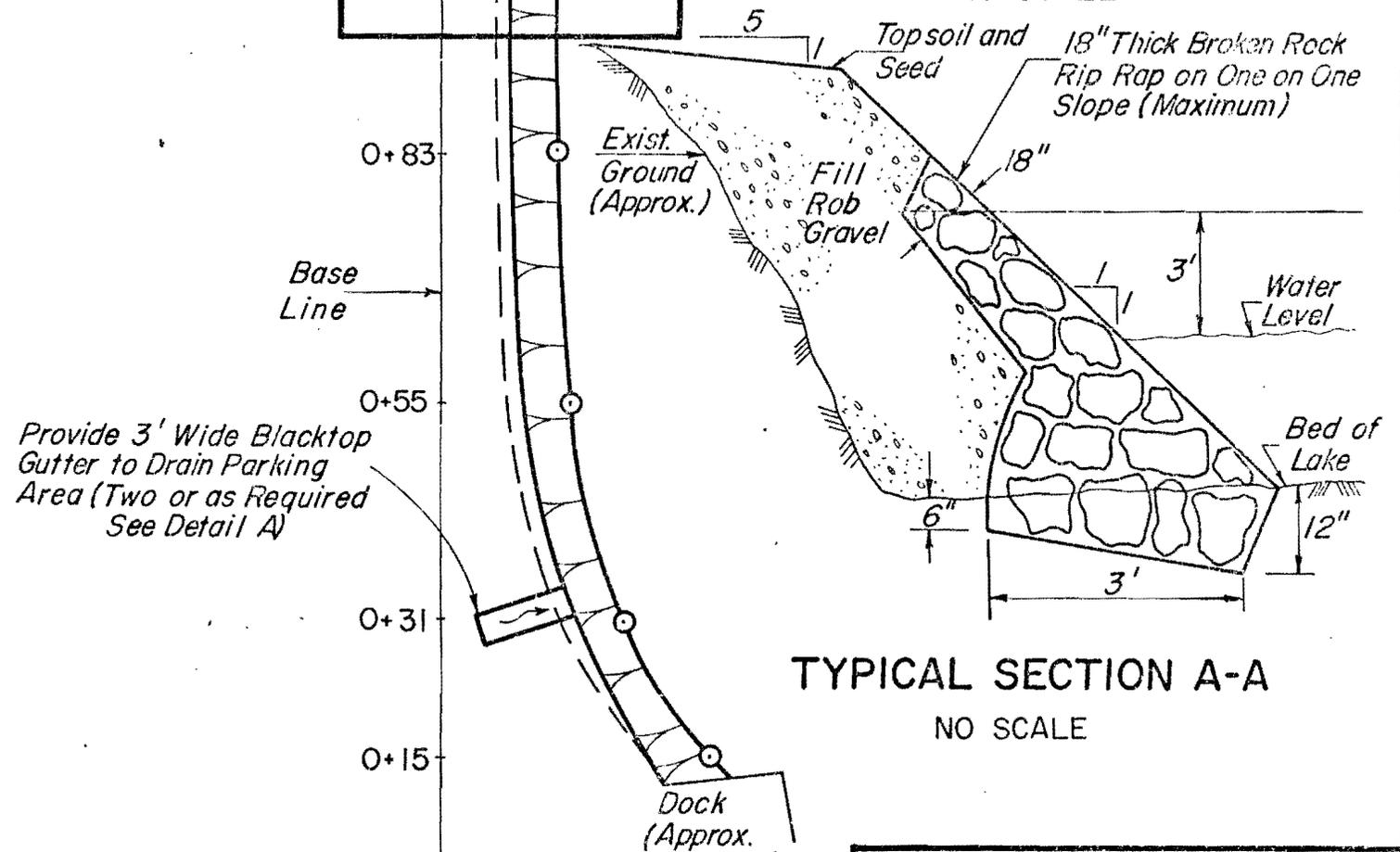
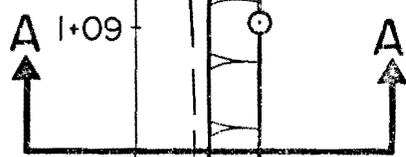


LOCATION OF NEW SHORE LINE	
STATION	DISTANCE FROM BASE LINE
0+15	30'
0+31	20'
0+55	15'
0+83	14'
1+09	14'
1+24	14'
1+53	16'
1+67	18'
1+81	30'
1+84	34'

Gravel Parking Area (Grade to Drain)



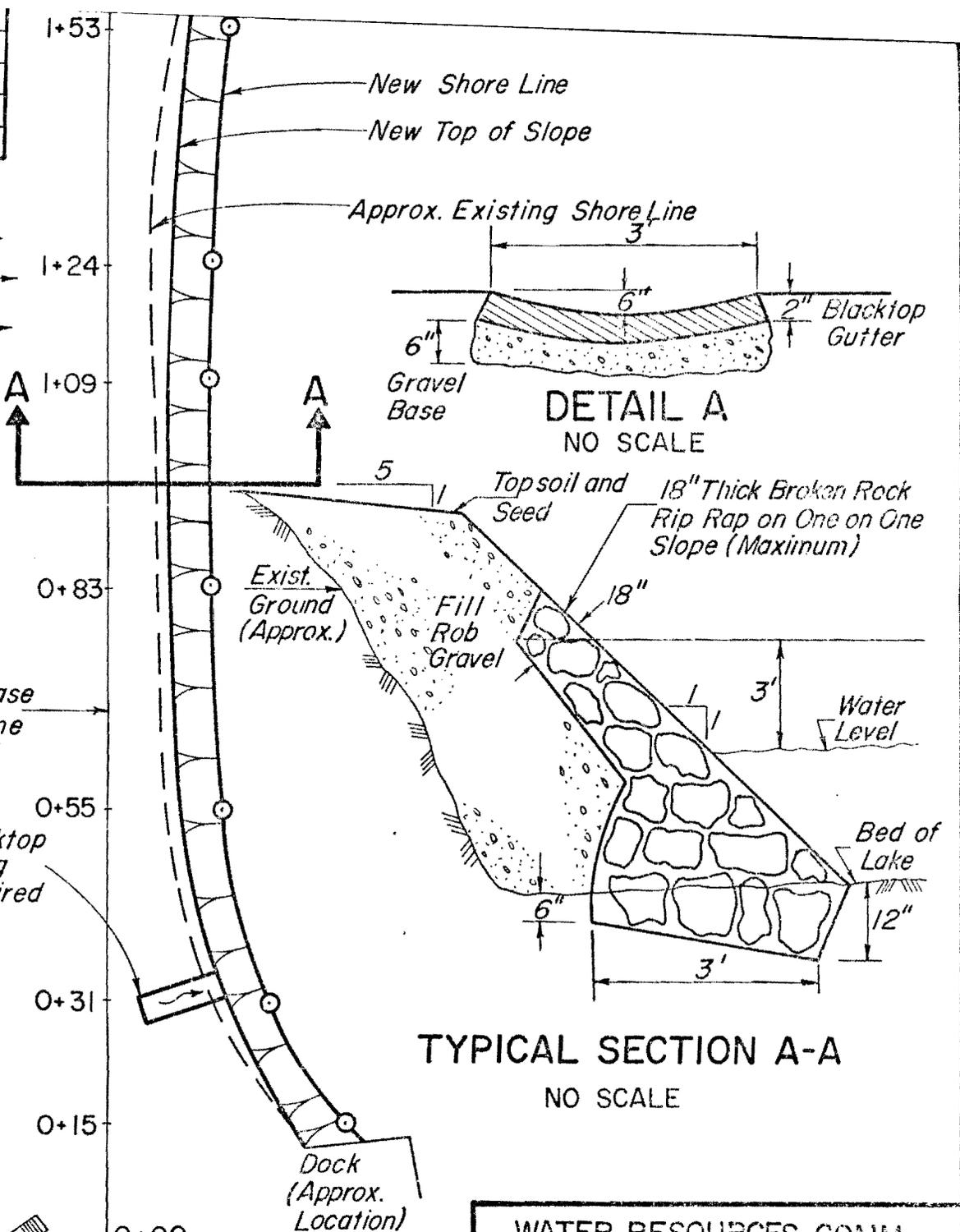
DETAIL A
NO SCALE



TYPICAL SECTION A-A
NO SCALE

1 + 24	14'
1 + 53	16'
1 + 67	18'
1 + 81	30'
1 + 84	34'

Gravel
Parking
Area
(Grade to Drain)



Provide 3' Wide Blacktop Gutter to Drain Parking Area (Two or as Required See Detail A)

PLAN
SCALE: 1" = 20'

TYPICAL SECTION A-A
NO SCALE

WATER RESOURCES COMM.
PERMIT
NO. 5-4-69
HARLAND STUBING
EAGLE LAKE
TOWN OF TICONDEROGA
ESSEX CO.