


THIS PERMIT AMENDS PERMIT 96-76, ISSUED JUNE 12, 1998, AND AMENDS AND SUPERCEDES PERMITS 97-76A, BR, CR, DR, ER, FR, GR2, H, I, J, K, AND L

THIS IS A TWO-SIDED DOCUMENT- Not approved by Agency- 8/6/2014

 <p>P.O. Box 99 • Ray Brook, New York 12977 • (518) 891-4050</p>	<p>APA Project Permit 96-76MR3</p>
<p>In the Matter of the Application of NYCO MINERALS, INC. for permit amendment pursuant to §809 of the Adirondack Park Agency Act</p>	<p>Date Issued: ???</p> <p>To the County Clerk: This permit must be recorded on or before ???. Please index this permit in the grantor index under the following names: 1. NYCO Minerals, Inc.</p>

SUMMARY AND AUTHORIZATION

NYCO Minerals, Inc. ("NYCO") is granted a renewal of Permit 96-76 for a five year period and amendments to Permit 96-76, on conditions, to allow: 1) transportation of up to 100 truckloads per day of aggregate from the project site to the Graymont processing facility located approximately 1.25 miles to the north on Route 9 (the "Graymont facility"); and 2) the creation of a new wetland area as mitigation for wetland loss at NYCO's Seventy Road mining facility located to the west of the project site (the "Seventy Road facility"). The project site is in areas classified Industrial Use, Moderate Intensity Use, Rural Use, and Resource Management by the Official Adirondack Park Land Use and Development Plan Map in the Town of Lewis, Essex County.

This amended permit shall expire unless so recorded on or before ??? in the names of all parties listed above.

Nothing contained in this permit shall be construed to satisfy any legal obligations of NYCO to obtain any governmental approval or permit from any entity other than the Agency, whether federal, State, regional or local.

AGENCY JURISDICTION

Pursuant to Sections 809(2)(a) and 810(1)(f)(1) and (2), 810(1)(b)(11), 810(1)(d)(12), 810(1)(e)(12), and 810(2)(e)(2) of the Adirondack Park Agency Act and 9 NYCRR Part 578, the Agency issued Permit 96-76 authorizing a mineral extraction (wollastonite and "aggregate"), mineral extraction structures, and an industrial use on a site classified as Industrial Use, Moderate Intensity Use, Rural Use, and Resource Management by the Official Adirondack Park Land Use and Development Plan Map and containing wetlands.

PROJECT DESCRIPTION AS PROPOSED

The project as originally authorized is a 31± acre mineral extraction consisting of an open pit mine for the extraction of wollastonite ore and the processing of overburden rock into stone "aggregate." This authorization renews the project for an additional five years and amends the project to allow: 1) transportation of up to 100 truckloads per day of aggregate from the project site to the Graymont facility; 2) the creation of 2.12± acres of wetland as mitigation for approximately 1.06± acres of wetland loss at the Seventy Road facility. In addition, modifications to a culvert in Patterson Creek are authorized as partial mitigation for impacts to an unnamed tributary at the Seventy Road facility.

The renewal and amendments authorized herein are described in the following documents:

- a. A map titled "Mine Plan, NYCO Mineral, Inc., Oak Hill Site," prepared by H2H Associates and dated January 22, 2014 (the "Mine Plan Map").
- b. A Letter of Transmittal and enclosures from H2H Associates dated February 4, 2014, requesting a renewal of Permit 96-76.
- c. A Letter from H2H Associates, LLC, dated July 22, 2014, requesting that NYCO and its contractors be authorized to haul up to 100 truckloads of aggregate from the project site to the Graymont facility.
- d. A document titled "Wetland Mitigation Plan, Seventy Road Mine, Town of Lewis, Essex County, New York, NYSDEC Permit #5-1532-00007/00001, NYSDEC MLF# 50111, ACOE Application #NAN-2013-00376-UBR, APA Project 99-91i," prepared by H2H Associates, LLC, dated June 2013, and revised December 2013 (the "Wetland Mitigation Plan").

- e. A document titled "Stream #3 Mitigation Plan, Seventy Road Mine, Town of Lewis, Essex County, New York, NYSDEC Permit #5-1532-00007/00001, NYSDEC MLF# 50111, ACOE Application #NAN-2013-00376-UBR, APA Project 99-91i," prepared by H2H Associates, LLC, dated June 2013, and revised December 2013 (the "Stream Mitigation Plan").

A reduced-scale copy of the Mine Plan Map is attached as a part of this permit for reference. The original, full-scale maps and plans and the reports and exhibits referenced in previous permits issued as part of Agency Project 96-76 and its amendments and this amended and renewed permit are the official plans for the project.

CONDITIONS

BASED UPON THE FINDINGS BELOW, THE AMENDED PROJECT IS APPROVED WITH THE FOLLOWING CONDITIONS:

1. All conditions in Permit 96-76 remain in full force and effect except as amended herein or as previously amended and referenced herein.
2. The amended project shall be undertaken as described in the request for an amended permit and the Project Description as Proposed herein, and in compliance with the Conditions herein. In the case of conflict, the Conditions control. Failure to comply with the permit is a violation and may subject NYCO and its successors and assigns to civil penalties and other legal proceedings, including modification, suspension or revocation of the permit.
3. This permit renewal and amendment is binding on NYCO and its corporate affiliates, all present and future owners of the project site, and all other contractors undertaking all or a portion of the project, for as long as the mineral extraction continues on the site. Copies of this amended permit, Permit 96-76, and all the approved maps, plans, reports and exhibits referenced in Permit 96-76 and its amendments shall be furnished by NYCO to all contractors prior to undertaking the amended project, and to all subsequent owners or lessees of the project site prior to any sale or lease of the project site.

4. All deeds conveying all or a portion of the lands subject to this permit shall contain references to this permit as follows: "The lands conveyed are subject to Adirondack Park Agency Permit 96-76, issued June 12, 1998, and its amendments, the terms and conditions of which are binding upon the heirs, successors and assigns of the grantors and all subsequent grantees."
5. In addition to complying with all terms and conditions of this permit, all future activities on the project site shall be undertaken in compliance with the requirements of New York State's Adirondack Park Agency Act, Freshwater Wetlands Act [Article 24 of the Environmental Conservation Law], and the Adirondack Park Agency's implementation regulations [9 NYCRR §§ 570-588].

Trucking

6. Condition 10(d) of Permit 96-76 and Condition 5 of Permit 96-76FR are amended to allow up to 100 truckloads of aggregate to be transported from the project site to the Graymont mine and processing facility located approximately 1.25 miles north of the project site on NYS Route 9. No more than 100 truckloads of aggregate may be transported daily from the project site.

This amendment does not modify Condition 10(b) of Permit 96-76, which authorizes the transport of up to 108 total truckloads of ore from the project site and NYCO's Seventy Road facility combined to NYCO's processing plant in Willsboro.

7. Except as provided in Permit 96-76 Condition 10(c), trucking shall only occur on weekdays, between April 1 and October 31 of each year, and between 7:30 a.m. and 6:00 p.m.
8. Upon prior written approval from the Agency, additional truckloads of aggregate may be removed from the project site to supply aggregate for state or municipal emergency projects, as determined by the Agency.

Wetland Mitigation

9. The wetland mitigation shall be completed in accordance with the Wetland Mitigation Plan. The mitigation shall be completed no later than one full growing season following commencement of excavation in the wetlands at the Seventy Road facility. A monitoring report shall be prepared and submitted annually by January 31 in electronic format for five years following the first full growing season after construction of the mitigation wetland. This may be the same report submitted to the US Army Corps of Engineers, but shall contain the information specified

in the Wetland Mitigation Plan. The performance standards specified in the Wetland Mitigation Plan shall be analyzed in the annual reports, and if the standards are not met the corrective procedures specified in the Wetland Mitigation Plan shall be followed.

Stream Impact Mitigation/Culvert Enhancement

10. The culvert enhancement at Patterson Creek shall be completed as described and detailed in the Stream Mitigation Plan.

Reports

11. An annual report shall be provided to the Agency by January 31st of each year. This report shall include information regarding the previous year's operation, including but not limited to the daily number of truck trips of ore and aggregate, dates and number of blasts, tons of ore mined, up-to-date mining projections, reclamation status, and the number and content of any complaints received and how the complaints were resolved.

Permit Term

12. This permit shall expire on [DATE] unless an application for renewal has been submitted at least one month prior to that date.

Prior Amendments

13. As authorized by Permit 96-76C, Condition 10(b) of Agency Permit 96-76 has been amended to allow aggregate to be transported from the project site to the Graymont facility in 22-ton trucks.
14. As clarified by Condition 8 of Permit 96-76ER, there shall be no more than three blasts per week at the Seventy Road facility and the project site combined.
15. As authorized by Condition 8 of Permit 96-76FR, Condition 6d of Agency Permit 96-76 has been amended to require NYCO to post information and instructions in the Town of Lewis Town Hall advising a toll-free telephone number containing a recording of the schedule of proposed days and times of blasting.
16. As authorized by Condition 9 of Permit 96-76FR, Condition 7 of Agency Permit 96-76 has been amended to state that the noise measurements required by Permit 96-76 do not need to be performed on Tax Map Parcel 46.2-1-35.
17. As authorized by Condition 10 of Permit 96-76FR, Condition

7(b)(4) of Agency Permit 96-76 has been amended to add: "In the event that monitoring cannot be accomplished at any site, the Agency may excuse NYCO from the condition or designate an alternate site."

18. As authorized by Condition 4 of Permit 96-76GR2, Condition 8(c) of Permit 96-76 has been amended to allow aggregate to be transported from the project site to the Graymont facility in uncovered trucks, provided the top of each load is no higher than six inches below the top of the sides of the trucks' dump boxes.
19. As authorized by Condition 4 of Permit 96-76I, when no extraction or processing operations are being undertaken on the project site by NYCO and only Graymont is performing excavation and aggregate processing operations, the sound monitoring measurements required by Condition 7 of Permit 96-76 and amended by Conditions 8 and 9 of Permit 96-76FR2 need to occur only once each year. Upon commencement by NYCO of extraction and processing operations, these measurements shall occur three times per year as required by Permit 96-76. NYCO shall provide the Agency with written notification when it commences extraction and processing operations.
20. As authorized by Condition 5 of Permit 96-76I, when no extraction or processing operations are being undertaken on the project site by NYCO and only Graymont is performing excavation and aggregate processing operations, the air quality monitoring required by Condition 8 of Permit 96-76 needs to occur only once per year. Upon commencement by NYCO of extraction and processing operations, this monitoring shall occur four times per year as required by Permit 96-76. NYCO shall provide the Agency with written notification when it commences extraction and processing operations.

FINDINGS OF FACT

Findings of Fact 1 through 85 set out in Permit 96-76, issued on June 12, 1998 and recorded on July 9, 1998 in the Essex County Clerk's Office in Book 45 of APA Permits at Page 120, are incorporated herein by reference as amended by Findings of Fact 86 through 96 set out in Permit 96-76BR, issued on August 21, 2003, and recorded on August 28, 2003 in the Essex County Clerk's Office in Book 59 of APA Permits at Page 274, Findings of Fact 97 through 106 set out in Permit 96-76CR, issued on April 22, 2005, and recorded on May 3, 2005, in the Essex County Clerk's Office in Book 64 of APA Permits at Page 270, Findings of Fact 107 through 113 set out in Permit 96-76DR, issued on January 19, 2006, and recorded on January 20, 2006, in the Essex County

Clerk's Office in Book 67 of APA Permits at Page 81; Findings of Fact 114 through 125 set out in Permit 96-76ER, issued on February 2, 2007, and recorded on February 13, 2007, in the Essex County Clerk's Office in Book 71 of APA Permits at Page 114; Findings of Fact 126 through 141 set out in Permit 96-76FR2, issued on March 23, 2009, and recorded on April 2, 2009, in the Essex County Clerk's Office as Instrument 1334 in Book 79 of APA Permits at Page 188, Findings of Fact 142 and 143 set out in Permit 96-76GR2, issued on May 18, 2009, and recorded on May 28, 2009, in the Essex County Clerk's Office as Instrument 2228-09 in Book 80 of APA Permits at Page 96, Findings of Fact 144 and 154 set out in Permit 96-76HR2, issued on December 7, 2009, and recorded on December 12, 2009, in the Essex County Clerk's Office as Instrument 5655 in Book 83 of APA Permits at Page 43, Findings of Fact 155 and 166 set out in Permit 96-76J, issued on October 27, 2011, and Findings of Fact 167 through 180 set out in Permit 96-76K, issued on November 17, 2011, and recorded on November 17, 2011, in the Essex County Clerk's Office as Instrument 2011-4772 in Book 90 of APA Permits at Page 87, and Findings of Fact 181, 182 and 183 set out in Permit 96-76L, issued on October 29, 2012, and recorded on November 21, 2012, in the Essex County Clerk's Office as Instrument 2012-5116 in Book 92 of APA Permits at Page 259.

Background/History

184. The project as originally authorized is a 31-acre open pit mine for the extraction of wollastonite ore and the processing of waste rock into stone "aggregate." Permit 96-76 authorized mining and hauling activities to take place on the project site between April 1 and October 31 of each year. This project was undertaken and is in existence. However, as of the date of issuance of this permit, wollastonite ore is not being mined on the project site.
185. Condition 10(b) of Agency Permit 96-76 authorized the transport of up to 46 truckloads of aggregate from the project site each day. As authorized by Permit 96-76C, Condition 10(b) of Agency Permit 96-76 was amended to allow up to 91 truckloads of aggregate to be transported from the project site to the Graymont facility on days when wollastonite ore is not being trucked to NYCO's Willsboro plants.
186. The Graymont facility is subject to the terms and conditions of Agency Permit 2002-58RA, issued December 27, 2012. Condition 8 of Permit 2002-58RA authorizes the Graymont facility to process up to 225,000 tons of aggregate each year. As described in Permits 96-76CR and 96-76ER, an average of 180,000 tons (maximum of 200,000 tons) of aggregate is transported annually from the Oak Hill facility to the Graymont facility.

187. The requested amendment does not involve a material change in permit conditions, the applicable law, environmental conditions, or technology since issuance of Permit 96-76.

Trucking

188. Up to 91 truckloads of aggregate currently travel each day from the project site to the Graymont facility, which is located on Route 9 to the north of the project site. The trucks enter Route 9 from NYCO's private mine road constructed pursuant to Agency permits 96-76 and 2000-58, and then travel approximately 1.25 miles north to the Graymont facility. This section of Route 9 is a well-maintained state highway with low traffic volume.
189. In 2009 and 2010, NYCO provided aggregate from the project site for the emergency construction of a temporary ferry crossing adjacent to the Crown Point Bridge. In 2011, NYCO provided aggregate from the project site for emergency repairs by state and municipal entities to roads, bridges, and infrastructure following Tropical Storm Irene. In 2013, NYCO provided aggregate from the Seventy Road facility to the Town of Lewis and the Essex County Department of Public Works to repair roads damaged during storm events. NYCO provided these emergency materials at no charge.

Wetland Mitigation

190. As authorized by Agency Permit 2013-138, the expansion of NYCO's Seventy Road facility will result in the loss of 1.06± acres of wetlands with a value rating of "2". The compensatory wetland authorized herein will be approximately 2.2-acres in size, will have a value rating of "2", and will enlarge an existing compensatory wetland that was successfully established pursuant to Permits 99-91 and 96-76BR.
191. The wetland mitigation plan was developed in accordance with the Agency's Compensatory Wetland Mitigation Guidelines.

Stream Impact Mitigation/Culvert Enhancement

192. As authorized by Agency Permit 2013-138, the expansion of NYCO's Seventy Road facility will impact approximately 1,290 linear feet of an unnamed tributary of the Derby Brook. As part of the mitigation for this impact, NYCO will enhance a culvert on Patterson Creek at the Oak Hill facility to provide for improved hydrology and fish passage.

PROJECT IMPACT FINDINGS

Operational Issues Affecting Nearby Land Uses

1. The increase from 91 to 100 truck trips per day along NYCO's private mine road and a 1.25± mile section of Route 9 will not create adverse noise impacts to adjoining and nearby residents or other land uses.

Wetlands and Water Resources

2. Implementation of the Wetland Mitigation Plan will adequately offset the loss of wetlands at the Seventy Road facility.
3. Implementation of the Stream Mitigation Plan will improve the hydraulic and habitat connectivity of Patterson Brook and help to offset stream impacts at the Seventy Road facility.

CONCLUSIONS OF LAW

The Agency has considered all statutory and regulatory criteria for project approval as set forth in §809(10) of the Adirondack Park Agency Act (Executive Law, Article 27) and 9 NYCRR Part 574. The Agency hereby finds that the amended project is approvable and complies with the above criteria, provided it is undertaken in compliance with the conditions herein.

PERMIT issued this day
of , 2014.

ADIRONDACK PARK AGENCY

BY: _____
Richard E. Weber, III
Deputy Director, Regulatory Programs

STATE OF NEW YORK)
) ss.:
COUNTY OF ESSEX)

On the day of in the year 2014, before me, the undersigned, a Notary Public in and for said State, personally appeared Richard E. Weber, III personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their capacity, and that by their signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

REW:TES:SHR

cc: Erin Donhauser, DEC
 Joseph Barbeitto, DEC

