

 <p><b>Adirondack</b> parkagency P.O. Box 99 • Ray Brook, New York 12977 • (518) 891-4050 apa.ny.gov</p>	<p><b>APA Project Permit 2013-138</b></p>
<p>In the Matter of the Application of <b>NYCO MINERALS, INC.</b> for a permit pursuant to §809 of the Adirondack Park Agency Act and 9 NYCRR Part 578</p>	<p>Date Issued: August 25, 2014</p> <p>To the County Clerk: This permit must be recorded on or before October 24, 2014. Please index this permit in the grantor index under the following names: <b>1. NYCO Minerals, Inc.</b></p>

**SUMMARY AND AUTHORIZATION**

This permit amends and supercedes prior Agency permits to allow for continuation and expansion of a mineral extraction in an area classified Industrial Use and Rural Use on the Adirondack Park Land Use and Development Plan Map in the Town of Lewis, Essex County.

This permit shall expire unless recorded in the Essex County Clerk's Office on or before October 24, 2014, in the names of all persons listed above and in the names of all owners of record of any portion of the project site on the recordation date.

The project shall not be undertaken or continued unless the project authorized herein is in existence within four years from the date the permit is recorded. The Agency will consider the project in existence when the permit has been recorded.

The project shall be undertaken in compliance with all conditions stated herein. Failure to comply with this permit is a violation and may subject the permittee, successors, and assigns to civil penalties and other legal proceedings.

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

**PROJECT SITE**

The project site is a 657± acre parcel on Seventy Road in the Town of Lewis, Essex County, classified as Industrial Use on the Adirondack Park Land Use and Development Plan Map.

The project site is identified as the Industrial Use and Rural Use portions of the following on the Town of Lewis Tax Map:

- a. Section 037.00, Block 2 as Parcel 44.1 (207.4± acres);
- b. Section 037.00, Block 2, Parcel 44.2 (1.1± acres);
- c. Section 046.2, Block 1, Parcel 1 (133.6± acres);
- d. Section 046.2, Block 1, Parcel 2 (121.5± acres);
- e. Section 046.2, Block 1, Parcel 3 (63± acres);
- f. Section 046.2, Block 1, Parcel 4 (62.6± acres);
- g. Section 046.2, Block 1, Parcel 25 (1.9± acres); and
- h. Section 046.2, Block 1, Parcel 51 (107.6± acres).

The project site is described in the following deeds;

- a. Tax map Section 037.00, Block 2 as Parcel 44.1 (207.4± acres) is described in a deed dated January 4, 2001, and recorded January 26, 2001, in the Essex County Clerk's Office in Liber 1274 of Deeds at Page 42.
- b. Tax map Section 037.00, Block 2, Parcel 44.2 (1.1± acres); tax map Section 046.2, Block 1, Parcel 1 (133.6± acres); tax map Section 046.2, Block 1, Parcel 2 (121.5± acres) and Block 1, Parcel 3 (63± acres); tax map Section 046.2, Block 1, Parcel 4 (62.6± acres) and tax map Section 046.2, Block 1, Parcel 51 (107.6± acres) are described in a deed dated August 30, 1991, and recorded October 4, 1991, in the Essex County Clerk's Office in Liber 1000 of Deeds at Page 6.
- c. Tax map Section 046.2, Block 1, Parcel 25 (1.9± acres) is described in a deed dated March 1, 2000, and recorded March 7, 2000, in the Essex County Clerk's Office in Liber 1241 of Deeds at Page 189.

#### **PROJECT DESCRIPTION**

The project as conditionally approved herein involves a continuation of previously-authorized mining activities and a material amendment to previously-issued Agency permits for these mining activities at the Seventy Road mining facility (the "Seventy Road facility") owned by NYCO, Inc. and its corporate affiliates (collectively, "NYCO"). The project involves the following:

1. Increase the permitted excavation limit by 14.9 acres, from 54.1 acres to 69.0 acres;
2. Increase the permitted "Affected Area" by 42.5 acres, from 89.9 acres to 132.4 acres;
3. Excavation of approximately 1.06 acres of wetlands, and construction of a wetland mitigation area approximately 2.2 acres in size at NYCO's Oak Hill mining facility located to the east of the project site (the "Oak Hill facility");
4. Increase the hours of operation during the mining season (April 1 to November 30), from Monday through Friday 7:30am to 5:30pm to Monday through Friday 7am to 6pm;

5. Coordinate water quality monitoring with the New York State Department of Environmental Conservation (the "DEC"); and
6. Allow for the trucking of aggregate from the Seventy Road facility, with no increase in the number of daily truck trips.

The project is summarized on the following maps:

- a. A map titled "Proposed Expansion Map," prepared by H2H Associates, LLC, and dated February 28, 2013 (the "Proposed Expansion Map"). This plan shows the previously-authorized excavation limits and affected areas, as well as the proposed excavation area, overburden piles, settling ponds, existing and proposed streams, and wetland boundaries.
- b. A map titled "NYCO Seventy Road Mine Truck Route," prepared by H2H Associates, and dated October 24, 2013 (the "Truck Route Map"). This plan shows the truck route for wollastonite traveling from the Seventy Road facility to the Willsboro processing plant.

The project is detailed in the following documents:

- c. Volume #1, titled "NYSDEC Mine Permit Renewal & Modification & APA Permit Renewal and Major Permit Application, Seventy Road Mine, Town of Lewis, Essex County, New York, NYSDEC Permit #5-1532-00007/00001, NYSDEC MLF# 50111, APA Project 99-91i," prepared by H2H Associates, LLC and dated June 2013 ("Volume #1"). Volume #1 includes application materials, deed history, a description of the natural resources on the site, a mining plan, mining methods and operations, pollution control and prevention of environmental impacts including noise, erosion and sedimentation controls, and visual, reclamation plans, a biological study of NYCO Lands in Lewis, and various maps, plans and appendices.
- 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").
- f. A document titled "Stormwater Pollution Prevention Plan," dated June 2013 and last revised February 2014 (the "Stormwater Pollution Prevention Plan" or "SWPPP").

- g. A document titled "Response to Agency Comments, 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 and dated December 2013. A portion of this document contains proprietary information.
- h. A letter dated July 22, 2014, revising the project proposal regarding trucking.
- i. A document titled "Operations and Maintenance (O&M) Plan, NYCO Minerals, Inc., Seventy Road Mine, Lewis, NY," prepared by Earth Science Engineering, P.C., and dated April 24, 2009, as augmented by letters from NYCO dated April 22, 2009, and October 20, 2009 (the "Stormwater Operations and Maintenance Plan").

A reduced-scale copy of the "Proposed Expansion Map" is attached as a part of this permit for easy reference. The original, full-scale maps and plans described herein are the official plans for the project. Copies of these documents are available upon request from Adirondack Park Agency headquarters in Ray Brook, New York.

#### **AGENCY JURISDICTION**

The project requires an Agency permit pursuant to §§ 809(2)(a), 810(1)(d)(12) and (f)(1), and 810(1)(d)(1)(d) of the Adirondack Park Agency Act [Executive Law, Article 27], as a mineral extraction on Industrial Use and Rural Use lands and new land use or development within 1/8 mile of a Wilderness area on Rural Use lands. The project is a regulated activity requiring a wetlands permit pursuant to 9 NYCRR § 578.2 and § 578.3(n)(1)(ii), as it involves excavation in a wetland.

#### **CONDITIONS**

#### **THE PROJECT IS APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:**

- 1. The project may not be undertaken until this permit has been recorded in the Essex County Clerk's Office.
- 2. This permit is binding on the permittee, all present and future owners or lessees of the project site, and all persons undertaking all or a portion of the project, for as long as the mineral extraction continues on the site. Copies of this permit and all applicable maps and plans as described herein shall be furnished by the permittee to all subsequent owners or lessees of the project site prior to sale or lease, and by the permittee and/or any subsequent owner or lessee to all persons undertaking any development activities authorized herein.
- 3. 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].

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 2013-138, issued August 25, 2014, the conditions of which are binding upon the heirs, successors and assigns of the grantors and all subsequent grantees."

#### **Mineral Extraction Location and Size**

5. This permit authorizes the mineral extraction and associated wetland excavation as described in the Project Description section above and depicted on the maps and plans described herein, and as conditioned herein. Any change to the location, dimensions, operations, or other aspect of the mineral extraction shall require a new or amended permit.

#### **Days and Hours of Operation**

6. Trucking, excavating, crushing, stockpiling, constructing infrastructure, and reclamation activities shall only occur between 7am and 6pm, from Monday through Friday, and between April 1 and November 30, except Memorial Day, Independence Day, Labor Day, or Thanksgiving Day. In addition, excavation and stockpiling of overburden and caprock may occur between November 30 and April 1, between 7:30am and 5:30pm, Monday through Friday, except Christmas Day and New Year's Day. Maintenance activities on mine roads and equipment and access to and from the site by NYCO employees may occur at any time.

#### **Trucking**

7. No more than 63 truckloads may be removed from the project site on any day between April 1 and June 30 and between September 1 and November 30. No more than 45 truckloads may be removed from the project site on any day between July 1 and August 31. These truckloads may consist of ore or aggregate, but no more than 108 total truckloads of ore from the project site and NYCO's Oak Hill facility combined may be trucked to NYCO's processing plant in Willsboro on any day.
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.

### **Blasting**

9. Blasting shall occur only between 10am and 5pm, from Monday through Friday. Blasting shall occur only between April 1 and November 30, except Memorial Day, Independence Day, Labor Day, and Thanksgiving Day. Upon prior written Agency approval, blasting may take place on Saturdays for safety reasons or when climatological conditions prevented blasting during the week.
10. There shall be no more than three blasts per week at the project site and the Oak Hill facility combined.
11. Blasting notification, methods, and monitoring shall occur in accordance with the current DEC mining permit for the site.

### **Tree Cutting/Vegetation Removal**

12. Outside of the 132.4 acre total affected area shown on the Proposed Expansion Map, no trees or other vegetation may be cut, culled, trimmed, pruned or otherwise removed or disturbed on the project site without prior written Agency approval, except that: 1) dead or diseased vegetation, rotten or damaged trees, or any other vegetation that presents a safety or health hazard may be removed; and 2) lands subject to a DEC-approved 480A Forest Management plan may be managed according to the approved plan.

### **Wetland Mitigation**

13. 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**

14. Impacts to Stream #3 shall be mitigated in accordance with the Stream Mitigation Plan and with approvals from the DEC and US Army Corps of Engineers. A qualified independent contractor shall inspect construction activities related to the created

mitigated stream. Any changes to the referenced plan shall be submitted to the Agency for review and approval.

15. The construction of the mitigation stream shall be completed prior to any impacts from mining activities to the unnamed tributary.
16. A surveyed drawing showing as-built conditions of the restored stream mitigation channel and disturbed areas shall be submitted to the Agency within 60 days following completion of construction.
17. A copy of any post-construction stream mitigation monitoring reports required by the Army Corps of Engineers or DEC shall be provided to the Agency. The Agency shall be consulted when monitoring indicates that a performance standard associated with the stream mitigation is not being met in order to determine an appropriate course of action.

**Water Quality Monitoring/Stormwater Management/Erosion and Sediment Control**

18. All existing stormwater management and erosion and sediment control practices shall be operated and maintained in accordance with the Stormwater Operations and Maintenance Plan.
19. All new stormwater management and erosion and sediment control practices shall be constructed and maintained in accordance with the Stormwater Pollution Prevention Plan.
20. Water quality monitoring for all stormwater outfalls on the project site shall occur in accordance with DEC's State Pollution Discharge Elimination System ("SPDES") permit. A copy of all monitoring reports shall be provided to the Agency within 30 days of completion of the report, and any corrective action determined necessary by the Agency shall be implemented as required.
21. NYCO shall monitor water quality of Derby Brook at all points on or adjoining the project site where water is diverted for domestic water supply purposes. The water shall be scientifically sampled and analyzed at least once a year thereafter during July or August when the extraction is being operated for evidence of changes in water turbidity, B.O.D., alkalinity, pH, mineral, bacterial and chloride content, and all other chemical characteristics critically related to the quality of domestic water supplies and aquatic life. NYCO shall submit a report of its findings, including the methods used and the persons and firms performing the analysis, to the Agency annually. Upon review of these reports and in consultation with DEC, the Agency may revise these Derby Brook water quality monitoring conditions. In the event of evidence of significant deterioration in water quality, such that

human health or aquatic life may be threatened, the Agency shall require NYCO to submit a plan to rectify such threats for approval in the form of an amended permit.

**Air Quality**

22. Dust control and air emission measures shall be implemented in accordance with DEC permitting and registration requirements.

**Road Maintenance**

23. NYCO shall contribute to road maintenance expenses and repairs on Seventy Road and Wells Hill Road as agreed upon with the Town of Lewis.

**Reclamation**

24. Reclamation shall be an on-going process whereby areas no longer needed for extraction purposes shall be promptly and successfully reclaimed according to the reclamation maps and plans contained in Volume #1.

**Permit Term**

25. Extraction activities shall cease on August 25, 2019, unless this permit is renewed before that date or a proper written request for renewal has been filed by that date. Any written request to renew this permit must be received in writing before its expiration and must be accompanied by updated mining and reclamation maps and narratives.

**Signage**

26. All signs associated with the mineral extraction on the project site shall comply with the Agency's "Standards for Signs Associated with Projects" [9 NYCRR Part 570, Appendix Q-3].

**Reports**

27. An annual report shall be provided to the Agency by January 31<sup>st</sup> 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.



28. At the request of the Agency, the permittee shall report in writing the status of the project, including details of compliance with any terms and conditions of this permit.

### FINDINGS OF FACT

#### Background/Prior History

1. On June 25, 1976, the Agency issued Permit 76-184 to Interspace Corporation, authorizing the establishment of a 30 acre wollastonite mineral extraction area with a 3 acre open pit on a 260± acre parcel.
2. On July 31, 1979, Processed Minerals, Inc., a corporate affiliate of NYCO, Inc., acquired the 260± acre parcel from Interspace Corporation. Processed Minerals, Inc. and NYCO, Inc. have continued to own the original 260± acre parcel and have acquired additional neighboring parcels since 1979, to create the existing 699± acre project site.
3. On August 31, 1981, the Agency issued Permit 81-181 to NYCO Processed Minerals, Inc., reissuing and providing an extension of time for the mineral extraction approved by Permit 76-184. The Agency issued Permits 81-192, 81-192A, and 81-192B, and 84-222, to reflect revised mining and reclamation plans for the mineral extraction.
4. On February 2, 1996, the Agency issued Permit 95-85, authorizing modifications to the mineral extraction that included: (i) expansion of the mining and reclamation areas; (ii) expansion of the daily trucking schedule; (iii) changes to the blasting plan; (iv) changes to the daily hours of operation; and (v) amendments to the erosion control/stormwater management plan and the fugitive dust control plans.
5. On June 12, 1998, the Agency issued Permit 96-76, authorizing a new mineral extraction at NYCO's Oak Hill mining facility, which is located east of the Seventy Road facility. As of the date of issuance of this permit, wollastonite is not being mined at the Oak Hill facility.
6. On August 21, 2003, the Agency issued Permit 99-91, authorizing modifications to the Seventy Road facility that included: (i) expansion of the mining and reclamation areas; (ii) expansion of the mining season by one month; (iii) a change in daily hours of operation; and (iv) excavation of a wetland area and creation of a compensatory wetland. The Agency has since issued Permits 99-91 A, B, C, D, H, and J to allow for temporary extensions in the trucking and hauling of materials from the site. Permit 99-91E, issued October 19, 2006, authorized the annual removal and

stockpiling of overburden and caprock between November 30 and April 1. Permit 99-91FR, issued December 1, 2009, renewed the mining operation and confirmed that the wetland mitigation site had been successfully established. Permit 99-91G, issued October 13, 2010, authorized annual operation of the mine on Columbus Day. Permit 99-91I, issued January 10, 2013, authorized expansion of the Excavation Area Boundary by 2 acres within the existing life of mine.

### **Existing Environmental Setting**

7. To date, essentially all of the 89.9±-acre affected area and mineral extraction area approved by Permit 99-91 has been disturbed by mining. Approximately 54.1± acres of this area consists of the active quarry, and the remaining 45.8± acres are used for the overburden piles, material stockpiles, material processing, mine roads, maintenance/office structure, and stormwater management controls. NYCO estimates that approximately 560,000 tons of ore remain in this previously authorized extraction area, allowing for approximately three more years of mining.
8. The 14.9± acre mineral extraction expansion area authorized herein contains an estimated 610,000 tons of ore. NYCO anticipates extracting an average of 178,500 tons of this material per year, allowing for approximately three more years of mining in the expansion area.
9. The expansion area is located adjacent to the existing 54.1± acre mineral extraction, and is generally downslope from the existing disturbed area. The expansion area contains moderate to steep slopes and is forested with mature deciduous trees.
10. The project site is bounded on the west and north by lands owned by the State of New York and classified Wilderness and Wild Forest on the Adirondack Park State Land Master Plan. There are no hiking trails, campsites or other similar improvements within one-quarter mile of the project site on this adjoining land.
11. To the south and east of the project site, there is private property classified as Rural Use, Resource Management, Low Intensity Use and Moderate Intensity Use on the Official Adirondack Park Land Use and Development Plan Map. Land uses on these private lands include seasonal and permanent residences, forestry uses and open-space recreation.

### **Expansion Area**

12. Permit 99-91 allowed for mineral extraction to occur on Industrial Use lands for a distance of approximately 3,000 feet along the western boundary of the project site and the Jay Mountain Wilderness. The expanded extraction will occur to the

south of the existing extraction, with only 70± feet of new extraction along the boundary with the Wilderness lands. This 70± of additional extraction area and an additional 30± feet of affected area to the west will be located along the boundary between a Rural Use portion of the project site and the Wilderness lands. An area 650± feet in length to the west of this new affected area involves wetlands and a stream and will remain undisturbed. To the west of this undisturbed area will be another 350± feet of affected area, consisting mainly of overburden stockpile, along the border between the Rural Use section of the project site and the Wilderness area. In total, expansion of the mining operation to the south and west will allow for only 70± feet of new extraction along the Wilderness boundary, plus an additional 380± feet of affected area, which will consist mainly of overburden stockpile. The previously authorized 3,000± foot extraction area will be reclaimed pursuant to the authorized reclamation plans.

### **Visual Analysis**

13. The existing disturbed area and the authorized expansion area are not visible from existing hiking trails within the Jay Mountain or the Hurricane Mountain Wilderness areas. The authorized expansion area is visible from trail-less Slip Mountain, and is partially visible from trail-less Little Slash and Limekiln Mountains. The authorized expansion area is not visible from County Routes 9, 10, or 12. The expansion area is visible for a distance of 480± feet from the northbound lanes of Interstate 87, the Northway, which is approximately six miles from the project site. For travelers moving at 65 miles per hour, visibility would occur for approximately six seconds.

### **Trucking**

14. Wollastonite ore is currently trucked from the project site to processing plants owned and operated by NYCO in the Town of Willsboro, Essex County. NYCO's processing plants are located in Industrial Use and Hamlet land use areas, and are subject to Agency permits.
15. As shown on the Truck Route Map, NYCO's wollastonite ore haul trucks travel from the project site down Seventy Road and Wells Hill Road (County Route 12 west of NY Rte 9), and then cross Route 9 onto Stowersville Road (County Route 12 east of NY Rte 9) and continue along County Routes 57 and 14 to Willsboro.
16. Pursuant to Permit 95-85, issued in 1996, no more than 63 truckloads may be transported from the Seventy Road facility on any day between April 1 and June 30 and September 1 and October 31, and no more than 45 loads of ore may be transported on any day between July 1 and August 31. Permit 99-91, issued in 2003,

added the month of November to this schedule, with a limit of 63 truckloads per day. No trucking is allowed from the Seventy Road facility at any other time of the year, and no increase in these existing truck trip limits is authorized herein.

17. Pursuant to Permit 96-76, issued in 1998, and Permit 99-91, issued in 2003, no more than 108 truckloads of ore from the project site and NYCO's Oak Hill facility combined may be trucked to NYCO's processing plant in Willsboro on any day. No increase in this existing truck trip limit is authorized herein.
18. According to NYCO, an annual production of 400,000 tons of ore for processing would ensure that the plants at Willsboro could operate at maximum capacity. Actual tonnage, which is dependent on quality, market demand, and other factors, has been less in recent years. Between 2010 and 2013, NYCO trucked an average of 150,718 tons of ore per year from the Seventy Road facility to the Willsboro plant for processing, with an average load of 34 tons of ore per truck. The application for the expansion authorized herein states that NYCO expects to extract an average of 178,500 tons of ore annually for processing. The application also states that use of 22 or 20 ton trucks may be required if overweight trucking permits cannot be obtained.
19. At a rate of 34 tons of ore per truckload at 93% efficiency, the authorized trucking schedule will allow a maximum annual production of approximately 315,588 tons of ore for processing. At a rate of 20 tons of ore per truckload at 93% efficiency, the authorized trucking schedule will allow a maximum annual production of approximately 185,640 tons of ore for processing.
20. NYCO has requested and is authorized herein to transport aggregate as well as ore from the project site, provided the total daily trucking numbers do not exceed the daily trucking numbers previously authorized by Permit 99-91 and unchanged herein.
21. Permit 99-91 and its amendments prohibit NYCO's haul trucks from traveling on Wells Hill Road and Seventy Road between 7am and 7:30am. School buses currently do not travel on Seventy Road, and generally operate on Wells Hill Road between 7:15 and 7:45 a.m., with two stops on Wells Hill Road scheduled for the 2014-2015 school year. No conflicting interactions between NYCO's haul trucks and school buses have been reported. NYCO has requested and is authorized herein to transport trucks along Wells Hill Road and Seventy Road beginning at 7am.
22. NYCO's annual reports to the Agency for the years 2009-2013 indicate that NYCO received no complaints regarding the use of haul trucks along the route depicted on the Truck Route Map.

### Blasting

23. Mining of wollastonite requires the use of blasting within the excavation limits to remove rock overburden, which is processed as aggregate.
24. Pursuant to Permit 99-91E, issued in 2006, no more than three blasts may occur per week on the project site. Pursuant to Permit 96-76, issued in 1998, and Permit 96-76ER, issued in 2007, no more than no more than three blasts may occur per week on the project site and NYCO's Oak Hill facility combined. No increase in this existing blasting limit is authorized herein.
25. From April 2013 through June 2014, there were 34 scheduled blasts at the project site, and seven at the Oak Hill facility. There were no more than three blasts total during any week.
26. All blasting will be subject to the requirements established in the Mined Land Reclamation Permit issued for the site by DEC.
27. The current DEC Mining Permit (#5-1532-00007/00001) includes conditions for blasting methods, monitoring, and notification.

### Wetlands

28. Four mixed deciduous forested and deciduous scrub/shrub wetland covertype wetlands are located within the authorized mineral extraction expansion area and will be lost. They are wetlands #10, 11, 12 and 13 as shown on the Proposed Expansion Map. Wetland #10 is 0.44± acres, wetland #11 is 0.018 acres, wetland #12 is 0.079 acres, and wetland #13 is 0.52 acres in size, for a total wetland loss of 1.06± acres. Stream #3 and Stream #4, as shown on the Proposed Expansion Map, flow through these wetlands and are tributaries of Derby Brook. These wetlands have value ratings of "2".
29. Alternatives to avoid and/or minimize wetland impacts have been explored, and the Agency finds that NYCO has minimized wetland impacts to the greatest extent practicable given the physical constraints of the Seventy Road location and the objectives of the mining operation. As the project site does not have the topography and hydrology to reasonably assure a successful compensatory wetland, off-site mitigation is necessary. NYCO's Oak Hill facility has suitable topography and hydrology for a high quality, high functioning wetland, and is the location of a prior successful compensatory wetland. The compensatory wetland authorized herein will be approximately 2.2 acres in size, and will enlarge an existing, wetland at the Oak Hill facility and take on its value rating of "2".

30. The Wetland Mitigation Plan was developed in accordance with the Agency's Compensatory Wetland Mitigation Guidelines.
31. There are other wetlands on the project site, as shown on the Proposed Expansion Map, that will not be impacted by this project.
32. The Proposed Expansion Map may not identify all wetlands on or adjacent to the project site.

#### **Stream Mitigation**

33. The expanded excavation area will impact approximately 1,290 linear feet of an unnamed tributary of the Derby Brook, labeled as Stream #3 on the Stream Mitigation Plan, with mitigation through the construction of a 1,410 foot tributary to the Derby Brook. As additional mitigation measure, NYCO will enhance a culvert on Patterson Creek at the Oak Hill facility to provide for improved hydrology and fish passage.

#### **Water Quality Monitoring/Stormwater Management/Erosion and Sediment Control**

34. The existing stormwater management and erosion and sediment control practices were authorized by Permit 99-91, issued in 2003, and refined in Permit 99-91FR, issued in 2009. Existing stormwater management practices include lined waterway channels, Sediment Basins 5 and 6, and a Settling Pond, as depicted in the Stormwater Pollution Prevention Plan. The stormwater management practices associated with the expansion include channels, Sediment Basin 7, and Settling Pond 1, as depicted in the SWPPP. The existing Settling Pond will remain in place until Settling Pond 1 has been completed, at which time the existing Settling Pond will be decommissioned. The existing channels and Sediment Basins 5 and 6 will continue to be used. There will be four DEC-permitted outfalls, labeled in the SWPPP as Outfalls 14, 15, 16 and 17, upon construction of all existing and new stormwater management practices.

#### **Noise**

35. Volume #1 includes a noise study, conducted on November 18, 2011, to evaluate the noise levels associated with existing mine activities on the project site, as well as the effect of the proposed mine expansion. Noise monitoring locations included three residential locations south of the mine, a public road south of the mine entrance, and three locations within the project site. The distance between the noise monitoring locations and the proposed expansion area ranged between 340 to 3,180 feet. The duration of sound-producing mining and trucking activities is authorized to increase by one hour per day.

**Air Quality**

36. The current DEC Mining Permit (#5-1532-00007/00001) includes a condition for dust control, which states water or other approved dust palliatives must be applied to haulage ways and other parts of the mine, as often as necessary, to prevent visible dust from leaving the mine property. In addition, the facility also has a current DEC Air Facility registration for the rock crushing operation and must comply with all applicable requirements.

**Road Maintenance**

37. NYCO provides the Town of Lewis with funding each year for maintenance of Seventy Road and Wells Hill Road pursuant to a rate schedule based on the Consumer Price Index. From 2010 through 2013, NYCO paid the Town an average of \$13,307 per year for road maintenance.

**Economic/Fiscal Factors**

38. The Project Sponsor currently employs 102 employees between its Seventy Road mine site (12 employees) and the company's offices and processing facility in Willsboro (90 employees). This employment constituted a payroll of \$6.5 million in 2013. The average annual compensation of NYCO employees in the area in 2013 was \$63,000; the average annual wages for employees in the "Mining (Except Oil and Gas)" sector in New York State were \$56,151 in 2013. Additionally, NYCO employs local subcontractors for trucking (approximately \$400,000 per year), fueling, truck repair and maintenance, on-site construction, and drilling and blasting. These indirect employment benefits related to the mine employ an additional 45 workers in the area.
39. The Seventy Road facility currently provides ore to NYCO's processing plants in the Town of Willsboro. The Project Sponsor's ability to access sufficient wollastonite ore in a cost effective manner is critical to the existence and ongoing operation of the Willsboro processing plants. The expansion authorized herein will help retain the existing jobs and payroll through 2019. Without the expansion, it is estimated that mining will cease at the Seventy Road facility at the end of 2016.
40. In 2013, NYCO paid \$248,000.00 in property taxes to local taxing jurisdictions.

**Emergency Projects**

41. In 2009 and 2010, NYCO provided aggregate from the Oak Hill facility for the emergency construction of a temporary ferry crossing adjacent to the Crown Point Bridge. In 2011, NYCO

provided aggregate from the Oak Hill facility for emergency repairs by state and municipal entities to roads, bridges, and infrastructure following Tropical Storm Irene. In 2013, NYCO provided aggregate from the project site 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.

### **Public Notice and Comment**

42. The Agency notified all adjoining landowners and those parties as statutorily required by §809 of the Adirondack Park Agency Act and published a Notice of Complete Permit Application in the Environmental Notice Bulletin. The Agency also held a public information meeting in the Town of Lewis on July 2, 2014, to allow for the presentation of project information by NYCO and for the gathering of public comment.

The Agency received five letters from area landowners, including three from one household and one letter that contained signatures from 10 landowners representing eight households. These letters all expressed concerns about the project, in particular the potential for additional noise and trucking impacts. The Agency also received written comments from the Adirondack Council, Adirondack Wild, and 'Protect the Adirondacks!' expressing concern about the project and questioning the need for the expansion. During the public meeting, four area landowners and representatives from the three advocacy groups verbally expressed concerns about the project. Four area landowners and one representative from the North Country Economic Development Council spoke in favor of the proposal.

At the time of the Agency's public notice and the public information meeting, NYCO was requesting an increase in the amount of truck traffic from the Seventy Road facility, with potential impacts to landowners on Seventy Road and Wells Hill Road. Following the public meeting, NYCO eliminated the request for increased trucking from the project site.

### **Other Regulatory Permits and Approvals**

43. The project requires a Mined Land Reclamation permit under Article 23, Title 27, an Article 15 permit for the stream disturbances, a Water Quality Certification, a SPDES permit for stormwater management, and an Air Facility Registration from the DEC. The most recent DEC mining permit was issued January 18, 2008. Approval will also be required from the US Army Corps of Engineers for the stream and wetland impacts and mitigation.



44. No approval for the project is required from the Town of Lewis.

**Impairment of Rights**

45. This permit does not convey any right to trespass upon the lands or interfere with the riparian rights of others in order to undertake the authorized project, nor does it authorize the impairment of any easement, right, title or interest in real or personal property.

**PROJECT IMPACTS**

**Open Space/Aesthetics**

1. The project will not significantly affect the visual or open space character of the area, provided no vegetation is removed except as allowed herein.
2. The expanded extraction authorized herein will allow for the majority of new mineral extraction activities on the project site to move south, away from the Jay Mountain Wilderness and into the interior of lands owned by NYCO.

**Operational Issues Affecting Nearby Land Uses**

3. Continuing the existing schedule of days of operations, including truck trips, will avoid new impacts to nearby residents or other land uses.
4. Taking into account topography, vegetation, a constructed berm, and distance to receptors, allowing on-site mining activities to occur 30 minutes earlier and later on weekdays will not create adverse noise impacts to adjoining and nearby residents or other land uses.
5. As there will be no increase in the number or frequency of daily truck trips, allowing trucks to operate 30 minutes earlier and later weekdays will not significantly increase noise impacts from trucking.
6. Allowing NYCO's haul trucks to travel on Wells Hill Road and Seventy Road beginning at 7am will allow for the trucks to reach the project site before the school bus is on Wells Hill Road. It is not anticipated that the increase in hours of operation on Wells Hill Road and Seventy Road will increase interactions between school buses and haul trucks.
7. Continuing the existing blasting practices and schedule will minimize sound and ground vibrations and avoid new impacts to nearby residents and other land uses.

**Wetlands and Water Resources**

8. Implementation of the Wetland Mitigation Plan will adequately offset the loss of wetlands on the project site.
9. Implementation of the Stream Mitigation Plan will adequately offset the impacts to Stream #3 and improve hydraulic and habitat connectivity of Patterson Brook at the Oak Hill facility.
10. Construction and maintenance of all stormwater practices pursuant to the plans referenced herein will minimize impacts to water bodies and wetlands. Monitoring of all stormwater outfalls and Derby Brook will ensure that corrective action is implemented when necessary.

**Air Quality**

11. Implementation of DEC's permitting and registration requirements for air quality will adequately protect air resources.

**Permit Term**

12. Limiting the permit term to five years will ensure continuing Agency review of the mineral extraction and its impacts.

**Historic Sites or Structures**

13. By letter dated June 3, 2013, NYS Office of Parks, Recreation and Historic Preservation opined that the project will have "No Impact" upon cultural resources in or eligible for inclusion in the State and National Register of Historic Places. Therefore, the project as proposed and authorized herein will not cause any change in the quality of "registered," "eligible," or "inventoried" property as those terms are defined in 9 NYCRR Part 426.2 for the purposes of implementing §14.09 of the New York State Historic Preservation Act of 1980.

**CONCLUSIONS OF LAW**

The Agency has considered all statutory and regulatory criteria for project approval set forth in the Adirondack Park Agency Act, the Freshwater Wetlands Act and 9 NYCRR Part 574. The Agency hereby finds that the project authorized as conditioned herein:

- a. will be consistent with the land use and development plan;
- b. will be compatible with the character description and purposes, policies, and objectives of the Rural Use and Industrial Use land use areas;
- c. will be consistent with the overall intensity guidelines for the land use areas;



