


THIS IS A TWO-SIDED DOCUMENT

 <p><b>NEW YORK</b> STATE OF OPPORTUNITY.</p> <p><b>Adirondack Park Agency</b></p> <p>P.O. Box 99, 1133 NYS Route 86 Ray Brook, New York 12977 Tel: (518) 891-4050 www.apa.ny.gov</p>	<p>APA Permit <b>2022-0020A</b></p>
<p>In the Matter of the Application of</p> <p><b>LARRY KOLLER</b> Permittee</p> <p>for a permit pursuant to § 809 of the Adirondack Park Agency Act and 9 NYCRR Part 577</p>	<p>Date Issued: February 21, 2023</p> <p>To the County Clerk: Please index this permit in the grantor index under the following names: <b>1. Larry Koller</b></p>

**SUMMARY AND AUTHORIZATION**

This permit authorizes the continuation of an existing sand and gravel extraction and the establishment of a new mineral extraction in an area classified Low Intensity Use and Resource Management on the Adirondack Park Land Use and Development Plan Map in the Town of North Hudson, Essex County.

This authorization shall expire unless recorded in the Essex County Clerk's Office within 60 days of issuance of a signed and notarized permit. The signed and notarized permit shall be recorded 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 five years of the date the permit is recorded in the County Clerk's Office. 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.

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.

Nothing contained in this permit shall be construed to satisfy any legal obligations of the permittee to comply with all applicable laws and regulations or 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 comprised of 115± acres located off Pepper Hollow Road and adjacent to the Interstate 87 (I-87) northbound High Peaks Rest Area in the Town of North Hudson, Essex County, in an area classified Low Intensity Use and Resource Management on the Adirondack Park Land Use and Development Plan Map. The project site is partially located within the designated Schroon River Recreational River area and within the I-87 critical environmental area. The project site is identified as Tax Map Section 104.4, Block 1, Parcel 20, and as Tax Map Section 104.2, Block 1, Parcels 2.1 and 3.1.

The project site is described in the following three deeds: (1) a deed from Linda Decker, Executrix of the last Will and Testament of John Paul Koller, aka John P. Koller, deceased, to Larry Koller, Jonni Ann Koller and Linda Decker, dated July 13, 2005, and recorded on July 22, 2005 in the Essex County Clerk's Office at Liber 1453, Page 64; (2) a deed from Linda Decker to Larry Koller, dated November 21, 2005, and recorded November 21, 2005 in Essex County Clerk's Office at Liber 1469, Page 255; and (3) a deed from Jonni Ann Koller to Larry Koller, dated January 31, 2007, and recorded in the Essex County Clerk's Office at Liber 1524, Page 163.

The project site is forested with a mix of northern hardwood and softwood trees, except for the active sand and gravel extraction area that is cleared of vegetation. The previously reclaimed sand and gravel extraction area is vegetated with a mix of 4 to 6 foot tall white pine trees and grassed areas. The West Mill Brook, a permanent non-navigable stream, forms a portion of the project site's southeast property boundary. A coniferous/deciduous shrub swamp wetland having a value rating of "3" adjoins this waterbody. There is also a mixed deciduous/coniferous forested wetland having a value rating of "2" located to the east of the mineral extraction area. Additional wetlands not described herein or depicted on the Site Plan Map or Sand and Gravel Extraction Map may be located on or adjacent to the project site.

Existing access to the project site is from Pepper Hollow Road, a two-lane road maintained by the Town of North Hudson. To date, 14± acres of the sand and gravel extraction authorized by Permit 2006-0186B has been disturbed, and approximately 10± acres have been reclaimed.

Agency permits 2008-208 and 2008-308 and their amendments authorized subdivisions of the project site for the construction of telecommunication towers and related infrastructure. Agency Permit 2017-0173 authorized access over the project site for operation of an adjoining commercial sand and gravel extraction.

## **PROJECT DESCRIPTION**

The project as conditionally approved herein involves the continuation of previously authorized commercial sand and gravel activities and the establishment of a new mineral extraction for an additional five-year term.

The project involves the following:

1. A continuation of the existing commercial sand and gravel extraction within a 14±-acre portion of the project site; and
2. The establishment of a hard rock mine within a 12.6±-acre portion of the project site.

The project is shown on the following maps:

- a. A map titled "Mining Plan Map, Sheet No. 1" prepared by Advanced Environmental Geology (AEG) and dated December 2017 (Mining Plan Map);
- b. A map titled "Reclamation Plan Map, Sheet No. 2" prepared by AEG and dated December 2017 (Reclamation Plan Map);
- c. A map titled "Typical Sections AA' – EE', Sheet No. 3" prepared by AEG and dated February 2018 (Cross Sections);
- d. A map titled "Line of Sight Profile, Sheet No. 4" prepared by AEG and dated February 2018 (Line of Sight Profile);
- e. A map titled "Site Plan Map, Sheet No. 5" prepared by AEG and dated December 2017 (Site Plan Map);
- f. A survey map titled "Map of Survey, Showing the Limits of a Proposed Mine for Larry Koller" prepared by Porter Land Surveying, PLLC and dated April 27, 2015 (Survey and Topographic Map);
- g. A survey map titled "Proposed Expansion of Existing Mining Permit, Topographic Survey Showing the Existing Ground of a Certain Borrow Pit Owned by John Kohler" prepared by Marc A. Manfred, L.S. and dated June 4, 2000 (Sand and Gravel Extraction Map); and
- h. A map titled "Kohler Pit Proposed Expansion of Existing Mining Permit (Proposed Final Contours)" and dated June 2000 (Sand and Gravel Reclamation Plan).

The project is detailed in the following reports:

- a. The project is described in a report titled "Life of Mine, Mined Land-Use Plan" (Life of Mine Plan) prepared by Barton and Loguidice, D.P.C. dated February 2016. This document is amended by a document titled "Mined Land-Use Plan Amendment" prepared by AEG and dated March 2018 (Mineral Extraction Report);
- b. A document titled "Noise Impact Assessment" prepared by Barton and Loguidice, D.P.C. and dated December 2016;
- c. A document titled "Visual Analysis, Koller Pit" (Visual Analysis) prepared by CLA Site and dated March 20, 2018;
- d. A document titled "Blasting Plan, Koller Sand and Gravel" (Blasting Plan) prepared by Maine Drilling and Blasting and dated December 23, 2016 and last revised April 1, 2018;
- e. A document titled "Larry Koller, Koller Mine, Stormwater Pollution Prevention Plan, Stormwater and Erosion & Sediment Control (Best Management Practice) Manual" (Stormwater Plan) prepared by AEG and dated May 2018; and
- f. A report titled "Mining Permit Expansion Application and Reclamation Report," prepared by John Koller and received by DEC Division of Mineral Resources May 24, 2000 (Mining/Reclamation Report).

The project site is subject to NYS Department of Environmental Conservation (NYSDEC) Mined Land Reclamation Permit #5-1542-00001/00001 (Mined Land ID 50185).

A reduced-scale copy of the Site Plan Map and Sand and Gravel Extraction Map are attached as a part of this permit for reference. The original, full-scale maps, plans and reports described above are the official plans and reports for the project, with copies available upon request from Adirondack Park Agency headquarters in Ray Brook, New York.

### **AGENCY JURISDICTION**

The project originally authorized by Agency Permit 2015-0020 required a permit pursuant to Section 809(2)(a) of the Adirondack Park Agency Act for the establishment of a mineral extraction on Low Intensity Use and Resource Management lands in the Adirondack Park.

The project originally authorized by Agency Permit 2015-0020 required a permit pursuant to Adirondack Park Agency regulations at 9 NYCRR Part 577 for any new land use or development on Low Intensity Use and Resource Management lands within any designated recreational river area in the Adirondack Park.

The project originally authorized by Agency Permit 2015-0020 required a permit pursuant to Condition 4 of Agency Permit 2006-186B for a new operating term.

Condition 30 of Agency Permit 2015-0020 required that the Agency receive an application for a new operating term prior to the expiration of Permit 2015-0020 on July 15, 2023.

### **CONDITIONS**

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

1. The project shall 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 the Site Plan Map and the Sand and Gravel Extraction Map 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, Wild, Scenic and Recreational Rivers System Act, and the Adirondack Park Agency's implementing regulations [9 NYCRR §§ 570-588].
4. This permit amends and supersedes Permit 2015-0020 in relation to the project site. The terms and conditions of Permit 2015-0020 shall no longer apply to the project site.

5. All conditions in Permits 2008-208 and 2008-308 and their amendments, and 2017-0173 remain in full force and effect.
6. 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 2015-0020A, issued February 21, 2023, the conditions of which are binding upon the heirs, successors and assigns of the grantors and all subsequent grantees."

### **Development**

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

7. This permit authorizes the undertaking of the mineral extraction in the location shown and as depicted on the Site Plan Map. The project shall be undertaken in the order of phases shown on the Site Plan Map and described in the Mineral Extraction Report. Any change to the order of phases, location, dimensions, or other aspect of the mineral extraction shall require prior written Agency authorization.

#### **Sand and Gravel Extraction Location and Size**

8. This permit authorizes the continued operation of the commercial sand and gravel extraction in the location shown and as depicted on the Sand and Gravel Extraction Map for the remaining 4 acres of the previously authorized 14-acre sand and gravel extraction. Any change to the location, dimensions, or other aspect of the sand and gravel extraction shall require prior written Agency authorization.

### **New Land Use**

9. Pursuant to 9 NYCRR § 577.4 the undertaking of any new land use or development not authorized herein on the project site within one-quarter mile of the Schroon River will require a new or amended permit.
10. Pursuant to Section 809(2)(a) of the Adirondack Park Agency Act, the undertaking of any new land use or development not authorized herein on the project site within 300 feet of the right of way of Interstate 87 (I-87) will require a new or amended permit.

### **Outdoor Lighting**

11. Any new free-standing or building-mounted outdoor lights associated with the commercial sand and gravel extraction or mineral extraction on the project site shall require prior written Agency authorization.

### **Signage**

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

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

13. Outside of the Life of Mine boundary shown on the Site Plan Map, and outside of the Approximate Limits of Original Mine Area and Proposed Expansion Area shown on the Sand and Gravel Extraction Map, no trees, shrubs, or other woody-stemmed vegetation/trees may be cut, culled, trimmed, pruned or otherwise removed or disturbed on the project site without prior written Agency authorization, except for the removal of dead or diseased vegetation, rotten or damaged trees, or any other vegetation that presents a safety or health hazard.
14. No vegetation shall be cut, culled, trimmed, pruned, or otherwise removed or disturbed between the Life of Mine boundary and the wetland shown on the Site Plan Map in the vicinity of phases 5 and 6. All vegetation within 100 feet of the wetland shown on the Site Plan Map, except within the existing road, shall remain undisturbed.

### **Plantings**

15. A minimum of forty (40) 4 to 6-foot tall White Pine and Spruce trees native to the region shall be planted along the chain link fence that is located along the southwest property boundary adjoining the tractor trailer, bus, and RV parking area of the I-87 northbound High Peaks Rest Area. The trees shall be planted in three rows of staggered plantings at a maximum 8 feet on center as shown on Exhibits A-3 and A-4 of the Visual Analysis. All trees shall be planted by October 1, 2023, and any trees that do not survive shall be replaced annually until established in a healthy growing condition.

### **Wetlands**

16. The undertaking of any activity involving wetlands shall require a new or amended permit. There shall be no soil disturbance or vegetation removal within 100 feet of wetland boundaries without prior written Agency authorization.

### **New Structures**

17. Any new structures not authorized herein shall require prior written Agency authorization.

### **Project Operations**

#### **Operations Schedules**

18. All trucking, mining, excavating, crushing, grading, stockpiling, constructing infrastructure, reclamation activities, and outdoor maintenance operations authorized herein shall only occur from March 1 to December 31 annually, and only between 7am and 6pm, from Monday through Friday, and between 8am and 2pm on Saturdays. No operations shall occur on Sundays or the following holidays: New Year's Day, Memorial Day, Juneteenth, July 4th, Labor Day, Veteran's Day, Thanksgiving Day, and Christmas Day.
19. Upon prior written approval from the Agency, these hours of operation may be extended to meet contractual obligations necessary for public works projects.

### **Blasting**

20. The project shall be undertaken in compliance with the Blasting Plan. There shall be no more than three blasts per week, and blasting shall only occur between 10am and 3pm, Monday through Friday. Blast monitoring shall include monitoring sites at or near the I-87 Northbound and Southbound High Peaks Rest Areas. Blast monitoring reports shall be provided to the Agency monthly for the first year of operation. If determined necessary, measures to inform the public at the rest areas that blasting is conducted on the project site may be required.
21. Blasting shall only occur between March 1 and December 31, and shall not occur on the following holidays: New Year's Day, Memorial Day, Juneteenth, July 4th, Labor Day, Veteran's Day, Thanksgiving Day, and Christmas Day.

### **Trucking**

22. No more than 20 truckloads may be removed from the project site per day. This number does not include the maximum number of loaded trucks authorized to traverse the project site for the operation of the adjoining commercial sand and gravel extraction as authorized by Agency Permit 2017-0173.

### **Air Quality**

23. Dust control and air emission measures shall be implemented in accordance with the Mineral Extraction Report.

### **Noise/Visual**

24. Increase in ambient noise levels at the northbound High Peaks Rest Area and nearby residences shall be no greater than as projected in the Noise Impact Assessment Report without prior written Agency authorization.
25. Prior to commencement of crushing or processing of materials, a berm at least 20 feet in height, but no more than 40 feet in height, which may consist of stockpiled sand, gravel, cobble, or crushed stone materials excavated from the site, shall be constructed and maintained immediately southwest of the crusher and screener shown on the Site Plan Map. The berm shall be maintained at a height which screens the crusher from view from the northbound High Peaks Rest Area for as long as the crusher remains on the site. The existing berm along the southeast boundary of the sand and gravel extraction shall remain in place.

### **Invasive Species Control/Sanitizing Equipment**

26. When brought from off-site, all equipment, including but not limited to trucks, excavators, tractors, etc., and hand excavation tools such as shovels, rakes, and picks, to be used on the project site shall be clean and free of soil, mud, or other similar material. If washed on the project site, equipment shall be washed in one location to prevent the distribution of propagules among different wash sites.

**Permit Term**

27. This permit shall expire on April 17, 2028 unless an application for renewal is received by the Agency at least one month prior to that date.

**Reclamation**

28. Reclamation for the mineral extraction shall occur according to the Reclamation Plan Map and the Mineral Extraction Report. Reclamation shall be an on-going process whereby areas no longer needed for extraction purposes shall be promptly and successfully reclaimed in accordance with the Reclamation Plan Map and Mineral Extraction Report.
29. Reclamation for the sand and gravel extraction shall occur according to the Sand and Gravel Reclamation Plan and the Mining/Reclamation Report.

**Waste Disposal Area**

30. Highway departments may stockpile a maximum of 300 cubic yards per year of fill within the life of mine boundary of the sand and gravel extraction as long as there is a valid Adirondack Park Agency and Department of Environmental Conservation Permit authorizing the operation of the mine. Only clean fill shall be disposed of at the project site and the fill may only be trucked to the project site during the operating days and hours authorized in this permit.

**Reports**

31. An annual report shall be provided to the Agency by January 31st of each year for the mineral extraction. This report shall include information regarding the previous year's operation, including but not limited to the daily number of truck trips of material, dates and number of blasts, up-to-date mining projections, reclamation status, and the number and content of any complaints received and how the complaints were resolved.
32. At the request of the Agency, the permittee or the permittee's successor shall report in writing the status of the project, including details of compliance with any terms and conditions of this permit.

**Infrastructure**

**Stormwater Management/Erosion Control**

33. For phases 1, 2, and 3, the project shall be undertaken in compliance with the Stormwater Pollution Prevention Plan. Prior to commencing any work associated with phases 4, 5, or 6 of the mineral extraction, written approval shall be obtained from the Agency for a revised stormwater management plan.



34. Stormwater from the sand and gravel extraction shall be managed within the remaining 4 acres of the previously authorized 14-acre sand and gravel extraction.


### **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 578, the Wild, Scenic and Recreational Rivers System Act and 9 NYCRR Part 577, 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 Low Intensity Use and Resource Management land use areas;
- c. will be consistent with the overall intensity guidelines for the Low Intensity Use and Resource Management land use areas;
- d. will comply with the shoreline restrictions of § 806 of the Adirondack Park Agency Act;
- e. will not have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources of the Park or upon the ability of the public to provide supporting facilities and services made necessary by the project;
- f. will be consistent with the purposes and policies of the Wild, Scenic and Recreational Rivers System Act;
- g. will comply with the restrictions and standards of 9 NYCRR § 577.6; and
- h. will not cause an undue adverse impact upon the natural, scenic, aesthetic, ecological, botanical, fish and wildlife, historic, cultural, archeological, scientific, recreational or open space resources of the river area, taking into account the commercial, industrial, residential, recreational or other benefits that might be derived therefrom.

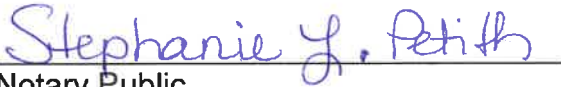
PERMIT issued this 21<sup>st</sup> day  
of February, 2023.

ADIRONDACK PARK AGENCY

BY:   
John M. Burth  
Environmental Program Specialist 3 (EPS3)

STATE OF NEW YORK  
COUNTY OF ESSEX

On the 21<sup>st</sup> day of February in the year 2023, before me, the undersigned, a Notary Public in and for said State, personally appeared John M. Burth, 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

Stephanie L. Petith  
Notary Public, State of New York  
Reg. No 01PE6279890  
Qualified in Franklin County  
Commission Expires April 15, 2025