



## Chemung County Planning Commission

400 East Church Street  
Elmira, NY 14902  
607-737-5510

[www.chemungcountyny.gov](http://www.chemungcountyny.gov)

[planning@chemungcountyny.gov](mailto:planning@chemungcountyny.gov)

## Chemung County Planning Board - Municipal Referral Form

### Instructions For Filling Out This Form:

To begin, click on each of the tabs below (Referral Information, Petitioners, etc.) to enter your information. When done, click on the Preview Your Form button (in the "Full Statement" Checklist tab), and when satisfied, click the Submit Your Form button. You will receive a confirmation email of your Municipal Referral Form for your records.

**\* = Required Field**

<b>Referring Municipality:</b>	Town
<b>City/Village/Town:</b>	Town of Erin
<b>Referring Official:</b>	Deda Cedar
<b>Title:</b>	Planning Board Chair
<b>Address:</b>	1138 Breesport Road Erin , Ny, 14838
<b>Phone Number:</b>	(607) 739-8814
<b>Email Address:</b>	erinplanningboard@gmail.com
<b>Referring Board:</b>	Planning Board
<b>How Many Applicants? (up to 4):</b>	1
<b>Applicant 1 Name:</b>	Charlene Bell

**Applicant 1 Address:** 127 Fairview Road  
Erin, NY, 14838

**Applicant 1 Phone Number:** (650) 815-1484

**Applicant 1 Email Address:** charlenelbell@gmail.com

**Property Address** 127 Fairview Road  
Erin, NY, 14838

**Tax Map Parcel Number(s):** 52.00-24

**Current Zoning District:** AR-1

**Please select the proposed action(s) from the drop-down menu below.**

**Proposed Action(s):** Special/Conditional Use Permit

**Other (please specify):** Wholesale Plant Nursery

**Existing use and description of the Proposed Action (attach detailed narrative if available):**

New property owner plans to use approximately 4 acres of the 12.28 acres to grow plants, shrubs, trees and other greenery in the ground. Watering will be rain and a nearby creek. Only plans are to grow plants, shrubs, trees extra in the ground on approximately 4 acres of the 12.28 acres.

Only environmentally safe products will be used. At this time there are no plans for a greenhouse.

**Upload Detailed Narrative?** No

**Reason Referral is required for the action (see [Interactive GIS Database](#) for trigger boundaries)**

Town of Erin Local Law #10 of 1992 requires it and with in 500 feet of a county road.

**Please Select Which Board(s):** Town Board/Village Board of Trustees  
Planning Board/Planning Commission

**Board:** Town Board/Village Board of Trustees

**Town Board/Village Board of Trustees** Wednesday, February 14, 2024  
**Public Hearing Date:**

**How many Prior and Future Meeting Dates?** 0

**Board:** Zoning Board of Appeals

**Board:** Planning Board/Planning Commission

**Planning Board/Planning Commission** Monday, November 27, 2023  
**Public Hearing Date:**

**How many Prior and Future Meeting Dates?**

0

**Action Taken on This Application (reviewed, approved, discussed, etc.):**

Planning Board will recommend to the Erin Town Board approval of this special permit

**Board:** City Council

**As defined in NYS General Municipal Law §239-m (1)(c), please make sure you have attached the following required information with your referral, as appropriate.**

Please also include any additional materials required by your municipality's agreement with Chemung County.

**For all actions:**

- Chemung County Planning Board – [Municipal Referral Form](#)
- All application materials required by local law/ordinance to be considered a “complete application” at the local level
- [Part 1 Environmental Assessment Form](#) (EAF) or Environmental Impact Statement (EIS) for State Environmental Quality Review Act (SEQR) [Type I Action](#) or [Unlisted Action](#). If [Type II Action](#), provide a statement to that effect.
- Agricultural Data Statement, for site plan review, special/conditional use permit, use variances, or subdivision review located in an Agricultural District or within 500 feet of a farm operation located in an Agricultural District, per Ag. Districts Law Article 25AA §305-a, Town Law §283-a, and Village Law §7-739.

**For Proposing or Amending Zoning Ordinances or Local Law: The above requirements AND**

- Complete text of proposed ordinance or local law as well as all existing provisions to be affected
- Zoning Map (if applicable)

Submit this form with supporting documentation in PDF format to the Chemung County Planning Department via email at: [planning@chemungcountyny.gov](mailto:planning@chemungcountyny.gov). Completed referrals must be submitted by close of business 12 calendar days prior to the Chemung County Planning Board meeting.

**Please Upload All of the Required Documents Here:**



2023-11.pdf



Bell Special Permit.pdf



Permit-Bell.pdf



SEQR Part 1.pdf



seafpartwo.pdf

Note: If the completed referral is too large to submit via upload, please contact [planning@chemungcountyny.gov](mailto:planning@chemungcountyny.gov) or 607-737-5510 to arrange for another submission method.

**Each municipality will be required to submit a Report of Final Action to the Chemung County Planning Department within 30 days of taking final action. Additional instructions are available on the Chemung County Planning Department website through the "[Referral Guidance for Chemung County Municipalities, GML§239](#)."**

Verified

**Draft**

Public Hearing and SEQR Review of the Town of Erin Planning Board held November 27, 2023 at the Erin Town Hall, 1138 Breesport Road, Erin, NY

Called to order at 6:06 pm

Members Present;

Carol Morton, Karen Johnson, Steve Shutts Deda Cedar,

Members Absent: Mark Anvoots: Alternet Mike Deppetta

Public Present; Charlene Bell

Timekeeper; Carol Morton

The purpose of this hearing is to allow for the public to comment on the special permit request from Charlene Bell for a wholesale plant nursery on property located at 127 Fairview Road, Erin, NY, tax map parcel no 52.00-24.

This property is in AR-1 District (Agricultural-Residential). As defined by Local Law No 10-1992, Section 502 Permitted District Uses-as amended in 1997 requires a Special Use Permit as defined in Article XI.

New property owner plans to use approximately 4 acres of the 12.28 acres to grow plants, shrubs, trees and other greenery in the ground. Watering will be rain and a nearby creek. Only plans are to grow plants, shrubs, trees extra in the ground on approximately 4 acres of the 12.28 acres.

Only environmentally safe products will be used. At this time there are no plans for a greenhouse.

Notice of this public hearing was published in the Star-Gazette on November 16, 2023; copies were hung at Erin Post Office; J D's Tavern, Dandy mini mart Breesport; Bulletin Board and displayed on the Sign at the Erin Town Hall,

Open to public at 6:06 pm

No comments

Closed to the public at 6:07 pm

A motion to close this part of the public was made by Carol Morton and seconded by Steve Shutts

Carol Morton-aye,

Karen Johnson-aye,

Steve Shutts-aye,

Deda Cedar-aye,

SEQR Review opened at 6:07 pm

6 NYCRR 617.6(a) requires that when an agency receives an application for approval of an action it must: (1) determine whether the action is subject to SEQRA, (2) determine whether the action involves a federal agency, (3) determine whether other agencies are involved, (4) make a preliminary classification of the action, (5) determine whether a short or full EAF will be used to determine the significance of the action, and (6) determine whether the action is located in an Agricultural District.

The Planning Board Reviewed SEQR, SHORT ENVIRONMENTAL ASSESSMENT FORM PART I received from the applicant and discussed all eleven questions (11) questions. See attachment; only 4 acres of the 12 will be used for the wholesale plant nursery at this time there are no plans for a greenhouse as what is to be grown will be planted directly into the ground.

The Planning Board reviewed SEQR, SHORT ENVIRONMENTAL ASSESSMENT FORM PART 2 and discussed all eleven (11) questions. The response to each question is as follow

1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations? No, will not create a conflict and fits within the current land use plan.
2. Result in a change in the use or intensity of use of land? No, there will be no change.
3. Will the proposed action impair the character or quality of the existing community? No, the proposed action will not change the character or quality of the community.
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area? No, the proposed action will not create any changes to the environment characteristics to the neighborhood.
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walking? No, there will be little to no increase in traffic. A truck on occasion to deliver or pick up plants.
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities? No, natural sunlight and well water will be used

7. Will the proposed action impact existing:
  - a. Public/private water supplies? No,
  - b. Public/private wastewater treatment facilities? No,
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources? No, there are no known historic, archaeological, architectural or aesthetic resources in the area.
9. Will the proposed action result in an adverse change to natural resources? No, currently the property is vegetation and the only change that is the type of vegetation that will be grown.
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems? No, best practices will be used to mitigate any potential for erosion, flooding or drainage problems.
11. Will the proposed action create a hazard to environmental resources or human health? No, the proposed action will not create a hazard to environmental resources or human health.

In the discussion of Part 2 of the SEQR, the Planning Board determined, based on the information and analysis above, the proposed action will not result in any significant adverse environmental impacts.

This project was classified as an Type 2 Action by the Planning Board

Closed Public Hearing at 6:30 pm.

A motion to close the SEQR Hearing at 6:30pm was made by Steve Shutts and seconded by Karen Johnson.

Carol Morton-aye, Karen Johnson-aye, Steve Shutts-aye,  
Deda Cedar-aye,

The Regular Meeting of the Town of Erin Planning Board was called to order at 6:33 with the same members present.

Approve minutes;

A motion was made by Carol Morton to accept the minutes of the October 19, 2023 meeting.

Carol Morton-aye  
Steve Shutts-aye

Karen Johnson-aye  
Deda Cedar-aye

**Resolution 2023-17**

Sponsored by; Carol Morton

Seconded by; Steve Shutts

TOWN OF ERIN PLANNING BOARD PRELIMINARY SEQR DETERMINATION

APPLICANT: Charlene Bell

LOCATION: 127 Fairview Road, Erin NY

TYPE OF ACTION: ( ) TYPE I (X) TYPE II ( ) UNLISTED

**WHEREAS**, the Town of Erin Planning Board received a Special Application Permit request from Charlene Bell to open a wholesale plant nursery on property located 127 Fairview Road, Erin NY; tax map parcel no 52.00-24.; and,

**WHEREAS**, In accordance with Section 8-0113, Article 8 of the New York State Environmental Conservation law, this agency has conducted a preliminary SEQR Review on November 27, 2023. and

**Whereas**; based on that review finds: The proposed project will not have a significant effect on the environment and therefore does not require the preparation of an Environmental Impact Statement. This determination is based on the reasons stated below. and

**NOW, THEREFORE, BE IT RESOLVED**, that the Town of Erin Planning Board has determined that: (1) the proposed action will not change the character of the neighborhood (2) The proposed action will not significantly increase traffic in the neighborhood (3) The proposed action will not pose a risk to neighborhood wells or septic systems. (4) the proposed action is appropriately classified as an Type II action; (5) a Short EAF is adequate for determining the significance of the proposed action (6) the proposed action is not located within 500 feet of a Agricultural District and, therefore is not subject to the provision of the Agriculture and Markets Law; and,

**BE IT FURTHER RESOLVED**, the Town of Erin Planning Board hereby recommends to the Erin Town Board as it is lead agency with respect to SEQRA except this Planning Boards preliminary review of the proposed wholesale plant nursery; and, The Erin Town Board that a Negative Declaration be considered. and; the approval of the Special Permit request of Charlene Bell.

**BE IT FURTHER RESOLVED**, that the Erin Planning Board will submit said application to the Chemung County Planning Board for review.

Carol Morton-aye  
Steve Shutts-aye

Karen Johnson-aye  
Deda Cedar-aye

### **Special Use Permit-Michael Low -Seasonal Camp**

Property is Located on North Greenbush Road, the Old Beach Christmas Tree Farm.

Will require a special permit under ARTICLE XI USES REQUIRING SPECIAL PERMITS IN ALL DISTRICTS

#### **Section 1100 Uses. Amended L.L. 2-12**

11. Trailer camp for seasonal recreational use.

Applicant needs to provided the following items;

#### **Submission Requirements for Planning Board Special Permit**

1. Application Form- Completed, signed, and notarized if applicable
2. Fees as per the current schedule of fees. \$75
3. Completed applicable Environmental Assessment Form. Available at <http://www.dec.ny.gov/permits/70293.html>
4. NOTICE TO PROPERTY OWNERS - Notice of intent to apply for this Special Permit was mailed to all property owners within two (2) hundred feet of property line by **First Class Mail**.
5. Disclosure Affidavit
6. Site plan, drawn to convenient scale showing the location of all buildings, parking areas, sign and any special features, traffic access and circulation, open spaces, the uses of land adjacent to and facing the proposed site, as well as any other pertinent information. More information may be required if needed. The uses of land adjacent to and facing the proposed site shall be indicated on site plan. Site plan must accompany application.
7. One (1) copy of lease, deed, or contract of sale
8. One (1) copy of floor plan, drawn to scale, for any portion of building intended for public use.

Email will be sent to Mr. Low.

Meeting closed at 7:24 pm on a motion made by Steve Shutts and seconded by Carol Morton.

Carol Morton-aye

Karen Johnson-aye

Steve Shutts-aye

Deda Cedar-aye

Form- 1101

**Town of Erin**  
Application For A Special Permit  
Uses Requiring Special Permits In All Districts

Date 9/12/2023

Special Permit for Accessory Use- Nursery

Street Address 127 Fairview Road, Erin NY 14838

**Contact Person- CHOOSE ONE**

Applicant  
 Engineer

Owner  
 Surveyor

Architect  
 Landscape Architect

Attorney  
 Other

**Applicant**

Name Charlene Bell, purchase agreement attached  
Firm \_\_\_\_\_  
Address 2 Split Rail Road, Painted Post NY 14870  
Phone Landline none Cell 650-815-1484  
Fax none  
Email charlenelbell@gmail.com

**Owner of Record (if different than Applicant)**

Name Barbara Lentz Goodson  
Firm n/a  
Address \_\_\_\_\_  
Phone Landline \_\_\_\_\_ Cell 607-259-8589  
Fax n/a  
Email \_\_\_\_\_

**Attorney**

Name n/a  
Firm \_\_\_\_\_  
Address \_\_\_\_\_  
Phone \_\_\_\_\_  
Fax \_\_\_\_\_  
Email \_\_\_\_\_

**Engineer**

Name n/a \_\_\_\_\_  
Firm \_\_\_\_\_  
Address \_\_\_\_\_  
Phone \_\_\_\_\_  
Fax \_\_\_\_\_  
Email \_\_\_\_\_

**Surveyor**

Name n/a \_\_\_\_\_  
Firm \_\_\_\_\_  
Address \_\_\_\_\_  
Phone \_\_\_\_\_  
Fax \_\_\_\_\_  
Email \_\_\_\_\_

**Architect**

Name n/a \_\_\_\_\_  
Firm \_\_\_\_\_  
Address \_\_\_\_\_  
Phone \_\_\_\_\_  
Fax \_\_\_\_\_  
Email \_\_\_\_\_

**Landscape Architect**

Name n/a \_\_\_\_\_  
Firm \_\_\_\_\_  
Address \_\_\_\_\_  
Phone \_\_\_\_\_  
Fax \_\_\_\_\_  
Email \_\_\_\_\_

**Other**

Relation to Project n/a \_\_\_\_\_  
Name \_\_\_\_\_  
Firm \_\_\_\_\_  
Address \_\_\_\_\_  
Phone \_\_\_\_\_  
Fax \_\_\_\_\_

Email \_\_\_\_\_

**Land Use and Site Information**

- 1. Location: (Section- Block- Lot No.) Parcel 52.00-240/111110
- 2. Zone- Please circle correct zone AR (AR-1) R-1 R-2 ARI-R
- 3. School District Horseheads Central School District
- 4. Existing Use of Property Residence
- 5. Type of Building Single Residence/1003 New Pole Barn
- 6. Proposed Use of Property/ Type of Service to be established  
Nursery

- 7. Number of square feet to be used for Neighborhood and/or beyond Neighborhood Service 0
- 8. Size of Plot \*If less than one (1) acre give dimensions of feet N/A
- 9. Number of People to be engaged in such service 2
- 10. Will Service Increase Traffic? (circle) Yes No
- 11. Number of Seats (if application is restaurant or other places of public assembly) n/a
- 12. Number of Parking Spaces required 0
- 13. Will this service conform to the character of the neighborhood?(circle) Yes No

14. Project Narrative (brief description of proposed development):  
Wholesale Nursery

- 15. Is this project within 500 feet of the Town line? Yes No
- 16. Is this project within the designated boundaries of the Hamlet? Yes No

**Is this project within 500 feet of:**

- 17. The right-of-way of any existing or proposed state or county road? Yes No
  - 18. The boundary of an existing or proposed state or county park or any state or county recreation area? Yes No
  - 19. The boundary of state or county-owned land on which a public building/ institution is located? Yes No
  - 20. The boundary of a farm located in an agricultural district? Yes No
  - 21. Does the entire development plan for this project propose the disturbance of more than 5,000 SF of land? Yes No
- Note: If project is phased, include all phases in determination. Yes No

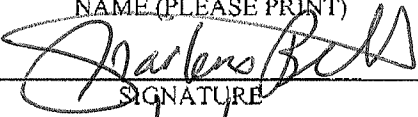
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**A Short or Full EAF with the original signature of the applicant or project sponsor must be attached to this application when submitted.**

The applicant agrees to comply with the requirements of the Road Specifications, the Land Use Regulations, Special Permit Requirements, Zoning Ordinance, Lighting Ordinance, Tree Removal and Stormwater Ordinance, and any additions or amendments thereto.

The applicant agrees to execution and delivery of deeds and required documents for reserved open space, drainage control, roads and road widening strips and descriptions of easements at the time of the public hearing. Such execution and delivery shall not operate to vest title of said property in the Town of Erin until such dedication is accepted in the form of a resolution adopted by the Town Board at a regular meeting of said Board.

\*\*\*\*\*

Applicant  
Charlene Bell  
NAME (PLEASE PRINT)  
  
SIGNATURE  
9/13/23  
DATE

Owner of Record  
\_\_\_\_\_  
NAME (PLEASE PRINT)  
\_\_\_\_\_  
SIGNATURE  
\_\_\_\_\_  
DATE

VERIFICATION BY SUBSCRIPTION AND NOTICE - PENAL LAW SECTION 210.45

It is a crime, punishable as A Misdemeanor under the laws of the State of New York, for a person, in and by written instrument, to knowingly make a false statement, or to make a statement which such person does not believe to be true.

**Note:** If the property owner is not the applicant for this application, in addition to the signature above, the owner of the property must also complete and have notarized one of the owner affidavits on the following page.

**Note:** By signing this document the owner of the subject property grants permission for Town Officials to enter the property for the purpose of reviewing this application

**REFER TO AFFIDAVITS ON THE FOLLOWING PAGE**

Planning Board  
Town Hall- 1138 Breesport Road  
Erin, NY 14838  
607-739-8681  
www.townoferin.org

APPLICANT'S DISCLOSURE AFFIDAVIT

PREMISES: \_\_\_\_\_

STATE OF NEW YORK )

ss.

COUNTY OF )

\_\_\_\_\_, being duly sworn, deposes and says:

1. That I am \_\_\_\_\_ (age) and reside at (address) \_\_\_\_\_.
2. That I am the (owner, lessee, etc.) \_\_\_\_\_ of property which is the subject matter of this application and am familiar with all the facts and circumstances hereinafter set forth.
3. That the following are the names, addresses and interests, respectively, of all partners (joint ventures, \_\_\_\_\_ etc.)  
\_\_\_\_\_
4. That neither deponent nor any other person mentioned in this affidavit is an officer or Employee or is related to an officer or employee of the Town of Erin - except: (if any, set forth details)  
\_\_\_\_\_  
\_\_\_\_\_
5. That in the event there is any change in the matters set forth herein prior to the issuance of a building permit or certificate of occupancy for the property affected hereby, deponent (s) will file with the Town of Erin a supplemental affidavit indicating the details of such change within 48 hours of such change.

\_\_\_\_\_  
(signed)

Sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC

**ONE OF THE FOLLOWING AFFIDAVITS MUST BE COMPLETED IF THE PROPERTY OWNER IS NOT THE APPLICANT ON THIS APPLICATION**

\*\*\*\*\*

**AFFIDAVIT TO BE COMPLETED BY OWNER, OTHER THAN CORPORATION**

STATE OF NEW YORK; COUNTY OF CHEMUNG:

\_\_\_\_\_, being duly sworn, deposes and says that he is the owner in fee of the property described in the foregoing application for consideration of preliminary plat, and that the statements contained therein are true to the best of his knowledge and belief.

\_\_\_\_\_

Sworn before me this \_\_\_\_\_ date of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Notary Public

\*\*\*\*\*

**AFFIDAVIT TO BE COMPLETED BY CORPORATION OWNER**

STATE OF NEW YORK; COUNTY OF CHEMUNG:

\_\_\_\_\_, being duly sworn, deposes and says that he resides at \_\_\_\_\_ in the County of \_\_\_\_\_ and State of \_\_\_\_\_. That he is the \_\_\_\_\_ of \_\_\_\_\_ the corporation which is owner in fee of the property described in the foregoing application for \_\_\_\_\_ and that the statements contained therein are true to the best of his knowledge and belief.

\_\_\_\_\_

Sworn before me this \_\_\_\_\_ date of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Notary Public

\*\*\*\*\*

**AFFIDAVIT TO BE COMPLETED BY AGENT OF OWNER**

STATE OF NEW YORK; COUNTY OF CHEMUNG:

I \_\_\_\_\_ (owner), give authorization to \_\_\_\_\_ to act on behalf of me as my agent.

\_\_\_\_\_  
Owner Signature

\_\_\_\_\_, being duly sworn, deposes and says that he is the agent named in the foregoing application for \_\_\_\_\_ and that he has been duly authorized by the owner in fee to make such application and that foregoing statements are true to the best of his knowledge and belief.

\_\_\_\_\_  
Agent of Owner Signature

Sworn before me this \_\_\_\_\_ date of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Notary Public

\*\*\*\*\*

**Submission Requirements for Planning Board Special Permit**

- 1. Application Form- Completed, signed, and notarized if applicable
- 2. Fees as per the current schedule of fees.
- 3. Completed applicable Environmental Assessment Form. Available at <http://www.dec.ny.gov/permits/70293.html>
- 4. NOTICE TO PROPERTY OWNERS - Notice of intent to apply for this Special Permit was mailed to all property owners within two (2) hundred feet of property line by **Certified Mail**.
- 5. Disclosure Affidavit
- 6. Site plan, drawn to convenient scale showing the location of all buildings, parking areas, sign and any special features, traffic access and circulation, open spaces, the uses of land adjacent to and facing the proposed site, as well as any other pertinent information. More information may be required if needed. The uses of land adjacent to and facing the proposed site shall be indicated on site plan. Site plan must accompany application.
- 7. One (1) copy of lease, deed, or contract of sale
- 8. One (1) copy of floor plan, drawn to scale, for any portion of building intended for public use.

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**Notice of Intent to Neighbors**

Planning Board

Town of Erin  
1138 Breesport Rd.  
Erin, NY 14838

Pursuant to Article XI sect 101 (Notice to property owners) of local law 10, Comprehensive Zoning Plan of the Town of Erin;

All applications for a special permit, including an appeal to the Board of Appeals under this law, shall contain an affidavit to the applicant that notice of application has been sent by **Mail** to all property owners within two hundred (200) feet of the property lines of the property under consideration, and that such notice was mailed at least five (5) days prior to the making of the application and the location of the property.

The records of the Town Assessor shall be used for the purpose of identification of property owners. Please contact Erin Town Clerk regarding this information. See Also Section 1101 of Local Law 1992 to inquire about proper procedure for obtaining a special permit.

I (we) \_\_\_\_\_, regarding my/our property  
At the following address \_\_\_\_\_  
have notified by Certified Mail, all property owner(s) within 200 feet of the property for which I make application for, of my/our intent to;

Those property owners who have been notified of my intent to file application are as follows:

	<u>Name</u>	<u>Address</u>	<u>Date</u>
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____
4.	_____	_____	_____
5.	_____	_____	_____
6.	_____	_____	_____
7.	_____	_____	_____
8.	_____	_____	_____

VERIFICATION BY SUBSCRIPTION AND NOTICE - PENAL LAW SECTION 210.45  
It is a crime, punishable as A Misdemeanor under the laws of the State of New York, for a person, in and by written instrument, to knowingly make a false statement, or to make a statement which such person does not believe to be true.

\_\_\_\_\_  
APPLICANT NAME (Please Print)

\_\_\_\_\_  
APPLICANT SIGNATURE



# PURCHASE AND SALE CONTRACT FOR REAL PROPERTY



PLAIN ENGLISH FORM APPROVED BY THE ELMIRA-CORNING REGIONAL BOARD OF REALTORS®, INC. FOR USE BY ITS MEMBERS. THIS IS A LEGAL DOCUMENT; SIGNING THIS PURCHASE OFFER GIVES RISE TO BINDING LEGAL RESPONSIBILITIES. IF NOT UNDERSTOOD, WE RECOMMEND YOU SEEK LEGAL ADVICE BEFORE SIGNING.

Barbara Lentz Goodson

SELLER(S)

Charlene Bell

BUYER(S)

### 1. PROERTY DESCRIPTION:

PROPERTY LEGAL ADDRESS 127 Fairview Ave STATE NY ZIP 14838

IN  TOWN,  VILLAGE,  CITY OF Erin COUNTY Chemung

Also known as TAX MAP# 52.00-2-40 DEED, LIBER \_\_\_\_\_ PAGE \_\_\_\_\_

including all buildings and any other improvements and all rights which SELLER has in or to the property.

Approximate Lot Size: \_\_\_\_\_ Acres: 12.28 Check if Applicable  more detailed description attached.

Description of Buildings on Property: Cape Cod style home with carport. Detached utility building

2. PRICE AND HOW IT WILL BE PAID: The purchase price is ~~\$208,000~~ \$221,000

08/01/23 6:23 PM EDT  
 08/02/23 1:09 PM EDT

BUYER shall receive credit at closing for any deposit made hereunder. The balance of the purchase price shall be paid as follows:

- (a) All cash, bank check, or certified check at closing. BUYER states that no financing is needed to complete this transaction.
- (b) Mortgage as stated in paragraph 5(a).
- (c) Assumption of the existing mortgage as detailed in the Addendum Page, Item "A"
- (d) Note and Mortgage to SELLER as detailed in the Addendum Page, Item "B".

3. MORTGAGE EXPENSES: BUYER agrees to pay all sums required by BUYER'S lending institution, except as may be set forth herein. At closing, SELLER agrees to credit BUYER \$ \_\_\_\_\_ or \_\_\_\_\_ percent of selling price, toward BUYER'S actual closing costs (including: loan origination or discount fees, mortgage application fee, mortgage tax, deed and mortgage recording fees, mortgage title insurance premium, appraisal fee, credit report and lender's attorney's fee, pre-payables and escrow) incurred by BUYER in this transaction.

4. BUYER'S DEPOSIT: BUYER  will deliver upon acceptance of offer  has delivered at time of this offer \$5000 in the form of CHECK to Howard Hanna S Tier (Broker Office) escrow agent, who shall deposit same at M&T BANK (Bank).  
The deposit will be refunded to BUYER if this contract is not accepted. If BUYER fails to perform BUYER'S obligations under this Contract, BUYER shall forfeit the deposit to the SELLER, and SELLER may also pursue other legal rights SELLER has against the BUYER. If SELLER fails to perform SELLER'S obligations under this Contract, the deposit will be refunded to the BUYER, and BUYER may pursue all legal rights BUYER has against the SELLER. The escrow money may be released pursuant to a written agreement to release the funds, entered into by both parties. In the event of a dispute between the parties as to the release of the deposit(s) or to whom the deposit(s) are to be paid, the escrow agent is to retain the deposit(s) until the parties enter into a written agreement, or until a Court determines the rights to the funds. In such event, either party may commence an action to determine the validity of any claims to the

08/01/23 6:23 PM EDT  
dotloop verified Initials \_\_\_\_\_ Date \_\_\_\_\_

07/30/23 6:07 PM EDT  
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- structural
- electrical
- plumbing
- heating
- radon
- pest infestation
- lead
- mold
- other (specify) \_\_\_\_\_

The term "MAJOR defects" as used herein shall mean any individual defect which will reasonably cost over \$1500 to correct. This contingency shall be deemed waived unless BUYER notifies (seller, seller's agent, seller's attorney) of a MAJOR defect by 08/17/2023 (date). If waived, BUYER agrees to move forward with the purchase and accepts the property in its current condition, with no further inspection negotiations. If the BUYER is not satisfied with the inspection findings, regarding any major defects as defined above, the BUYER shall specify the unsatisfactory finding(s) in a written notice delivered to the SELLER within the time specified. SELLER shall respond in writing within five (5) calendar days of receipt of the BUYER'S notice and shall either: accept the BUYER'S proposal; or make a counterproposal; or notify the BUYER that no repair or price reduction/concession will be made. If the SELLER fails to respond in writing within five (5) calendar days, the BUYER may terminate this contract by written notification to the SELLER and the earnest money deposit shall be returned to the BUYER. If the SELLER makes a counterproposal or declines all repairs or price reductions, the BUYER shall respond within two (2) calendar days of receipt of the SELLER'S written response. BUYER and SELLER shall have until 08/28/2023 (date) to reach an agreement. In the event that an agreement cannot be reached, either party may call the contract null and void and the earnest money deposit shall be returned to the BUYER.

If the BUYER does not perform by the initial date specified, and has not waived the contingency, SELLER has the right to deem the contract null and void and the earnest money deposit will be released from the escrow account and delivered to the SELLER.

(d) PROPERTY INSPECTION CONTINGENCY ITEM(S) IS HEREBY WAIVED: BUYER'S initials CB \_\_\_\_\_

(e) SALE CONTINGENCY: This offer is contingent upon BUYER securing a contract, not contingent upon another property being sold, for the sale of his/her property located at \_\_\_\_\_ no later than \_\_\_\_\_. If BUYER is unable to obtain a contract for the sale of his/her property by such date, then either BUYER or SELLER may cancel this contract by written notice to the other. If SELLER receives another acceptable purchase offer, SELLER may notify BUYER in writing that SELLER wants to accept the other offer and BUYER will then have \_\_\_\_\_ (\_\_\_) (banking) days to remove this sale contingency by written notice to SELLER. If BUYER does not timely remove this contingency by such notice to the SELLER, BUYER'S rights under this contract shall end and the SELLER shall be free to accept the other purchase offer.

(f) OTHER CONTINGENCIES:

6. OTHER ITEMS INCLUDED IN THE PURCHASE: The following items, if any, now in or on the property and owned by the SELLER are included in this purchase and sale: All heating, plumbing, lighting fixtures, flowers, shrubs, trees, window shades, venetian blinds, curtain and traverse rods, storm windows, storm doors, screens, awnings, TV antenna, water softeners, sump pumps, window boxes, mail box, tool shed, fences, wall to wall carpeting and runners, exhaust fans, hoods, garbage disposal, electric garage door opener and remote control devices, intercom equipment, security systems, smoke detectors, carbon monoxide detectors, all fireplace screens and enclosures, swimming pool and all related equipment and accessories, all built-in cabinets and mirrors, and built-in items such as stoves, ovens, dishwashers, trash compactors, shelving, and air conditioning (except window) units. Other items to be included in the sale are: Dishwasher, Range/Oven, Refrigerator

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 SELLER'S Initials \_\_\_\_\_ Date \_\_\_\_\_

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 Buyer's Initials \_\_\_\_\_ Date \_\_\_\_\_

deposits. The parties consent to the jurisdiction of any court in the county in which the premises are located for any such action and waive rights to a jury trial in any such action. The parties agree that a Judgement from a small claims court in favour of either party shall be sufficient to allow the release of escrow funds to that prevailing party. In the event that neither party commences such action within Ninety (90) calendar days from the date the Purchase and Sale Contract is terminated by written notice to either party (written notice to be by the BUYER and/or their attorney or the SELLER and/or their attorney), the funds shall be released by the escrow agent to the BUYER, and the escrow agent will have no further obligation to any party with respect to the deposit(s). The escrow agent will not be liable for any amount greater than the actual amount of said deposit to any party in the event that disbursement is not made at the time or is delayed for any reason. Notwithstanding the foregoing, the funds shall be held for so long as an action is pending for the determination of claims to the deposit(s) and the plaintiff in said action has notified the escrow agent in writing of the commencement of said action. The release of the deposit(s) as set forth herein shall not prejudice the rights of either party to pursue any other actions or proceedings.

5. **CONTINGENCIES:** BUYER makes this offer subject to the following contingencies. With reasonable notice, SELLER agrees to allow BUYER and/or their agents or employees access to the property for the purpose of satisfying these contingencies.

(a) **MORTGAGE CONTINGENCY:** (Also see Paragraph 3) This offer is subject to BUYER(S) obtaining a FHA — mortgage loan in an amount not to exceed \$max or     % of the selling price. BUYER shall make good faith application for this mortgage. BUYER shall provide SELLER with evidence of written approval of this mortgage (or reasonably satisfactory proof of financial ability to close) by 08/31/2023 (the "Mortgage Commitment Date") or SELLER may cancel this Contract at SELLER'S option by written notice as provided for herein. BUYER authorizes the Lending Institution and/or Mortgage Broker to provide a copy of written mortgage commitment with pre-closing conditions to the listing agent and the selling agent as set forth in this contract. BUYER agrees to pay the balance of the purchase price over the amount of the mortgage obtained, in cash, bank check, or certified check at closing. If, following a good faith application by the BUYER, this mortgage cannot be obtained, as evidenced by a denial letter from a lender, this Contract is terminated and the deposit returned to the BUYER.

(b) **WATER AND/OR SEPTIC INSPECTION:** Seller shall furnish and pay for the following tests and inspections in the event that the property is not connected to public water lines and/or sewer lines, the results of which shall meet local standards and be provided prior to closing. (Additional water test required by Buyer and/or Buyer's mortgage lender will be at the Buyer's expense.)

- A water test from a qualified lab to be completed within (60) sixty days prior to closing showing that the water has been tested for total coliform and meets the State Sanitary Code requirements.
- Certification from a qualified inspector showing that the septic system appears to be in proper working order by dye test prior to any pumping.
- A document showing proof that the septic system has been pumped within the past 6 month(s) with documentation of visual inspection.
- A water flow test

Other \_\_\_\_\_

(c) **PROPERTY INSPECTION CONTINGENCY:** SELLER agrees to have all utilities in service at the time of the BUYER'S inspection. BUYER, at BUYER'S expense, reserves the right to retain a New York State Licensed Home Inspector, Architect, or Engineer to make the following inspections to determine if there are any MAJOR defects: (check inspections desired) Waiving property inspection.

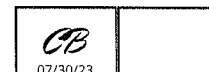
  
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ECBOR Res. Purchase Offer

  
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Date

SELLER has good title to all of the above items.


All items included in the purchase are to be in working order at time of closing **EXCEPT**: no exceptions.

Items **NOT** included are:

- 7. **CLOSING DATE:** The transfer of title to the BUYER shall take place on or about 10/01/2023 at the office of the BUYER'S attorney or at such place as shall be mutually agreed upon by BUYER and SELLER.
- 8. **BUYER'S POSSESSION OF PROPERTY:** BUYER shall have possession of the property at closing. At time of possession, the premises shall be in broom clean condition, free of debris and personal property not included in the sale and vacant, with the exception of agreed upon tenants. At closing, SELLER shall deliver to BUYER all garage door openers, keys for the premises, and provide security codes for any security systems. Until closing, SELLER shall perform ordinary lawn and landscape maintenance and snow removal.
- 9. **TITLE DOCUMENTS:** SELLER shall provide the following documents in connection with the sale:
  - (a) DEED: SELLER will deliver to BUYER at closing a properly signed and notarized Warranty Deed with lien covenant (or Executor's Deed, Administrator's Deed or Trustee's Deed, if SELLER holds title as such).
  - (b) ABSTRACT AND TAX SEARCHES: SELLER will furnish and pay for and deliver to BUYER or BUYER'S attorney at least ten (10) days prior to the date of closing, abstract of title, tax and title searches, dated or redated reasonably close to the closing date.
  - (c) SURVEY MAP: SELLER will furnish, pay for and deliver to BUYER or BUYER'S attorney at least ten (10) days prior to closing, an instrument survey map dated or redated after the date of this contract. BUYER will accept the existing survey of the property if acceptable to the lender and if accompanied by the SELLER'S affidavit of no change.
  - (d) CERTIFICATE OF OCCUPANCY: If required by the municipality.

10. **MARKETABILITY OF TITLE:** The deed and other documents delivered by SELLER to BUYER shall be sufficient to convey good marketable title in fee simple to the property free and clear of all liens and encumbrances except as set forth herein. However, BUYER agrees to accept title to the property  Including,  Not Including mineral and gas rights,  as agreed to in attached addendum, and subject to restrictive covenants of record common to the tract or subdivision of which the property is a part, provided these restrictions have not been violated, or if they have been violated, that the time for anyone to complain of the violations has expired. BUYER also agrees to accept title to the property subject to public utility easements as long as those easements do not interfere with any buildings now on the property or with any improvements BUYER may construct in compliance with all present restrictive covenants of record and zoning and building codes applicable to the property. SELLER shall furnish an affidavit of title.

11. **OBJECTIONS TO TITLE:** If BUYER raises and delivers to SELLER a valid written objection to SELLER'S title that the title to the property is unmarketable, SELLER shall have five business days to notify BUYER that SELLER will either cure the objection prior to closing or that SELLER is unable or unwilling to cure said objection. In the event SELLER notifies BUYER that SELLER is unable or unwilling to cure said objection, BUYER shall have five (5) days to cancel this agreement upon notice to SELLER and this agreement shall thereupon be deemed canceled, null and void, and all deposits made hereunder shall be returned to BUYER. In the event that BUYER fails to notify SELLER within five business days of receipt of SELLER'S notice that he/she will not cure, BUYER shall be deemed to have waived his/her right to cancel this agreement as a result of said objection to SELLER'S title.

  \_\_\_\_\_  
08/01/23  
 Seller's Initials Date

  \_\_\_\_\_  
07/30/23  
 Buyer's Initials Date

12. **RECORDING COSTS, MORTGAGE TAX, TRANSFER TAX AND CLOSING ADJUSTMENTS:** SELLER will pay the real property transfer tax, the filing charge for the Combined Real Estate Transfer Tax Return, Credit Line Mortgage Certificate and Certification and special additional mortgage recording tax, if applicable. BUYER will pay mortgage assumption charges, if any, and will pay for recording the deed and the mortgage, and for mortgage tax, and for equalization and assessment filing fees. Rent payments, if any, all heating and general use fuels, if any, water charges, sewer charges, mortgage interest, deferred FHA insurance premium, current common charges or assessments, if any, and current taxes computed on a fiscal year basis, excluding any delinquent items, interest and penalties, and excluding embellishments and service charges in city tax bills will be prorated and adjusted between SELLER and BUYER as of the date of closing. Tax proration shall be based on the fiscal year of each taxing unit.

13. **RISK OF LOSS:** Risk of loss or damage to the property by fire or other casualty until transfer of title shall be assumed by SELLER. If damage to the property by fire or such other casualty occurs prior to transfer, and if BUYER does not cancel but elects to close, then SELLER shall transfer to BUYER, any insurance proceeds, or SELLER'S claim to insurance proceeds payable for such damage.

14. **CONDITION OF PROPERTY:** BUYER has inspected the property included in this sale and is thoroughly acquainted with its condition. BUYER agrees to purchase the property "as is" and in its present condition subject to reasonable use, wear, tear, and natural deterioration between now and the time of closing. SELLER shall have the utilities in service at the time of mortgage lender's appraisal-inspection. BUYER shall have the right to inspect the property within 48 hours of the date of closing with all utilities in service. If BUYER fails to notify SELLER or SELLER'S attorney in writing of any unsatisfactory condition prior to closing, any objections by BUYER shall be deemed waived.

15. **SERVICES:** SELLER represents that the property is serviced by:  Public Water,  Lake Water,  Spring,  Private Well,  Public Sewer,  Private Sewage/Septic System,  Buried Petroleum Storage Tank(s).

16. **BROKERAGE AND REAL ESTATE COMMISSION:** The parties agree that Howard Hanna S Tier selling Broker brought about this sale and is a  Buyer's Agent,  Seller's Agent,  Dual Agent,  Broker's Agent working for the  Buyer  Seller, and SELLER agrees to pay the Broker's Commission as agreed to in the listing agreement unless other fully written and disclosed arrangements for payment of the Selling Broker's Brokerage Commission are made for by the BUYER. SELLER may apply any deposit made by the BUYER and held by Broker(s) to SELLER'S obligation to pay the entire commission.

17. **RESPONSIBILITY OF PERSONS UNDER THIS CONTRACT:** If more than one person signs this contract as BUYER, each person and any party who takes over that person's legal position will be responsible for keeping the promises made by BUYER in this contract. If more that one person signs this contract as SELLER, each person or any party who takes over that person's legal position, will be fully responsible for keeping the promises made by SELLER.

18. **ENTIRE CONTRACT:** This contract when signed by both BUYER and SELLER will be the record of the complete agreement between BUYER and SELLER concerning the purchase and sale of the property. No verbal agreements or promises will be binding on either BUYER or SELLER unless they are put in writing, and signed by both BUYER and SELLER. By signing this offer SELLER agrees to sell and BUYER agrees to buy the property described in this Purchase and Sale Contract.

19. **NO ASSIGNMENT:** This Contract may not be assigned by BUYER without the prior written consent of the SELLER to each instance and any purported assignment(s) made without such consent shall be void.


20. **LIFE OF OFFER:** This offer shall expire on 07/31/2023 8/2 at 5  (am)  (pm).

  
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
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ECBOR Res. Purchase Offer

  
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
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
  
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21. **ADDENDA:** The following Addenda are incorporated into this Contract as indicated; if applicable, copy(s) must be attached:

- FHA ADDENDUM: Amendatory Clause/Real Estate Certification/Condition of Property
- FHA INSPECTION DISCLOSURE: "For Your Protection, Get a Home Inspection"
- FHA or VA REQUIRMENT CONTINGENCY: Addendum Page, Item "C"
- PROPERTY IS A MULTI-FAMILY DWELLING: Addendum Page, Item "D"
- SELLERS DISCLOSURE TO BUYER (Electric, Availability/Utility Surcharge/Agricultural District/Uncapped Gas Well)
- LEAD BASED PAINT DISCLOSURE: (If the Residential dwelling was constructed prior to 1978, BUYER and SELLER must complete, sign and attach a fully executed Disclosure to this contract.)
- 1031 TAX FREE EXCHANGE: This is a 1031 Tax Free Exchange
- OIL/GAS/MINERAL/TIMBER RIGHTS ADDENDUM
- OTHER \_\_\_\_\_

22. **SELLER'S PROPERTY CONDITION DISCLOSURE:** Purchaser(s) of residential real property are entitled by NYS law to receive from SELLER a signed Property Condition Disclosure Statement as prescribed by Real Property Law 462(2), prior to signing a binding contract. In the event that SELLER fails to deliver said Statement, BUYER is entitled to receive a credit of \$500.00 against the purchase price upon transfer of title. (See section 463 of the Real Property Law for exempted properties) BUYER acknowledges that (s)he  has,  has not, received a Seller's Property Disclosure Statement prior to this purchase and sale contract becoming a binding contract of sale.

 \_\_\_\_\_ (BUYER'S Initials)

23. **OIL/GAS/MINERAL/TIMBER RIGHTS DISCLOSURE:** BUYER acknowledges that (s)he has received an Oil/Gas/Mineral/Timber Rights DISCLOSURE prior to this purchase and sale contract becoming a binding contract of sale. A copy of DISCLOSURE is attached.  \_\_\_\_\_ (BUYER'S Initials)

24. **NOTICES:** All notices pursuant to this agreement shall be in writing, delivered by either (1) certified or registered mail return receipt requested, post marked no later than the required date;(2) by telecopier or facsimile transmission by such date; (3) by personal delivery by such date; or (4) by email with delivery by such date.

25. **BUYER and SELLER ATTORNEY APPROVAL:** This offer is contingent upon approval by BUYER'S and SELLER'S attorney as to all matters without limitation. Unless Attorney's written disapproval is received by the parties' respective attorneys, with notification to the BUYER'S and SELLER'S Brokers, within 3 banking days after the acceptance of this offer, this contingency shall be deemed to have been satisfied.

**SIGNATURE(S) OF BUYER(S):**

DATED: \_\_\_\_\_

BUYER:  


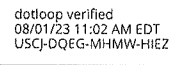
WITNESS:  

BUYER: \_\_\_\_\_


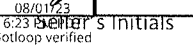
**ACCEPTANCE OF OFFER BY SELLER(S):** SELLER certifies that he/she owns the property and has the power to sell the property. SELLER accepts the offer and agrees to sell on the terms and conditions set forth above.

DATED: \_\_\_\_\_



SELLER:  

WITNESS:  

SELLER: \_\_\_\_\_

   
Buyer's Initials

\_\_\_\_\_ Date

   
Buyer's Initials

\_\_\_\_\_ Date

**Listing Broker:** Howard Hanna Horseheads

R.E. License Number(s): 10391201310

Address: 2783 Westinghouse Rd, Horseheads NY 14845

Phone: 607 739 1444 Fax: \_\_\_\_\_

**Listing Agent:** Thomas Easton

R.E. License Number(s): 10401297884

Email address: thomaseaston@howardhanna.com

Phone: 607 398-8887

**Selling Broker:** Howard Hanna Denison

R.E. License Number(s): 10391201304

Address: 71 Denison Parkway W, Corning NY 14830

Phone: 607 936 4663 Fax: \_\_\_\_\_

**Selling Agent:** Morgan Leach

R.E. License Number(s): 10401364003

Email address: morganleach@howardhanna.com

Phone: 607 846 0664

**ADMINISTRATIVE INFORMATION**

**Property Mailing Address** 127 Fairview Ave Zip 14838 **MLS#** \_\_\_\_\_

**Seller:** Barbara Lentz Goodson

**Buyer:** Charlene Bell

Mailing Address: 6072598589

Mailing Address: 2 Split Rail RD

City/State: \_\_\_\_\_ Zip \_\_\_\_\_

City/State: Painted Post Zip NY

Phone: \_\_\_\_\_

Phone: 650 815 1484

Email: \_\_\_\_\_

Email: charlenelbell@gmail.com

**Attorney:** John Maloney  
150 Lake St  
Elmira, NY  
607-734-0990  
jmaloney@kmw-law.com

**Attorney:** George Welch

Address: \_\_\_\_\_

Address: \_\_\_\_\_

City/State: \_\_\_\_\_ Zip \_\_\_\_\_

City/State: \_\_\_\_\_ Zip \_\_\_\_\_

Phone: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

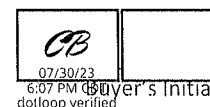
Fax: \_\_\_\_\_

Email: \_\_\_\_\_

Email: \_\_\_\_\_



\_\_\_\_\_  
Date



\_\_\_\_\_  
Date

### Permit Under Section 135 of Highway Law

WHEREAS, Section 135 of the Highway Law provides: "No street, avenue or other roadway shall be constructed upon any portion of a road constructed or improved on a county road system. nor shall any person, corporation or municipality enter upon or construct any work in or upon any such road, or construct any overhead or underground crossing thereof, or lay or maintain therein drainage, sewer or water pipes underground, except under such conditions and regulations as may be prescribed by the county superintendent of highways, notwithstanding any consent or franchise granted by any town or by the municipal authorities of a city or village or town. Any municipal corporation may enter upon any road constructed or improved on a county road system for the purpose of widening the pavement or for any other purpose authorized by this section, but only after securing a permit as provided herein. Notwithstanding the limitations in any general or special law, every municipal corporation shall have and is hereby given authority to deposit with the county superintendent of highways such a sum of money as may be required by the county superintendent of highways as a condition precedent to the granting of the permit provided in this section. Any person, firm or corporation violating this section shall be liable to a fine of not less than one hundred dollars nor more than one thousand dollars for each day of such violation, to be recovered by the county superintendent and paid to the county treasury to the credit of the county road fund created under section three hundred and twenty-b of this chapter for the construction, reconstruction and maintenance of county roads on the county road system in accordance with provisions of said section three hundred and twenty-b and may also be removed therefrom as a trespasser by the county superintendent of highways upon petition to the county court or the supreme court of the state and

WHEREAS, a certain highway known as Fairview Road CR No. 4  
 has been improved and is on the Chemung County Road System and  
 Email: charlene.L.Bell@smachus  
 WHEREAS Charlene Bell PH: 650 815 1484  
 Whose address is 127 Fairview Rd. FX: None  
 requests permission to have a curb cut for a driveway

as per attached construction plans and details, sketch or map.

NOW, THEREFORE, permission is hereby granted to said \_\_\_\_\_ to complete said work in accordance with the following conditions.

#### GENERAL CONDITIONS AND RESTRICTIONS

- County Superintendent of Highways reserves the right to at any time revoke or annul this permit should the applicant fail to comply with the terms and conditions upon which this permit is granted.
- Applicant certifies all persons concerned with actual work under this permit are duly covered by Workmen's Compensation Insurance and the State, County and Town shall be held harmless on account thereof.
- Applicant hereby agrees to hold the State, County and Town harmless on account of damages of any kind which may arise during progress of the work authorized by this permit or by reason thereof.
- This permit shall not be assigned or transferred without the written consent of the County Superintendent of Highways.
- County Superintendent of Highways shall be given five days prior notice by said applicant of the date when it intends to begin the work authorized by this permit, and notice within five days of completion.
- Applicant agrees to pay all necessary expenses incident to inspection by reason of the granting of such permit as certified by the County Superintendent of Highways, such payment to be made within ten days from the rendering of the certified account.
- Work under this permit shall commence within ninety days from date of permit and shall continue to completion in an expeditious manner.
- The applicant shall submit detailed plans of all facilities and structures to be installed within the right-of-way, with a description of proposed method of construction with all necessary details to locate proposed facility (in plan, section and profile) to clearly define detail and material of construction, inclusive of all required restoration, erosion control and maintenance of traffic plans and details.
- Erosion and Sediment control facilities shall be in accordance with the applicable requirements of Chemung County Soil & Water Coalition.
- Maintenance and Protection of traffic shall be in accordance with MUTCD at all times while the work is in progress and until its final completion.
- Safety is of highest priority. All personnel are required to wear hard hats and safety vest while working within the right-of-way

A deposit (Certified Check) - (Bond) in the sum of \$ \_\_\_\_\_ payable to the County Treasurer of Chemung County is (on file) - (to be deposited) as security that the highway will be restored in accordance with the required details where disturbed, at the sole expense of the applicant, as soon as the work has been completed. The County Superintendent of Highways is hereby authorized to expense all or as much of such deposit as may be necessary for that purpose, should the Applicant neglect or fail to perform the required work authorized by this permit to the satisfaction of the County Superintendent of Highways or his representative. **SPECIAL CONDITIONS**

In consideration of granting this permit the undersigned accepts and is subject to all conditions described herein.

Applicant

Date

County Superintendent of Highways  
Chemung\_Highway Permt\_2012.doc

# Short Environmental Assessment Form

## Part 1 - Project Information

### Instructions for Completing

**Part 1 – Project Information.** The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

<b>Part 1 – Project and Sponsor Information</b>			
Charlene Bell			
Name of Action or Project: Wholesale Plant Nursery			
Project Location (describe, and attach a location map): 127 Fairview Road, Erin NY 14838			
Brief Description of Proposed Action: Wholesale plant nursery, estimated to be up to 4 acres			
Name of Applicant or Sponsor: Charlene Bell		Telephone: 650-815-1484	
Address: 127 Fairview Road		E-Mail: charlenebell@gmail.com	
City/PO: Erin		State: NY	Zip Code: 14838
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval: Town of Erin and Chemung County			YES <input checked="" type="checkbox"/>
3. a. Total acreage of the site of the proposed action? _____ 4 acres b. Total acreage to be physically disturbed? _____ 4 acres c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____ 12 acres			
4. Check all land uses that occur on, are adjoining or near the proposed action:			
<input type="checkbox"/> Urban <input checked="" type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban)			
<input checked="" type="checkbox"/> Forest <input checked="" type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other(Specify):			
<input type="checkbox"/> Parkland			

Is the proposed action,	NO	YES	N/A
a. A permitted use under the zoning regulations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Are public transportation services available at or near the site of the proposed action?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____ _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____ At this time, additional water is not expected; however, a permit for an additional well will be applied for as needed	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____			

Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply:

- Shoreline  
  Forest  
  Agricultural/grasslands  
  Early mid-successional  
 Wetland  
  Urban  
  Suburban

15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes,	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
a. Will storm water discharges flow to adjacent properties?	<input type="checkbox"/>	<input type="checkbox"/>
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe:	<input type="checkbox"/>	<input type="checkbox"/>
_____		
_____		
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment:	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
_____		
_____		
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe:	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
_____		
_____		
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe:	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
_____		
_____		

**I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE**

Applicant/sponsor/name: Charlene Bell

Date: 10/16/2023

Signature: Charlene L. Bell

Title: Property Owner/Business Owner

Project:

Date:

***Short Environmental Assessment Form  
Part 2 - Impact Assessment***

**Part 2 is to be completed by the Lead Agency.**

Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept “Have my responses been reasonable considering the scale and context of the proposed action?”

	<b>No, or small impact may occur</b>	<b>Moderate to large impact may occur</b>
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?		
2. Will the proposed action result in a change in the use or intensity of use of land?		
3. Will the proposed action impair the character or quality of the existing community?		
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?		
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?		
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?		
7. Will the proposed action impact existing:		
a. public / private water supplies?		
b. public / private wastewater treatment utilities?		
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?		
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?		
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?		
11. Will the proposed action create a hazard to environmental resources or human health?		

Project:

Date:

### ***Short Environmental Assessment Form Part 3 Determination of Significance***

For every question in Part 2 that was answered “moderate to large impact may occur”, or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.

Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.

\_\_\_\_\_  
Name of Lead Agency

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print or Type Name of Responsible Officer in Lead Agency

\_\_\_\_\_  
Title of Responsible Officer

\_\_\_\_\_  
Signature of Responsible Officer in Lead Agency

\_\_\_\_\_  
Signature of Preparer (if different from Responsible Officer)



# CHEMUNG COUNTY Planning Commission

400 E Church Street  
Elmira, NY 14902  
www.chemungcountyny.gov.com

## Chemung County Planning Board – Municipal Referral Form

Referring Municipality:  City  Town  Village of

Referring Official:

Title:

Address:

*Do not write in this space*

Referral ID #:  
\_\_\_\_\_

Delivery Date:  
\_\_\_\_\_

Phone Number:

Email:

Referring Body (check appropriate box):  Legislative Body  ZBA  Planning Board

Applicant:

Phone:

Applicant Mailing Address:

Email:

Property Address:

Tax Map Number(s):

Current Zoning District:

### Proposed Action (check all that apply)

- |                                                                    |                                                         |
|--------------------------------------------------------------------|---------------------------------------------------------|
| <input type="checkbox"/> Comprehensive Plan Adoption/Amendment     | <input type="checkbox"/> Special/Conditional Use Permit |
| <input type="checkbox"/> Zoning Text Amendment                     | <input type="checkbox"/> Site Plan Review/Approval      |
| <input type="checkbox"/> Zoning Map Amendment                      | <input type="checkbox"/> Use Variance                   |
| <input type="checkbox"/> Zoning Ordinance/Local Law Adoption       | <input type="checkbox"/> Area Variance                  |
| <input type="checkbox"/> Subdivision Review (§239-N)<br>Moratorium | <input type="checkbox"/> Other (please specify)         |

**Existing use and description of the Proposed Action (attach a detailed narrative if available).**

---

**Reason referral is required for the Action (see [Interactive GIS Database](#) for trigger boundaries):**

---

**Actions the referring body has taken on the Proposed Action to date (e.g. reviewed, approved, discussed, etc.)**

**Future scheduled meetings of the referring body that will involve the Proposed Action:**

**VILLAGE OF HORSEHEADS  
APPLICATION FOR  
REAL PROPERTY RE-CLASSIFICATION**

---

**APPLICATION FOR:**

- |                                                            |                                                        |
|------------------------------------------------------------|--------------------------------------------------------|
| <input type="checkbox"/> Rezoning                          | <input type="checkbox"/> Site Plan Review              |
| <input type="checkbox"/> Zoning Ordinance Amendment        | <input checked="" type="checkbox"/> Special Use Permit |
| <input type="checkbox"/> Planned Unit Development (P.U.D.) | <input type="checkbox"/> Other (Specify)               |

**APPLICANT:** Kevin McFall  
Address: 1877 950 Chemung St. Horseheads NY  
Telephone: Day 11 Evening 11 Cell 716-684-5391

**OWNER:** Kevin McFall  
Address: 1873 Benjamin Rd Cornville NY 14830  
Telephone: Day \_\_\_\_\_ Evening \_\_\_\_\_ Cell 716-684-5391

**LOCATION/DESCRIPTION OF PROPERTY INVOLVED:** 950 Chemung St. Horseheads NY 14845

**PROPOSED USE:** \_\_\_\_\_

**TAX MAP PARCEL #** 58.16-1-4302

**ENCLOSURES:** \_\_\_\_\_

**NOTE:** Applicant must supply 8 copies of all enclosures and 3 copies of any large roll-up maps/drawings. If petition is for a Planned Unit Development (P.U.D.), plans, statements and supporting documents as required by the Village of Horseheads Zoning Ordinance must accompany this application. Further, additional information, data and documents may be required. Applicant's attention is specifically drawn to applicable ordinances, codes, laws and local laws to which reference should be made.

**STATISTICS AND DATA ON PROPERTY:**

- a. Total Area: 4550 sq. ft., or 1.3 acres
- b. Dimensions: Minimum Width \_\_\_\_\_ Average Width 75  
Minimum Depth \_\_\_\_\_ Average Depth 60

Irregularities (describe): \_\_\_\_\_

c. Existing use(s) (include structures, outdoor uses, rights of way, easements and limitations to use of property): \_\_\_\_\_

d. Is property within a Flood Hazard Zone:  yes  no

e. Adjacent uses within 150 feet: (state direction, location, use, zone): MICKENK. ele 4707  
Rtms IM

f. Municipal boundary or County or State property (parks, highways, etc.) within 500 feet: Highway

If petition is for an amendment to Zoning Ordinance, cite the section(s) to be changed and wording to be substituted: \_\_\_\_\_

If petition is for an amendment to the Zoning Map, state current District and District to be changed to: \_\_\_\_\_

In support of this petition, the following statement is made: I will TAKE AN eye SARE  
OF A BUILDING AND MAKE it  
A LANDMARK.

Signature of Owner/Applicant: [Signature]  
Dated 1/10, 2024

\*\*\*\*\*  
**FOR OFFICE USE ONLY**  
Received by: \_\_\_\_\_ Date Received: \_\_\_\_\_  
Reviewed for completeness/accuracy by: \_\_\_\_\_

**Short Environmental Assessment Form**  
**Part 1 - Project Information**

**Instructions for Completing**

**Part 1 - Project Information.** The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 - Project and Sponsor Information			
Name of Action or Project: <i>Proposed CANNABIS DISPENSARY</i>			
Project Location (describe, and attach a location map): <i>950 Chemung St Honeoye Falls NY</i>			
Brief Description of Proposed Action: <i>Request special use permit for CANNABIS DISPENSARY</i>			
Name of Applicant or Sponsor: <i>Kevin McFall</i>		Telephone: <i>716-684 5391</i>	
		E-Mail: <i>KEVIN@MOONLIGHT.COM</i>	
Address: <i>1873 BENJAMIN Rd</i>			
City/PO: <i>CORNING</i>	State: <i>NY</i>	Zip Code: <i>14831</i>	
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.		NO	YES
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval:		NO	YES
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
3.a. Total acreage of the site of the proposed action?		<u>1.3</u>	acres
b. Total acreage to be physically disturbed?		<u>      </u>	acres
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		<u>1.3</u>	acres
4. Check all land uses that occur on, adjoining and near the proposed action.			
<input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban) <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): _____ <input type="checkbox"/> Parkland			

5. Is the proposed action, a. A permitted use under the zoning regulations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Are public transportation service(s) available at or near the site of the proposed action?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Is the proposed action located in an archeological sensitive area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input type="checkbox"/> Suburban			
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16. Is the project site located in the 100 year flood plain?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, a. Will storm water discharges flow to adjacent properties? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: _____ Retention basin _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: _____ _____	<b>NO</b> <input checked="" type="checkbox"/>	<b>YES</b> <input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____ _____	<b>NO</b> <input checked="" type="checkbox"/>	<b>YES</b> <input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____ _____	<b>NO</b> <input checked="" type="checkbox"/>	<b>YES</b> <input type="checkbox"/>
<b>I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</b> Applicant/sponsor name: _____ <i>[Signature]</i> Date: <u>1/12/24</u> Signature: _____		

Economic analysis of Mooney's Cannabis Company (MCC) proposed cannabis dispensary operation in Horseheads, NY.

Assessment factors including income, costs, rentals, taxes, market area, utilities and other specific considerations provided.

**Income:**

**Cannabis Sales:** Mooney's Cannabis Company will sell cannabis products to adults age 21 and over and follow any and all New York State laws.

**Costs:**

**Utilities:** Gas, Electric, Water etc. \$11,000-\$13,000 yearly

**Labor Costs:** To be determined as business develops

**Compliance and Licensing:** Follow any and all New York State regulations.

**Rental Expenses:** Owned 100%

**Taxes:**

**Excise Taxes:** Cannabis products are subject to excise taxes by state regulations. Current estimated gross sales are \$5-\$10 million per year.

**Income Taxes:** Based on sales

**Real Estate Taxes:** Village, County and School taxes are currently \$21,000 per year.

**Market Area:**

1. **Demand Analysis:** First legitimate dispensary in Horseheads, New York. This location would generate \$5-\$10 million dollars possibly. The time is now.

**Facility Features:**

Follow all building and zoning laws

**Profit and Loss Potential:**

1. **Income - Total Costs - Security - Utilities - Labor - Taxes**
  1. Estimated income year one gross \$5-\$10 million dollars.
2. **Optimized Selling:** Follow all dispensary laws compliant with New York State.
3. **Operational Efficiency:** Daily review of operations to minimize costs in labor and utilities.
4. **Security Measures:** 32 camera system, alarm and motion system, possible security employee(s) as needed.
5. **Community Engagement:** To offer a legitimate dispensary unlike the fly by night, unsupervised sticker shops.



14

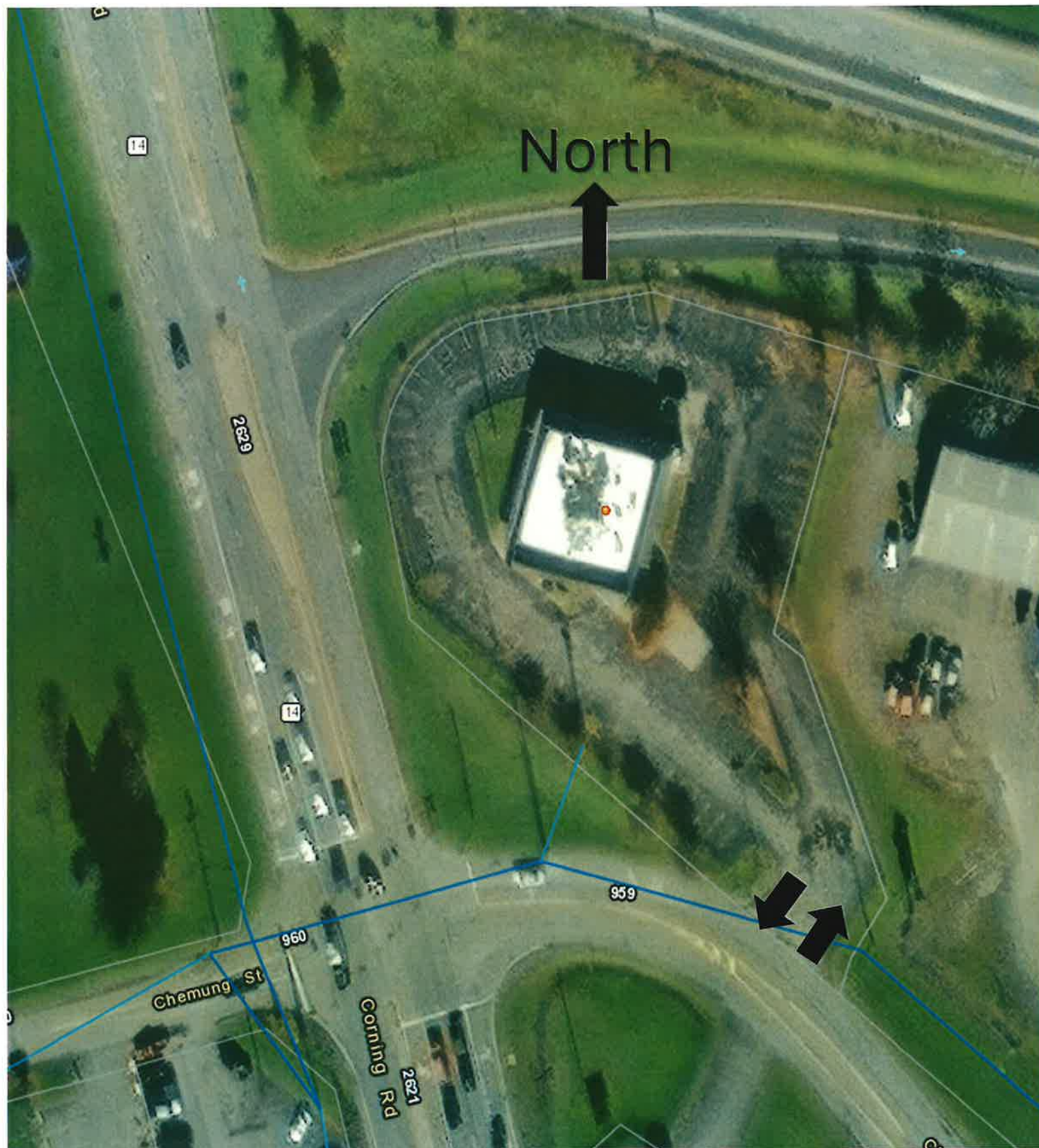
959

2

950 Chemung Street, Horseheads, New York 14845

Kevin McFall-Cannabis Dispensary

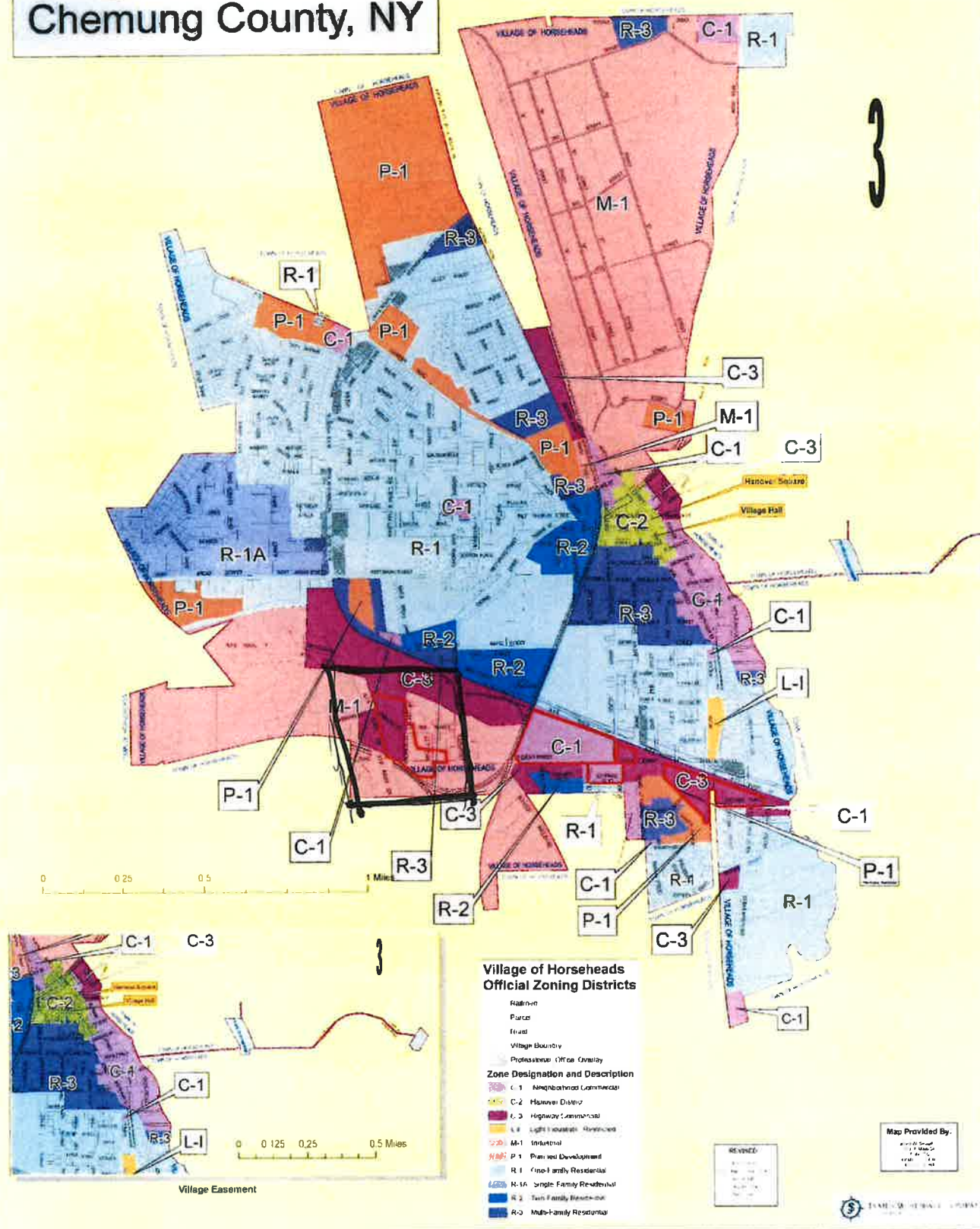
January 13, 2024





# Village of Horseheads Chemung County, NY

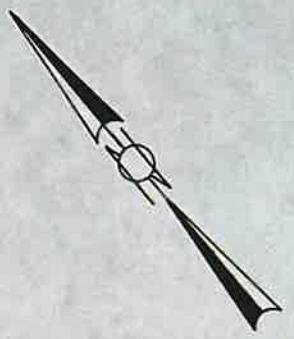
3





R1 East of RR tracks, North of I86





N.Y.S. ROUTE 17 EASTBOUND RAMP

BRAMBURY ASSOCIATES

VILLAGE OF HORSEHEADS CHEMUNG COUNTY  
NEW YORK

NOTE: THIS PARCEL LIES ENTIRELY WITHIN ZONE "C" OF FIRM RATE MAP 360154-0003B DATED 9/4/86.

DRAWN BY: M. G. S.	SCALE: 1" = 20'	REVISED: DEC. 6, 1975	JOB NO. 5404.01
CHECKED BY: E. L. G.	DATE: OCT. 13, 1975	REVISED: APR. 25, 1985	
		REVISED: DEC. 7, 1993	

Reference deed:  
Liber 702, Page 550

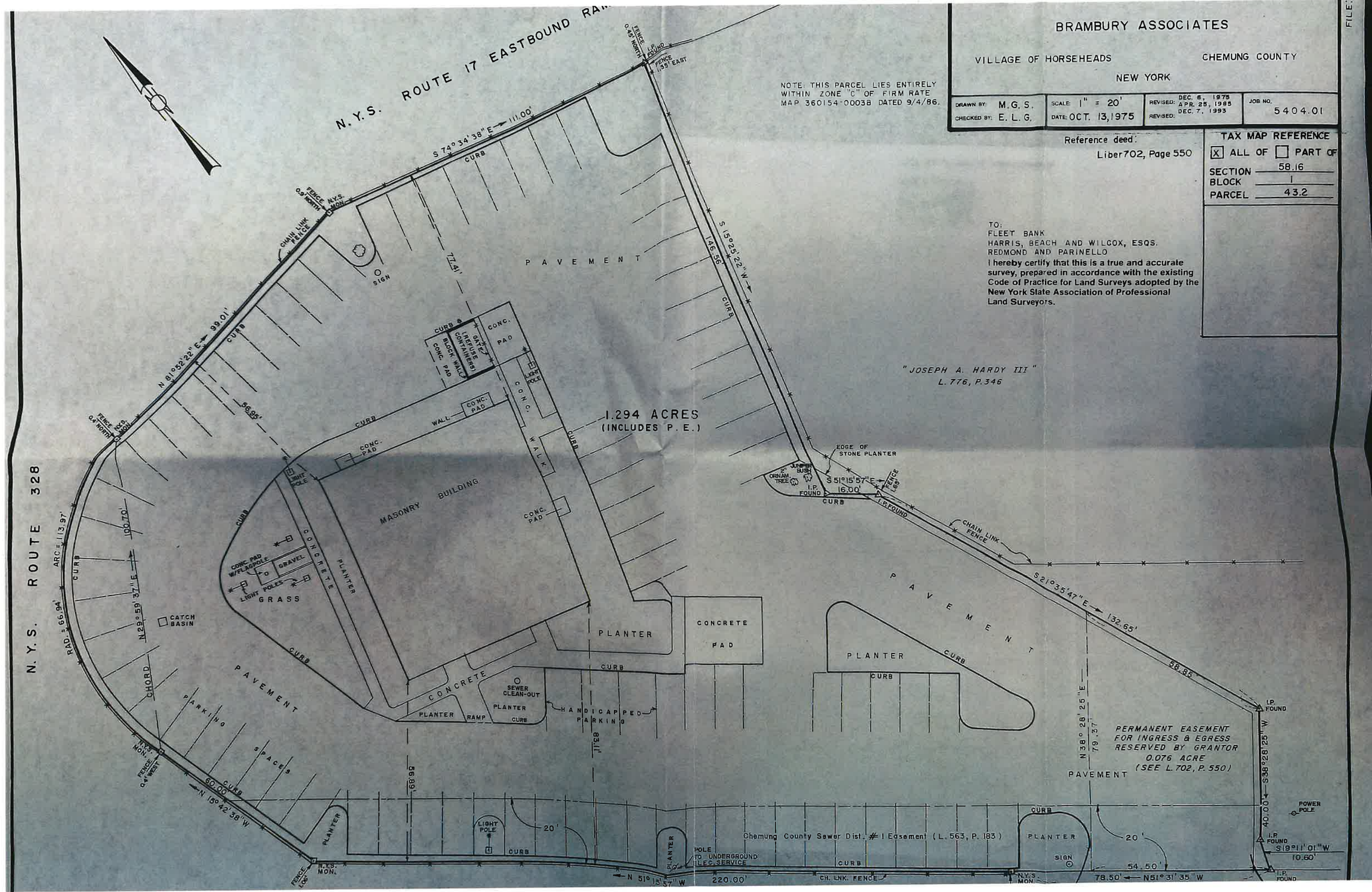
TAX MAP REFERENCE	
<input checked="" type="checkbox"/> ALL OF	<input type="checkbox"/> PART OF
SECTION	58.16
BLOCK	1
PARCEL	43.2

TO:  
FLEET BANK  
HARRIS, BEACH AND WILCOX, ESQS.  
REDMOND AND PARINELLO  
I hereby certify that this is a true and accurate survey, prepared in accordance with the existing Code of Practice for Land Surveys adopted by the New York State Association of Professional Land Surveyors.

"JOSEPH A. HARDY III"  
L. 776, P. 346

1.294 ACRES  
(INCLUDES P. E.)

N.Y.S. ROUTE 328



PERMANENT EASEMENT FOR INGRESS & EGRESS RESERVED BY GRANTOR 0.076 ACRE (SEE L. 702, P. 550)

Chemung County Sewer Dist. #1 Easement (L. 563, P. 183)

FILE:



# CHEMUNG COUNTY Planning Commission

400 E Church Street  
Elmira, NY 14902  
www.chemungcountyny.gov.com

## Chemung County Planning Board – Municipal Referral Form

Referring Municipality:  City  Town  Village of Horseheads

Referring Official: Nate Nagle

Title: Village Manager

Address: Village of Horseheads  
202 S. Main Street  
Horseheads, NY 14845

*Do not write in this space*

Referral ID #:  
\_\_\_\_\_

Delivery Date:  
\_\_\_\_\_

Phone Number: 607-739-5691, #4

Email: rbaer@horseheads.org

Referring Body (check appropriate box):  Legislative Body  ZBA  Planning Board

Applicant: Village of Horseheads

Phone: 607-739-5691, #4

Applicant Mailing Address:

Email:

Property Address:

Tax Map Number(s):

Entire Village

Current Zoning District:

Proposed Action (check all that apply)

- |                                                                         |                                                         |
|-------------------------------------------------------------------------|---------------------------------------------------------|
| <input type="checkbox"/> Comprehensive Plan Adoption/Amendment          | <input type="checkbox"/> Special/Conditional Use Permit |
| <input type="checkbox"/> Zoning Text Amendment                          | <input type="checkbox"/> Site Plan Review/Approval      |
| <input type="checkbox"/> Zoning Map Amendment                           | <input type="checkbox"/> Use Variance                   |
| <input checked="" type="checkbox"/> Zoning Ordinance/Local Law Adoption | <input type="checkbox"/> Area Variance                  |
| <input type="checkbox"/> Subdivision Review (§239-N)                    | <input type="checkbox"/> Other (please specify)         |
| <input type="checkbox"/> Moratorium                                     |                                                         |

**Existing use and description of the Proposed Action (attach a detailed narrative if available).**

The purpose of this local law is to promote and protect the public health, welfare and safety by regulating existing and proposed outdoor advertising, outdoor advertising signs, outdoor business signs, and outdoor signs of all types, including digital signs. It is intended to enhance and protect the physical appearance of the community and to preserve the scenic and natural beauty of the areas in the Village and to provide a more enjoyable and pleasing community and to protect property values and to maintain a favorable economic and business climate consistent with the topography and the present use and development of lands in the Village and the needs of the Village. It is further intended hereby to reduce sign or advertising distractions and obstructions that may contribute to traffic accidents and to reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way and blocking views. This local law recognizes the obligation to the Village for its people, to protect and preserve the community's environment and to provide open space and to curb the deterioration of the Village's natural beauty.

---

**Reason referral is required for the Action (see [Interactive GIS Database](#) for trigger boundaries):**

Borders Town of Horseheads at all entrances to the Village

---

**Actions the referring body has taken on the Proposed Action to date (e.g. reviewed, approved, discussed, etc.)**

Reviewed Final draft of law  
Scheduled public hearing for 2/12/24

**Future scheduled meetings of the referring body that will involve the Proposed Action:**

1/22/24 - Village Planning Board Mtg.  
2/12/24 - Village Board of Trustees - public hearing

## “Full Statement of Proposed Action” Checklist

As defined in NYS General Municipal Law §239-m (1)(c)

Please make sure you have enclosed the following required information with your referral, as appropriate.  
Please also include any additional materials required by your municipality's non-referral agreement with  
Chemung County.

For all actions:

- Chemung County Planning Board – [Municipal Referral Form](#)
- All application materials required by local law/ordinance to be considered a “complete application” at the local level
- [Part 1 Environmental Assessment Form](#) (EAF) or Environmental Impact Statement (EIS) for State Environmental Quality Review Act (SEQR) [Type I Action](#) or [Unlisted Action](#). If [Type II Action](#), provide a statement to that effect.
- [Agricultural Data Statement](#), for site plan review, special/conditional use permit, use variances, or subdivision review located in an Agricultural District or within 500 feet of a farm operation located in an Agricultural District, per Ag. Districts Law Article 25AA §305-a, Town Law §283-a, and Village Law §7-739.

For Proposing or Amending Zoning Ordinances or Local Laws: The above requirements AND

- Complete text of proposed ordinance or local law as well as all existing provisions to be affected
- Zoning Map (if applicable)

---

**Submit this form with supporting documentation in PDF format to the Chemung County Planning Department via email at: [planning@chemungcountyny.gov](mailto:planning@chemungcountyny.gov). Completed referrals must be submitted by close of business 12 calendar days prior to the Chemung County Planning Board meeting.**

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*Note: If the completed referral is too large to submit via email, please email this form to [planning@chemungcountyny.gov](mailto:planning@chemungcountyny.gov) and note file size issues in your email body*

---

**Each municipality will be required to submit a Report of Final Action to the Chemung County Planning Department within 30 days of taking final action. Additional instructions are available on the Chemung County Planning Department website through the "[Referral Guidance for Chemung County Municipalities, GML§239.](#)"**

## *Short Environmental Assessment Form*

### *Part 1 - Project Information*

#### **Instructions for Completing**

**Part 1 – Project Information.** The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

<b>Part 1 – Project and Sponsor Information</b>			
Village of Horseheads, NY			
Name of Action or Project: Draft Local Law on Signs			
Project Location (describe, and attach a location map): Entire Village boundaries			
Brief Description of Proposed Action: Adoption of Local Law regulating erection and maintenance of signs			
Name of Applicant or Sponsor: Village of Horseheads		Telephone: 607-739-5691	
		E-Mail: rbaer@horseheads.org	
Address: 202 S. Main Street			
City/PO: Horseheads		State: NY	Zip Code: 14845
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? <u>If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.</u>			NO <input type="checkbox"/>
			YES <input checked="" type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval:			NO <input type="checkbox"/>
			YES <input type="checkbox"/>
3. a. Total acreage of the site of the proposed action? _____ acres			
b. Total acreage to be physically disturbed? _____ acres			
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____ acres			
4. Check all land uses that occur on, are adjoining or near the proposed action:			
<input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban)			
<input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other(Specify):			
<input type="checkbox"/> Parkland			

### Narrative Description of Intent of the Proposed Draft Law

The proposed action is the adoption and administration of a local law. The purpose of this local law is to promote and protect the public health, welfare and safety by regulating existing and proposed outdoor advertising, outdoor advertising signs, outdoor business signs, and outdoor signs of all types, including digital signs. It is intended to enhance and protect the physical appearance of the community and to preserve the scenic and natural beauty of the areas in the Village and to provide a more enjoyable and pleasing community and to protect property values and to maintain a favorable economic and business climate consistent with the topography and the present use and development of lands in the Village and the needs of the Village. It is further intended hereby to reduce sign or advertising distractions and obstructions that may contribute to traffic accidents and to reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way and blocking views. This local law recognizes the obligation to the Village for its people, to protect and preserve the community's environment and to provide open space and to curb the deterioration of the Village's natural beauty.

<p>5. Is the proposed action,</p> <p>a. A permitted use under the zoning regulations?</p> <p>b. Consistent with the adopted comprehensive plan?</p>	<p>NO</p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p>	<p>N/A</p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p>
<p>6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?</p>	<p>NO</p> <p><input type="checkbox"/></p>		<p>YES</p> <p><input type="checkbox"/></p>
<p>7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area?</p> <p>If Yes, identify: _____</p>	<p>NO</p> <p><input type="checkbox"/></p>		<p>YES</p> <p><input type="checkbox"/></p>
<p>8. a. Will the proposed action result in a substantial increase in traffic above present levels?</p> <p>b. Are public transportation services available at or near the site of the proposed action?</p> <p>c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?</p>	<p>NO</p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p>		<p>YES</p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p>
<p>9. Does the proposed action meet or exceed the state energy code requirements?</p> <p>If the proposed action will exceed requirements, describe design features and technologies:</p> <p>_____</p> <p>_____</p>	<p>NO</p> <p><input type="checkbox"/></p>		<p>YES</p> <p><input type="checkbox"/></p>
<p>10. Will the proposed action connect to an existing public/private water supply?</p> <p>If No, describe method for providing potable water: _____</p> <p>_____</p>	<p>NO</p> <p><input type="checkbox"/></p>		<p>YES</p> <p><input type="checkbox"/></p>
<p>11. Will the proposed action connect to existing wastewater utilities?</p> <p>If No, describe method for providing wastewater treatment: _____</p> <p>_____</p>	<p>NO</p> <p><input type="checkbox"/></p>		<p>YES</p> <p><input type="checkbox"/></p>
<p>12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?</p> <p>b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?</p>	<p>NO</p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p>		<p>YES</p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p>
<p>13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?</p> <p>b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?</p> <p>If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____</p> <p>_____</p> <p>_____</p>	<p>NO</p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p>		<p>YES</p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p>



# Signs

## § 1 Title.

This local law shall hereafter be known as the "Sign Law for the Village of Horseheads."

## § 2 Purpose.

The purpose of this local law is to promote and protect the public health, welfare and safety by regulating existing and proposed outdoor advertising, outdoor advertising signs, outdoor business signs, and outdoor signs of all types, including digital signs. It is intended to enhance and protect the physical appearance of the community and to preserve the scenic and natural beauty of the areas in the Village and to provide a more enjoyable and pleasing community and to protect property values and to maintain a favorable economic and business climate consistent with the topography and the present use and development of lands in the Village and the needs of the Village. It is further intended hereby to reduce sign or advertising distractions and obstructions that may contribute to traffic accidents and to reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way and blocking views. This local law recognizes the obligation to the Village for its people, to protect and preserve the community's environment and to provide open space and to curb the deterioration of the Village's natural beauty.

## § 3 Definitions.

As used in this local law unless the context indicates otherwise the following terms shall have the meanings indicated:

### **ADVERTISING SIGN**

A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than upon the premises where such sign is located or to which it is affixed.

### **APPLICANT**

Person requesting approval of a sign permit application. If not the owner, the applicant must have written authorization from the owner to submit the application.

### **BUSINESS SIGN**

A sign which directs attention to a business or profession conducted or to a commodity, service or entertainment sold or offered upon the premises where such sign is located or to which it is affixed.

### **CODE ENFORCEMENT OFFICER**

The official designated by the Board of Trustees of the Village of Horseheads to administer the provisions of this local law.

### **DIGITAL SIGN**

A sign that has or appears to contain movement or that appears to change, caused by a method other than physically removing and replacing the sign or its components, whether the real or apparent movement or change is in the display, the sign structure itself, or any other part of the sign. A digital sign often incorporates a technology allowing the sign face to change the image without the necessity of physically or mechanically replacing the sign face or its components. A digital sign may include any display that incorporates rotating panels, light emitting diodes manipulated through digital input, electronic message center, digital message board, or other similar methods or technologies that permit a sign face to present different images or displays.

### **ERECT**

To build, construct, alter, repair, display, relocate, attach, hang, place, suspend, affix or maintain any sign including the painting of wall signs.

**FACE OF A BUILDING**

Any outer surface of a building.

**FACING OR SURFACE**

The surface of the sign upon, against or through which the message is displayed or illustrated on the sign.

**FLASHING SIGN**

Any illuminated sign, other than a digital sign, on which the artificial light is not maintained stationary or constant in intensity and color at any time when such sign is in use. For the purpose of this local law, any revolving, illuminated sign shall be considered a "flashing sign."

**FREESTANDING SIGN**

Any sign or sign structure not attached to the exterior of a building.

**FRONT OF A BUILDING**

That face which contains the main entrance. If there is more than one (1) entrance, only one (1) face shall be deemed to be the "front."

**BUILDING FRONTAGE**

The linear frontage of a building measured along a public or private street or right-of-way between two (2) lines projected perpendicular from the street or right-of-way to the corners of the building.

**ILLUMINATED SIGN**

Any sign, other than a digital sign, which has any face or surface, character, letter, figure, design or outline lighted or illuminated internally or externally, whether the source of light or illumination is a part of the sign proper or otherwise.

**LEWD**

Crude and offensive in a sexual way; sexually unchaste or licentious; sexual in an obvious and rude way; pornographic or lascivious; inclined, characterized by or inciting to lust.

**LOT OR PREMISES**

A portion or parcel of land, considered as a unit, devoted to a certain use or occupied by a building or a group of buildings that are united by a common interest or use and the customary accessories and open spaces belonging to the same.

**MARQUEE SIGN**

A sign that is part of or attached to a permanent roof like structure of a building and it projects beyond and extends along any portion of the building frequently extending over a sidewalk.

**NEW YORK STATE UNIFORM FIRE PREVENTION AND BUILDING CODE**

Constitutes updated, uniform regulations in terms of performance covering all types of building construction as proclaimed by the State Building Code Council pursuant to its authority under Article 18 of the Executive Law of the State of New York.

**OBSCENE**

Of the portrayal or description of sexual matters, offensive or disgusting by accepted standards of morality and decency; a highly subjective reference to material or acts which display or describe sexual activity in a manner appealing only to the "prurient interest," with no legitimate artistic, literary, or scientific purpose; calculated to shock the moral sense of a person by a disregard of chastity or modesty; offensive to morality or decency; causing uncontrolled sexual desire.

**OTHER ADVERTISING STRUCTURE**

Any marquee, canopy, awning or street clock.

**OWNER**

Person, firm, partnership or association, company, limited liability company, or corporation holding title to the land and/or building or structure upon which or to which said sign or advertising structure is erected, supported or affixed.

**PERMITTEE**

Includes any person, firm, partnership, association, corporation, company, limited liability company, or organization of any kind who either by ownership or lease holds title to the sign or signs on the premises and is the person to whom a permit under this local law has been issued or may be issued.

**PERSON**

Includes any person, firm, partnership, association, corporation, company, limited liability company, or organization of any kind.

**POLITICAL SIGN**

A sign that advocates action on a public issue, indicates a candidate for public office or expresses an opinion or belief.

**PROJECTING SIGN**

Any sign affixed to a building or other structure in a way that it extends beyond the line of the building or structure by more than twelve (12) inches.

**REAL ESTATE SIGN**

A temporary sign that directs attention to the rental, sale or lease of property on which the sign is located.

**RIGHT OF WAY**

Any government owned land or easement for the purpose of public transportation.

**ROOF SIGN**

A sign erected on or over the roof of the building.

**SHOPPING CENTER OR MULTIUSE COMMERCIAL FACILITY**

Any group of two (2) or more stores or commercial/business enterprises which share a common vehicular entrance or entranceways and for which there is provided common off-street parking.

**SIGN**

Any material, structure, device or other advertising structure or part thereof composed of lettered or pictorial matter or upon which lettered or pictorial matter is or may be placed when used or located out of doors or on the exterior of any building for the display of announcements, notices, directional matter or name, and includes sign frames, billboards, signboards, pole or pylon signs, ground signs, hanging signs, projecting signs, illuminated signs, pennants and fluttering devices, and shall also include any

announcement, declaration, demonstration, display, QR code, illustration or insignia used to advertise or promote the interests of any person or business when the same is placed in view of the general public. However, a "sign" shall not include any display of an official court or required public official notices or signs nor any official traffic control device, nor shall it include the flag, emblem or insignia of a nation, political unit, school or religious group. A "sign" shall not include a sign located completely within an enclosed building unless the context shall so indicate.

### **SIGN AREA**

The surface area of the sign, including the frame, place or structure used to hold up any lettering or pictorial matter. In the event that a sign is irregular in shape, the area of the sign shall be taken as the area of the smallest rectangle that can be placed over the entire sign, including its lettering, devices, frame and decorative moldings along its edges and background, if of a different color than the predominant color surrounding the sign, except as otherwise provided herein. In the event that a letter or letters or other pictorial matter are placed as separate units on the background boards, the sign area shall be calculated as the sum of the areas of the background boards. In the case of a two-sided freestanding sign, the "sign area" is considered to be the entire surface area of one (1) face of the sign. The "sign area" of signs having more than two (2) sides is the sum of the surface area of all sides.

### **STREET CLOCK**

Any timepiece or weather reporting instrument erected upon a standard or on the exterior of a building or structure for the convenience of the public and placed and maintained for the purpose of advertising a business.

### **STRUCTURAL TRIM**

The molding, battens, cappings, nailing strips, latticing and platforms which are attached to the sign structure.

### **TEMPORARY SIGN**

A banner or sign, including a portable sign, constructed of cloth, paper, canvas, plastic or light fabric, wallboard, or other light impermanent material with or without frame which due to its construction or material is intended to be of a nonpermanent duration or is placed upon legs, skids, wheels or other nonpermanent erection/installation method. Generally, such signs are intended to be displayed for a limited period of time only, and include construction, political, real estate, and advertisements or announcement for special events, business openings, or promotions limited by time, garage sale, tag sale, yard sign, and the like. Signs shall not be considered temporary if they are effectively displayed on an ongoing basis, interrupted by short intervals when they are not displayed.

### **VILLAGE**

The Village of Horseheads.

### **WALL SIGN**

A sign attached parallel to and within 12 inches of the exterior wall of any building or structure in which is supported by the wall building or structure and which displays only one sign surface.

#### **§ 4 Permit required.**

No person shall erect any sign without first obtaining a permit from the Code Enforcement Officer, except in those cases where this local law specifically permits the erection of a sign without a permit.

#### **§ 5 Application for permit.**

Application for the permit shall be made to the Code Enforcement Department, in writing, in duplicate, upon forms prescribed and provided by the Department and shall contain the following information:

- A. The name, address, and telephone number of both the applicant and the owner of the property on

which the sign is to be located.

- B. The location of the building, structure or land to which or upon which the sign is to be attached or erected.
- C. A detailed drawing or blueprints showing a description of the construction details of the sign and showing the lettering and/or pictorial matter composing the sign; the position of lighting or other extraneous devices; and a location plan showing the position of the sign on any building or land and its position in relation to nearby buildings or structures and to any private or public street or highway.
- D. Written consent of the owner of the building, structure or land to which or on which the sign is to be erected in the event that the applicant is not the owner thereof.
- E. A copy of any required or necessary electrical permit issued for said sign or a copy of the application for such permit.
- F. Such additional information as the Code Enforcement Officer may reasonably require in order to carry out the intent of this Local Law.

It shall be the duty of the Code Enforcement Officer, upon the filing of an application for any sign permit, to examine such plans and specifications and other data and the premises upon which it is proposed to erect the sign or other advertising structure and, if necessary, the building or lot upon which it is proposed to erect the sign or other advertising structure. If it appears that the proposed sign or advertising structure is in compliance with all requirements of this local law, the New York State Uniform Fire Prevention and Building Code and other laws and Laws of the Village of Horseheads, the Code Enforcement Officer shall then issue the sign permit.

#### **§ 6 Duration of permit.**

If work authorized under a sign permit has not been fully completed within six (6) months after the date of issuance, such permit shall be null and void.

#### **§ 7 Permit revocable at any time.**

All rights and privileges acquired under the provisions of this local law or any amendment thereto are merely licenses, revocable at any time by the Code Enforcement Officer or other person or body authorized by the Board of Trustees, upon failure of the holder thereof to comply with any provision of this local law, and all such permits shall contain this provision.

#### **§ 8 General regulations.**

The prohibitions contained in this section shall apply to all signs constructed and maintained in the Village of Horseheads:

- A. Any illuminated sign or lighting device shall employ only lights emitting a light of constant intensity, and no sign shall be illuminated by or contain oscillating, flashing, intermittent, rotating or moving light or lights. In no event shall an illuminated sign or lighting device be so placed or directed so as to permit the beams and illumination therefrom to be directed or beamed upon a public street, highway, sidewalk or adjacent premises so as to cause glare or reflection that may constitute a traffic hazard or a nuisance.
- B. No part of a sign shall project more than two (2) feet from the front or face of a building, except as provided in § 9 herein.
- C. No signs shall be placed on the roof of any building.
- D. No portable or temporary sign shall be placed outside or on the front or face of any building except as

provided in § 12 herein.

- E. No sign or part thereof shall contain or consist of a string of lights, banners, posters, pennants, ribbons, streamers, spinners or other similar moving, fluttering or revolving devices, revolving beacon, oscillating light, flashing light, strobe light, flashing wand or pointer or light designed to imitate any emergency vehicle warning light.
- F. No sign shall be erected or displayed on any public property, including the right-of-way of any street, roadway or highway.
- G. Advertising signs facing a public highway, street or road shall be no closer to one another than five hundred (500) feet.
- H. No advertising sign, including billboards, shall be located within an area of six hundred sixty (660) feet of the right-of-way of a federally aided primary highway, including the Southern Tier Expressway, NYS Route 17/Interstate 86.
- I. No advertising sign shall be located within three hundred (300) feet of a residential district nor within three hundred (300) feet of a school, library, church or hospital. Further, such advertising sign shall be so located that its message or legend shall not be legible from any residential district, school, library, church or hospital or portion thereof.
- J. No business sign shall be illuminated after 10:00 pm, unless the business being advertised is open and conducting business after 10:00 pm in which case the sign shall cease to be illuminated immediately upon the closing of the business.
- K. Marquee signs are not permitted.
- L. Searchlights are prohibited.

**§ 9 Sign setback and height.**

All signs shall conform to the following restrictions concerning setback and height:

- A. Every sign shall be setback the required front yard setback for the district in which the sign is located, with a required minimum setback of fifteen (15) feet. The setback shall be measured from the public right-of-way. In the event that the building sets closer to the right-of-way than the required setback for the sign, then the owner shall be allowed to erect a sign upon the building which shall not project more than three (3) feet therefrom.
- B. No sign shall be higher than 35 feet in any particular zoning district, except Residence Districts, wherein such sign is located and all signs or advertising structures are subject to further restrictions of height as herein specified or as specified in the Ch. 245, Zoning, of the Code of the Village of Horseheads.
- C. No sign in any Residential District shall exceed ten (10) feet in height.

**§ 10 Permitted signs.**

- A. The following signs may be erected in any district of the Village of Horseheads without a permit, shall not be erected in a street right of way, and except as otherwise provided below shall not exceed six (6) square feet in area:
  - (1) Signs advertising the sale, lease or rental of the premises upon which the sign is located. Such signs shall be removed promptly after the premises have been sold, leased or rented.
  - (2) Signs denoting the names and address of the occupants of premises occupied for residential

purposes, which signs shall not exceed two (2) square feet in area.

- (3) Directional (entrance/exit) signs on premises, each not exceeding two (2) square feet in area and which shall not include any trademarks or names of businesses conducted or products sold.
- (4) A sign or notice, having an area of twenty (20) square feet or less, erected by a public utility, necessary for the direction, information and safety of the public.
- (5) Signs advertising a home occupation, as approved by Ch. 245, Zoning, that shall not exceed two (2) square feet.
- (6) Signs or bulletin boards customarily incidental to places of worship, libraries, museums, charitable or religious institutions, social clubs or societies, which signs or bulletin boards shall not exceed fifteen (15) square feet in area and shall be located on the premises of the institutions.
- (7) Signs advertising real estate developments or subdivisions, during the period of development. These signs shall not exceed thirty two (32) square feet in area and shall advertise only the name of the contractor, owner, architect, engineer, developer or financial institutions, and such signs shall not be illuminated in any manner or exceed two (2) in number
- (8) Signs listing the contractor, owner, architect, engineer, developer or financial institutions, may be placed on premises where construction, repair or renovation is in progress. Such signs shall not be illuminated and shall be removed immediately upon completion of the project.
- (9) Occupational signs denoting the name and profession of an occupant in any commercial building, public institutional building or dwelling.
- (10) Memorial signs, name of building and date of erection when cut into any surface, constructed of bronze or other incombustible materials, historical markers, tablets, statutes and plaques.
- (11) Signs of or required by duly constituted governmental bodies and their agencies, where such signs are established in the interest of safety, convenience or welfare of general public; this shall include traffic signs, legal notices and warnings at railroad crossings.
- (12) Flags, emblems or insignia of a national, state or local government not exceeding 24 square feet.
- (13) Statues, plaques, and banners and emblems or name and meeting place signs of civic, philanthropic, educational or religious organizations or institutions not exceeding 10 square feet.
- (14) No trespassing signs, holiday decorations displayed in season, signs not visible outside of building and signs displayed strictly for the direction, safety or convenience of the public, including signs which identify restrooms and other similar facilities, parking areas and the like.
- (15) Signs not visible outside of a building.

#### **§ 11 Signs in all districts.**

Business and advertising signs are prohibited in all Residential and Planned Unit Development Districts as designated in Ch. 245, Zoning, of the Code of the Village of Horseheads, excepting only those permitted in § 10 herein and those permitted through site plan review or special use permit.

In all districts, except Residential and Planned Unit Development Districts and also excepting signs permitted in §10 herein, no signs shall be erected or maintained except as follows:

- A. Any commercial building (a building which is other than 100% residential) may have total sign area not to exceed 1.5 square feet of signage to every one (1) linear foot of building frontage. Within the total

allowed signage, each place of business may have no more than one (1) freestanding sign with a maximum height of twenty-two (22) feet. No individual sign may exceed a maximum square footage of fifty (50) square feet. In lieu of one (1) freestanding sign, a business is allowed two (2) wall signs. Such wall signs shall not exceed a total of fifty (50) square feet each. Where a building had frontage on more than one street, public highway or right of way one (1) wall sign on the face of the building facing each street, public highway or right of way shall be permitted, within the overall allowance for numbers of signs and total sign area, which maximums shall apply to the premises as a whole.

Freestanding businesses may have one (1) freestanding sign not to exceed 0.5 square feet to every one (1) linear foot of the building footage occupied by the business not to exceed seventy-five (75) square feet in area, a width of twelve (12) feet, and not to exceed a maximum height of twenty-two (22) feet. In addition, the freestanding business may have wall signs not to exceed 1.5 square feet of sign area to each one (1) linear foot of building frontage or of building frontage occupied by each business conducted on the premises, the total of both freestanding and wall-mounted signs is not to exceed a total area of two hundred (200) square feet.

- B. Shopping centers may have 1 freestanding sign located on the premises at each major entrance to the shopping center, not to exceed 3 such structures on the premises, at a location approved as part of the site plan review process. No freestanding sign structure shall exceed a maximum height of 35 feet. Each individual business within a shopping center may have a maximum sign area on the freestanding area of 0.5 square feet of sign to each linear foot of the building frontage occupied by that business. In addition, each business within a shopping center may have wall signs that do not exceed 1.5 square feet of sign to each one (1) linear foot of building frontage occupied by the business and not to exceed total area of 200 square feet. Where a building has frontage on more than one (1) public or private street, highway or right-of-way one (1) wall sign on the face of said building facing each street, public or private highway or right-of-way shall be permitted within the overall allowance for number of signs and total sign area, which maximums shall apply to the premises as a whole.
- C. Goose neck reflectors are permitted provided however that the reflectors are equipped and maintained with proper lenses concentrating the illumination upon the area of the sign so as to prevent glare on the street or adjacent property.
- D. No sign shall be located within the following prohibited area at the intersection of two public streets, right of ways, or highways. The prohibited area is described as follows: that area being within a rectangle measured and being 20 feet on each side extending along both highway limits from the point of intersection of the highway limits and, further, extending on lines parallel to the respective highway limits and being 20 feet therefrom until they intersect. The entire area enclosed thereby is the prohibited area.

#### **§ 12 Temporary signs.**

All temporary signs shall be erected only as follows:

- A. All temporary signs, which are not advertising or business signs, such as political, civic, non-commercial, not profit making signs, and other signs of a similar nature may be erected without a permit for a period not to exceed thirty (30) days, provided that the written consent of the property owner where the sign is erected is obtained.
- B. All advertising or business signs of a temporary nature or construction may be erected, with a permit and paid fee, for a period not to exceed a total of thirty (30) days in any calendar year, provided that the written consent of the property owner is obtained. Upon the expiration of said thirty-day period, such sign shall be removed by the person, persons, firm or corporation who, or at whose request and direction, caused the same to be erected; and the person, persons, firm or corporation shall cause to be returned to the Code Enforcement Officer for the Village of Horseheads a duplicate copy of the permit with a certification thereon as to the date of removal of said sign.

- C. Immediate removal of the signs or issuance of permits on all temporary signs within thirty (30) days of effective date of this Local Law, notwithstanding any contrary provision of this Local Law.
- D. The maximum size of a temporary sign in a Residential or Planned Unit Development District shall be four (4) square feet and in all other districts shall be four (4) square feet.
- E. Such signs shall not be attached to fences, trees, utility poles or the like. Further such signs shall not be placed in a position that will obstruct or impair vision or traffic or in any manner create a hazard or disturbance to the health and welfare of the general public. Such signs shall not be erected within the right-of-way of any street or highway and shall conform to the setback requirements in § 8 of this Local Law. Upon the expiration of the thirty-day period or within five (5) calendar days after completion of the event for which the sign was installed, whichever shall come sooner, such sign shall be removed by the person, persons, firm or corporation who, or at whose request and direction, caused the same to be erected or may be removed and disposed of by the Village. Furthermore, signs may not be erected earlier than thirty (30) days prior to the first day of the special event, drive or election being publicized.

**§ 13 Digital Sign Standard.**

Digital signs are allowed in the C-1 Neighborhood Commercial, C-2 Hanover Square, C-3 Highway Commercial, M-1 Industrial and P-1 Planned Unit Development Districts subject to the following conditions. Digital signs and messages are prohibited on all other sign types and in all other zoning districts.

- A. There may be no more than one programmed digital sign on a lot. There may be no more than one automated or interactive digital sign for each business on a lot.
- B. A digital sign, other than a digital billboard, may not allow the display or message to change more frequently than once every sixty (60) seconds, with transition period of one (1) second or less. Messages may not contain the appearance, visual special effects, fading, dissolving, flashing, motion or animation nor during the transition between successive messages.
- C. A digital sign must have installed an ambient light monitor (auto dimmer), which shall continuously monitor and automatically adjust the brightness level of the display based on ambient light conditions consistent with the terms of this Local Law. Certification must be provided to the Village demonstrating that the sign has been preset to automatically adjust the brightness to these levels or lower. Re-inspection and recalibration may be periodically required by the Village in its reasonable discretion, at the owner's expense, to ensure that the specified brightness levels are maintained at all times.
- D. Maximum brightness levels for digital signs shall not exceed 5,000 nits or "Candelas per Square Meter" or (cd/m<sup>2</sup>) when measured from the signs face at its maximum brightness, during daylight hours. The maximum brightness levels for digital signs shall not exceed 280 nits or "Candelas per Square Meter" or (cd/m<sup>2</sup>) when measured from the signs face at its maximum brightness, between sunset and sunrise, as those times are determined by the National Weather Service.
- E. Written certification from the sign manufacturer must be provided at the time of application for a sign permit certifying that the light intensity of the sign has been preset not to exceed the illumination levels established by this section, and that the preset intensity level is protected from end user manipulation by password protected software or other approved method.
- F. Digital signs may not display messages about goods or services that are not sold and delivered or provided on the premises where the sign is located. The foregoing notwithstanding, a digital sign may display messages about public emergencies and public events.
- G. The digital sign must be located no closer than 500 feet from a residentially zoned property.

- H. The digital display shall not display light of such luminance so as to cause glare or otherwise impair the vision of a driver, or which results in a nuisance to a driver or abutters on neighboring properties.
- I. Other requirements. The use, size, and location of digital signs must comply with all other relevant regulations and laws of the Village.
- J. If the digital signs malfunction, the display must automatically go dark.
- K. The Planning Board shall have complete discretion to waive or vary any aspect of this section.
- L. No business sign shall be illuminated after 10:00 pm, unless the business being advertised is open and conducting business after 10:00 pm in which case the sign shall cease to be illuminated immediately upon the closing of the business.

#### § 14 Murals

- A. Legislative findings. Murals have been found to add to the character of the community and quality of life. They promote a walkable community. Promoting public art provides an opportunity to view and enjoy the art, by creating a pedestrian-friendly focal points, respectful of existing buildings, neighborhoods, and open spaces. Murals can also help to promote the community and provide a focal point or destination within the Village. It is therefore the determination of the Board of Trustees to promote public artwork and to collaborate and cooperate with various individuals, groups, organizations, and associations concerned with art and culture and to promote the arts within the Village.

The purpose of this section is to describe the form, site layout, application process, review for murals to ensure that any mural will comply with vision of the comprehensive plan, promote the walkability of the Village, and improve the quality of the community while being mindful of the history and overall character of the Village.

- B. Definitions. The following definitions are applicable to this section in addition to those in §3 herein.

**Artist.** A person who creates artwork as a profession and/or has a reputation within the art community as having talent in producing artwork

**Applicant.** Person requesting approval of a mural application. If not the owner, the applicant must have written authorization from the owner to submit the application.

**Installation.** The process of putting up a mural, including, but not limited to, scaffolding, preparing, sketching, painting, sealing the mural design, placement of any permitted plaque, removal of scaffolding, and other equipment from the site of the mural.

**Mural.** A picture, design, or decorative treatment painted on or otherwise affixed to and covering a large portion of a wall surface, including sculpture and sculptural treatments of solid elements for the purpose of this definition. A painting that is applied to or made an integral part of a wall, ceiling, or other permanent surface usually in a public space. It can use different techniques such as fresco or mosaic, it does not contain words, logos, trademarks or graphic representations that identify or advertise a business. Murals may be erected on any wall of a structure. Generalized depictions of types of goods, commonly used symbols other than trademarks, brand names and logos and scenes which do not specifically illustrate commercial activity may be allowed in murals.

**Owner.** The person on title of the property or site on which the mural would be installed as shown on deed recorded in the Chemung County Clerk's Office.

**Wall.** The side of a building or structure.

### C. General Regulations.

- a. A mural may be installed on private or public nonresidential property only after the issuance of a permit from the Code Enforcement Officer. The requirements of this section shall not apply to residential property. No murals are allowed on residential property.
- b. Murals may contain only images and depictions that are not lewd, obscene, indecent, or patently offensive. Outside of the mural artist's name or signature, and the date, a mural may not contain any writing.
- c. No wall shall have more than one mural.
- d. The name of the artist creating the permitted mural and the name of a sponsor may be displayed on an adjacent plaque that is no more than eight (8) inches in height and eight (8) inches in length provided that such plaque is made a part of the mural application.
- e. Maintain and repair, see D.b.vi.4 below

### D. Permit Application.

- a. Before a mural may be installed, an application for mural installation (the "application") shall be submitted to the Code Enforcement Officer.
- b. The application form shall require the following information:
  - i. The property address and parcel identification number where the proposed mural will be located;
  - ii. A site plan setting forth in detail where the mural is to be located on the property, its overall dimensions, the materials/medium to be used, and the location of any plaque identifying the artist and/or the sponsor;
  - iii. The name and contact information of the artist and the artist's statement describing the proposed mural;
  - iv. The name and contact information of the applicant, if different from the artist;
  - v. A photograph, detailed colored sketch, or reasonably accurate graphic of the proposed mural;
  - vi. A notarized statement signed by all property owners of record that they:
    1. Have reviewed the application, including the photograph or detailed reasonably accurate graphic of the proposed mural;
    2. Agree to the installation of the proposed mural on their property pursuant to the details set forth on the application;
    3. Approve the submission of the application; and
    4. Assume responsibility for the maintenance and upkeep of the mural and will remove said mural if directed by the Village.

- vii. The resume of the proposed mural's artist and, if attribution is to be made on the permitted plaque, the text of such attribution.
  - viii. The name of any sponsor of the mural, if the sponsor is to be identified on the permitted plaque.
  - ix. A waiver that the mural artist waives all rights and claims over and to the mural in the event the location where the mural is located is to be demolished by the Village.
  - x. Detail including but not limited to, the material/medium, colors, method for application, estimated time to complete the mural, and details about installation (scaffolding, electrical wiring, etc.) The Code Enforcement Officer and/or Traffic Commission may require additional information.
- c. The Code Enforcement Officer shall forward a copy of a completed application to the Planning Board for review and recommendation and shall inspect the proposed location to determine if any repairs need to be addressed and if the proposed location appears to be structurally sound.
- i. Compliance. The Planning Board shall determine whether a proposed mural is in compliance with this Local Law and any other applicable laws and regulations, and whether the application should be approved, denied, or modified.
    - 1. A final decision by Planning Board regarding the mural shall be transmitted in writing to the applicant.
    - 2. Where an applicant disagrees with the final decision of the Planning Board, and does not wish to amend the application or obtain a sign permit, the applicant may appeal the determination, within thirty (30) days of the date that the final decision is transmitted to the applicant in writing, to the Board of Trustees, whose determination shall be final.
  - ii. Traffic hazard determination. The Planning Board shall determine whether the proposed mural may result in a distraction or hazard to drivers.
    - 1. Within thirty (30) days of the receipt of an application, the Traffic Commission shall make a determination of whether the proposed mural is a traffic hazard or will create an undue and dangerous distraction to motorists.
    - 2. The Planning Board shall provide written comments and its determination for approval or denial to the Code Enforcement Officer within 10 (ten) days of their review meeting.
    - 3. Where an applicant disagrees with the final decision of the Code Enforcement Officer and the Planning Board that the proposed mural creates a traffic hazard or an undue and dangerous distraction to motorists and does not wish to amend the application, the applicant may appeal the administrative determination by filing an appeal of the administrative decision within thirty (30) days of the date that the final decision is transmitted to the applicant in writing, or by invoking another appropriate remedy in a court of competent jurisdiction.
    - 4. The Planning Board shall provide written comments and its determination for approval or denial of the mural installation permit to the Code Enforcement Officer

within ten (10) days of the meeting in which the review of the application occurs.

5. If recommended for approval by the Planning Board, the Code Enforcement Officer shall issue the permit for mural installation.
6. If not approved by the Planning Board, no permit shall be issued until requested modification are made to the application and resubmitted or the applicant moves forward with a sign permit application.

#### *E. Duration.*

A mural permit shall be valid for one (1) year from the date of issuance, provided no work has begun and there are no changes to the design of the mural or any other information contained on the mural or plaque.

If no work has begun within one hundred eighty (180) days from issuance, the permit shall be deemed to be abandoned and approval shall be withdrawn. Written notification shall be sent to the owner listed on the application.

If work has begun but there has been no work for one hundred eighty (180) days, the permit shall be deemed to be abandoned, and approval shall be withdrawn. Written notification shall be sent to the owner and may include instruction to paint over any work completed or the owner shall be in violation.

If the mural is not completed within the time specified in the permit, or under the terms described in this section, the owner shall be responsible for painting over any uncompleted work or any other directive of the Code Enforcement Officer.

#### *F. Inspection.*

Upon complete of a mural, the applicant shall inform the Code Enforcement Officer, and the Code Enforcement Officer will conduct an inspection to ensure the mural is in compliance with this section and any other applicable law, rules, and regulations. The Code Enforcement Officer shall take at least one photograph of the mural with sufficient detail to identify the site, mural size, mural location, and mural image consistency with the permit application. The Photograph(s) taken shall be filed with the Village.

#### *G. Penalty*

The owner shall be responsible to maintain the appearance of the mural in good repair. Failure to maintain the appearance of the mural, shall be considered a violation and punishable by a fine of one hundred dollars (\$100.00) per day.

#### *H. Revocation*

A permit grant by the Village under this section can be suspended or revoked, upon written notice to the applicant when:

- a. The permit is issued in error;
- b. The permit is issued on the basis of incorrect information supplied by the applicant; or
- c. The permit is issued in violation of any of the provisions of this section or other applicable law, rules, and regulations.

#### **§ 15 Revocation of permit and removal of signs.**

All signs shall comply with the provisions of this local law or be removed or altered to comply within thirty (30) days after written notification by the Code Enforcement Officer.

- A. Any sign which advertises a business no longer in existence on the premises or product no longer sold or which does not have a valid permit shall be removed or eradicated by the owner of the land upon which the sign is located.

- B. No sign, whether new or existing, shall hereafter be erected or altered except in conformity with the provisions of this local law. However, notwithstanding any provisions contained herein, the sign must be kept clean, neatly painted and free from all hazards, including but not limited to holes in the sign, faulty wiring and loose fastenings, and the sign must otherwise be maintained at all times in good repair and shall not be detrimental or dangerous to the public health or safety. All signs shall be erected and maintained in conformity with the New York State Uniform Fire Prevention and Building Code.
- C. No sign or advertising structure shall be erected, relocated or maintained so as to prevent free ingress or egress from any door, window or fire escape. No sign of any kind shall be attached to a standpipe or fire escape.
- D. In the event of failure to comply with the requirements of said notice within the period required therein, the permit for such sign shall be automatically revoked, and such sign shall be removed by the owner thereof or by the owner of the land on which such sign is located.
- E. If the permittee or owner fails to remove or alter the sign or other advertising structure so as to comply with standards herein set forth within thirty (30) days after such notice, such sign or other advertising structure may be removed or altered to comply by order of the Code Enforcement Officer, and the expense thereof shall be levied against the owner of the land, building or structure to which said sign was attached. Thereafter, the Code Enforcement Officer shall refuse to issue any permit to any permittee or owner who refuses to pay the cost so assessed until the same is paid.
- F. Notwithstanding anything hereinbefore contained, if the Village Manager, Code Enforcement Officer or Village Director of Public Works shall determine that any sign is unsafe or is an actual or imminent traffic or other hazard or danger to the public, such official may require that such sign be either removed or corrected to remove such hazards or dangers within a shorter period than is above provided, but not less than two (2) days. If said sign is not removed or repaired within the required period, the Code Enforcement Officer may remove said sign and any permit for such sign shall be revoked, or he may repair said sign.
- G. In the event of the removal/repair of a sign erected, altered, maintained or needing repair in violation of this local law, at the sole discretion of the Village Manager all costs and expenses incurred in the removal or repair of such sign shall be collected from the owner of the land on which the sign is located by adding that charge to and making it a part of the next annual real property tax assessment roll of the Village. Such charges shall be levied and collected at the same time and in the same manner as Village assessed taxes and shall be paid to the Village Clerk to be applied in reimbursing the fund from which the costs were paid. Prior to charging such assessments the owner of the land shall be provided written notice to their last known address of record, by certified mail, return receipt requested, of an opportunity to be heard and object before the Board of Trustees to the proposed real property assessment, at a date designated in the notice, which shall be no less than fourteen (14) days after its mailing. The owner of the land shall be responsible for reimbursement for the Village's costs and expenses, including attorney's fees.
- H. If it is determined that any sign is a source of immediate peril to any person or property, such sign may be removed summarily and without notice by the Code Enforcement Officer, and the costs and expenses thereof shall be collected or assessed as provided above.

#### § 16 Notices.

Any notice or written demand required to be served hereunder shall be delivered either personally or sent by mail to the owner or permittee of the sign or the owner of the land upon which the sign is erected, or to both, as their names and addresses appear in applications for a permit for such sign, real property tax records or in any other documents on file with the Code Enforcement Officer setting forth the names and addresses of the owners or permittees of the sign and of the owner of the land upon which the signs are to be erected. The period stated in any notice or written demand shall commence from the date on which any notice is delivered

personally to any such owner or, if mailed, the date on which such notice is deposited in a duly maintained post office box or official branch office of the United States Postal Service. Any such notice may be delivered to any agent or representative of the owner or employee of the owner. The owner of any lands or sign may notify the Code Enforcement Officer in writing of any change in address to which any notices may be sent.

#### **§ 17 Nonconforming signs.**

Any sign which has been in existence by duly issued permit prior to the effective date of this local law and which does not conform to the provisions and standards of this local law and any amendments thereto, shall be removed within three (3) years from the effective date hereof, unless within such period, such sign has been changed or repaired in a manner which will meet the requirements of this local law, and provided that such sign is not otherwise prohibited by this local law.

#### **§ 18 Review and appeal.**

Any person aggrieved by any decision of the Code Enforcement Officer relative to the provisions of this local law may appeal such decision to the Zoning Board of Appeals as provided in Chapter 245, Zoning, Article XXII of the Code of the Village of Horseheads and shall also comply with all procedural requirements prescribed by such Zoning Board of Appeals; in addition, the provisions of Article 7 of the Village Law pertaining to appeals to a Board of Appeals shall apply to the appeal permitted herein.

The appeal shall include payment of a fee of \$250.00 to defray the cost of the required legal notice and written notice to all property owners within 200 feet of the boundaries of the proposed sign location. However, when any variance, review, or appeal relative to the provisions of this Local Law is requested, the Zoning Board of Appeals shall not take action until a report is received from the Planning Board. If, however, no report is received within forty-five (45) days after referral, then approval by the Planning Board shall be presumed, and the Zoning Board of Appeals shall act accordingly. In making any determination or decision with respect to any proposed sign, any Village officer or any board having jurisdiction shall be guided by the general purpose of this Local Law, and shall also consider the following:

- A. Size of sign. The purpose for which the sign is erected and the distance from which the sign is intended to be or can possibly be read, and the character of adjacent streets shall be taken into consideration. In all cases, the smallest sign that will suit the purpose shall be the guide, taking into account the legitimate commercial or other interests which are intended to be promoted by the sign and the speed limits and traffic conditions on adjacent streets.
- B. Number of letters. A sign with only a few letters need not be as large as one with many letters to be seen from the same distance.
- C. Other signs. The context of existing signs in the vicinity of the proposed sign shall be taken into consideration.
- D. The character of the neighborhood. The proposed use shall not be detrimental to the general amenity or neighborhood character so as to cause a devaluation of neighboring property or material inconvenience to neighboring inhabitants or material interference with the use and enjoyment by the inhabitants of the neighboring property.
- E. Public interest. The protection of the public interest and the desirability of maintaining open spaces, views and vistas shall be considered insofar as possible.

#### **§ 19 Legal fees.**

Whenever any action at law is brought to collect a sum of money, the defendant shall pay attorney's fees, if any.

**§ 20 Penalties for offenses.**

A violation of the provisions of this local law is hereby declared to be an offense, punishable as set forth in Chapter 1, Article II, General Penalty of the Code of the Village. However, for the purpose of conferring jurisdiction upon the courts and judicial officers generally, the owner, general agent, contractor, lessee and/or tenant of any part of a building or premises in which part such violation has been committed or shall exist and the general agent, architect, builders, contractor or any person who knowingly commits, takes part or assists in any such violation shall be deemed guilty of misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violation. Each week's continued violation shall constitute a separate additional violation.

**§ 21 Fees.**

Fees relating to these sign regulations shall be as set forth from time to time by resolution of the Village Board of Trustees and shall be paid before being granted a permit.

**§ 22 Severability.**

If any portion, subsection, clause, phrase, or portion thereof of this local law is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portion thereof.

**§ 23 When Effective.**

This Local Law shall become effective immediately upon its filing in the Office of the Secretary of State.

FINAL DRAFT FOR REVIEW

## Tract Engineering, PLLC

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FEDEX Overnight  
December 20, 2023

Kenneth Ripley, Code Officer  
Town of Veteran  
PO Box 183  
4049 Watkins Road  
Millport, NY 14864

Re: Conditional Use Application for the Mitstifer Mine  
Tax Map Number 31.00-1-5.111, 303 Benjamin Road  
Austin's Excavating & Paving, Inc.  
Town of Veteran, Chemung County, NY

Mr. Ripley:

We are pleased to submit for your review and approval a Conditional Use Application for the Mitstifer Mine. The proposed sand and gravel mine project is located at tax parcel 31.00-1-5.111 in the Town of Veteran, Chemung County, New York.

The following documents are provided herein:

1. Town of Veteran – Permit Application
2. Application fee: \$150.00 *Austin #14358*
3. Chemung County Planning Board – Municipal Referral Form
4. Deed: Chemung County Instrument No. 2021011370 & Lease dated 12/01/23
5. Project Narrative dated 12/20/23
6. USGS Location Map dated 01/18/22
7. Full Environmental Assessment Form Part 1 dated 02/25/22, revised 04/18/23
8. Correspondence
  - a. NY DEC SEQR Lead Agency dated April 18, 2022
  - b. NY DEC SEQR Negative Declaration dated July 14, 2023
  - c. Town of Veteran September 1, 2023 correspondence to NY DEC
  - d. Town of Veteran September 18, 2023 correspondence to NY DEC
9. Mined Land-Use Plan (narrative) by Tract Engineering, PLLC dated 02/25/22, revised 12/18/23
10. Reclamation Plan (narrative) prepared by Tract Engineering, PLLC dated 02/25/22, revised 12/18/23
11. Mining Site Plan prepared by Tract Engineering, PLLC dated 02/25/22, revised 12/18/23  
*1 sheet 24x36" color*
12. Cross Sections prepared by Tract Engineering, PLLC dated 02/25/22, revised 04/22/22  
*1 sheet 24x36" color*
13. Reclamation Plan Map prepared by Tract Engineering, PLLC dated 02/25/22, revised 12/18/23  
*1 sheet 24x36" color*

Eight (8) copies of all items are provided with this submission along with a PDF electronic version via email.

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Tract Engineering, PLLC  
120 Ridge Avenue, State College PA 16803

814-272-0301  
www.TractLLC.com

Should you have any questions, please contact me at 814-272-0301.

Tract Engineering, PLLC

*/s/ Timothy S. Gourley*

Timothy S. Gourley, P.E.

encl.

cc: Christine Austin, Austin's Excavating & Paving, Inc. (w/ encl.) *via email & hardcopy*  
[caustin@austin-excavating.com](mailto:caustin@austin-excavating.com)

U:\Austin\Mitstifer\Correspond\231220-Mitstifer-Town-ConditionalUse-Submission-R0.docx

**Town of Veteran**

P.O. Box 183  
4049 Watkins Road  
Millport, NY 14864  
Telephone: 607-739-1476  
Fax: 607-739-8371

**Permit Application**

**Conditional Use / Variance**  
**Town of Veteran Zoning Ordinance**

Application No. \_\_\_\_\_  
Application Date: 12-20-23

Application Fee: \_\_\_\_\_ Code: \_\_\_\_\_  
Public Hearing Fee: \_\_\_\_\_

Reason for Application:

- Conditional use (Sect. 4.2.3)      Code No. 4.2.D.w
- Use variance (Sect. 13.3.3)
- Area variance (Sect. 13.3.2)
- Other

Description \_\_\_\_\_

\*\*\*\*\*

To Be Completed By the Applicant

Applicant Name Austin's Excavating & Paving, Inc.  
Address 121 Talmadge Hill West, Waverly NY 14892  
Telephone 607-565-4313 Fax xxx E-Mail caustin@austin-excavating.com

Owner Name (If Different)\* Austin Rentals, LLC  
Address 121 Talmadge Hill West, Waverly NY 14892  
Telephone 607-565-4313 Fax xxx E-Mail caustin@austin-excavating.com  
\*Must submit written authorization

Location of Project 303 Benjamin Road

Tax Map I.D. No. 31.00-1-5.111 Size of Parcel 19.8 acres

Description of Project \_\_\_\_\_

Development of a sand & gravel mine to meet market demands for aggregate.

The project will also include the adjacent parcel 31.00-1-1.11 (368 Benjamin Rd) located in the Town of Erin.

DEC mining permits are exempt from Town of Erin special permit requirements.

NYS SEQR (Part I Completed) Attached along with the July 14, 2023 DEC Part 3 negative declaration.

Documentation Submitted (Sect. 10.4)

Site Plan    7 Copies      (See Page 1D)

Area Map    7 Copies

Project Details      (See Page 1D)

VPA Number 1A

7/1/2008

\*\*\*\*\*

PUBLICATION EXPENSE. I (We), the undersigned, understand that a public hearing s required to be held on this request and that notice of such hearing will be advertised in the official Town paper as prescribed by law. I (We) agree to pay the cost of advertising the hearing and any other reasonable expenses billed by the official newspaper and/or by the Town of Veteran.

SECTION 809 CERTIFICATION. In accordance with section 809 of the General Municipal Law of the State of New York, the undersigned certifies in submitting this application that no officer or employee of the State of New York or the County of Chemung or Town of Veteran is interested in granting said application:

It is understood that:

- (1) A person is "interested" in such an application when [he/she] or [his/her] spouse or [his/her] brothers, sisters, parents, children, grandchildren or spouse of any of them
  - (a) is the applicant, or
  - (b) is an officer, director, partner or employee of the applicant, or
  - (c) legally or beneficially owns or controls stock of a corporate applicant or is a member of a partnership or association applicant, or
  - (d) is a party to an agreement with such an applicant, express or implies, whereby [he/she] may receive any payment or other benefit, whether or not for services rendered dependent or contingent upon the favorable approval of such application, petition or request.
- (2) Ownership of less than five percent of the stock of corporation whose stock is listed on the New York or American Stock Exchange shall not constitute an interest for the purposes of this section.
- (3) Any person who knowingly and intentionally violates the provisions of section 809 of said General Municipal Law shall be guilty of a misdemeanor.

(NOTE: If in any case the applicant cannot make the foregoing certification, the applicant shall so state and shall furnish with the application a signed statement which set forth in detail the reason therefore.)

The foregoing certification as well as the contents of this entire application is hereby subscribed by the applicant and is hereby affirmed by the applicant as true under the penalties of perjury.

Applicant Christine Austin  
Phone No Christine Austin, VP, Austin's Excavating & Paving, Inc.  
607-565-4313

\*\*\*\*\*

To Be Completed by the Board

Public Hearing Required  Yes  No Date of Hearing \_\_\_\_\_

Planning Board Action

VPA Number 1B

Plan meets zoning requirements?  Yes  No

7/1/2008

Is property within 500 feet of:

- |                                                                            |                                      |                                     |
|----------------------------------------------------------------------------|--------------------------------------|-------------------------------------|
| a. Any Town of Veteran boundary line?                                      | <input checked="" type="radio"/> YES | <input type="radio"/> NO            |
| b. Any existing or proposed county or state park or other recreation area? | <input type="radio"/> YES            | <input checked="" type="radio"/> NO |
| c. Any existing or proposed county road?                                   | <input checked="" type="radio"/> YES | <input type="radio"/> NO            |
| d. Any existing or proposed state road?                                    | <input type="radio"/> YES            | <input checked="" type="radio"/> NO |
| e. Any existing or proposed county stream or drainage channel?             | <input type="radio"/> YES            | <input type="radio"/> NO            |

Referred to County Planning Dept. Date: \_\_\_\_\_  
 Other Referral(s) \_\_\_\_\_ Date: \_\_\_\_\_

Environmental Review: \_\_\_\_\_ Date: \_\_\_\_\_

Negative Declaration- The project will result in no major impacts and will cause no significant damage to the environment.

Negative Declaration- The project, with conditions, will result in no major impacts and will cause no significant damage to the environment.

EIS Required

Additional Information Required \_\_\_\_\_

Site Plan:  Approved  
 Approved with Modifications \_\_\_\_\_

Denied \_\_\_\_\_

Application:  Approved  
 Denied  
 Approved with these conditions: \_\_\_\_\_

Final Action:  Approved  Denied Signed \_\_\_\_\_

A variance denial may be appealed to the Zoning Board of Appeals (Sect. 13.2)

VPA Number 1C  
7/1/2008

Town of Veteran Zoning Ordinance

**AUSTIN EXCAVATING AND PAVING, INC.**  
121 TALMADGE HILL RD. WEST  
WAVERLY, NY 14892

**CITIZENS & NORTHERN BANK**  
ATHENS, PA 18810  
www.cnbankpa.com

14358

60-830/313  
03  
CHECK NUMBER

12/19/2023

PAY TO THE ORDER OF TOWN OF VETERAN

\$\*\*150.00

One Hundred Fifty and 00/100\*\*\*\*\*

DOLLARS |

TOWN OF VETERAN

MEMO



AUTHORIZED SIGNATURE

AP



# Chemung County Planning Board

Chemung County Commerce Center  
400 East Church Street  
P.O. Box 588  
Elmira, New York 14902-0588

(607) 737-5510

[www.chemungcountyny.gov](http://www.chemungcountyny.gov)  
[planning@co.chemung.ny.us](mailto:planning@co.chemung.ny.us)

Referral Number
_____
For office use only

## Chemung County Planning Board – Municipal Referral Form

(Please complete all information on both pages)

Referring Municipality:  City  Town  Village of \_\_\_\_\_

Referring Official: Ken Ripley C.E.O Title: Coden Enforcement Officer

Address: 4049 Watkins Road

Phone Number: 607-742-9645 E-mail: KenRipley@S+NY.RR.com

Referring Board (check appropriate box):  Legislative Board  ZBA  Planning Board

Petitioner(s): Austin's Excavating & Paving, Inc. Phone: 607-565-4313

Petitioner's Mailing Address: 121 Talmadge Hill West, Waverly NY 14892 E-mail: caustin@austin-excavating.com

Location of Property: 303 Benjamin Road in Town of Veteran & 368 Benjamin Road in Town of Erin

Tax Map Parcel Number(s): 31.00-1-5.111 31.00-1-1.11

Current Zoning District: Residential-Agriculture (R-A) Agricultural-Residential (AR)

### Proposed Action: (check all that apply)

- |                                                                    |                                                |
|--------------------------------------------------------------------|------------------------------------------------|
| <input type="checkbox"/> Area Variance                             | <input type="checkbox"/> Subdivision Review    |
| <input type="checkbox"/> Use Variance                              | <input type="checkbox"/> Rezoning              |
| <input type="checkbox"/> Site Plan Review                          | <input type="checkbox"/> Zoning Text Amendment |
| <input checked="" type="checkbox"/> Special/Conditional Use Permit | <input type="checkbox"/> Zoning Map Amendment  |
| <input type="checkbox"/> Comprehensive Plan Adoption / Amendment   | <input type="checkbox"/> Moratorium            |
| <input type="checkbox"/> Other (please specify): _____             |                                                |

Description of the proposed action (attach detailed narrative if available):

Development of a sand & gravel mine to meet market demands for aggregate at 303 & 368 Benjamin Road in the Towns of Veteran & Erin.
-------------------------------------------------------------------------------------------------------------------------------------

**The proposed action applies to real property within five hundred feet (500') of the following**

(Please identify each item by filling in the appropriate blank after each item)

(a) Boundary of the (City), (Village) or (Town) of: Town of Veteran & Town of Erin

(b) Boundary of any existing or proposed (County) or (State Park) or any (Other Recreation Area): \_\_\_\_\_

(c) Right-of-way of any existing or proposed (County) or (State Parkway), (Thruway), (Expressway), (Road) or (Highway); (Include (County) or (State Route) # and name of (Road): \_\_\_\_\_

(d) Existing or proposed right-of-way of any stream or drainage channel owned by the (County) or for which the county has established channel lines: \_\_\_\_\_

(e) Existing or proposed boundary of any (County) or (State) owned land on which a public building or institution is situated: \_\_\_\_\_

(f) The boundary of a farm operation located in an agricultural district, as defined by article twenty-five-AA of the agriculture and markets law (this subparagraph shall not apply to the granting of area variances: \_\_\_\_\_

**Hearings/Meetings Schedule**

Board	Public Hearing Date	Meeting Dates (prior and future)
Town Board/Village Board of Trustees		
Zoning Board of Appeals		
Planning Board/Planning Commission		
City Council		

Action taken on this application (reviewed, approved, discussed, etc.) \_\_\_\_\_

**"Full Statement" Checklist**

As defined in NYS General Municipal Law §239-m (1)(c)

Please make sure you have enclosed the following required information with your referral, as appropriate.

**For All Actions:**

- \_\_\_\_\_ Chemung County Planning Board – Municipal Referral Form
- \_\_\_\_\_ All application materials required by local law/ordinance to be considered a "complete application" at the local level (PDF preferred).
- \_\_\_\_\_ Part 1 Environmental Assessment Form (EAF) or Environmental Impact Statement (EIS) for State Environmental Quality Review (SEQR). If Type II Action, provide a statement to that effect.
- \_\_\_\_\_ Agricultural Data Statement, for site plan review, special/conditional use permit, use variances, or subdivision review located in an Agricultural District or within 500 feet of a farm operation located in an Agricultural District, per Ag. Districts Law Article 25AA §305-a, Town Law §283-a, and Village Law §7-739.
- \_\_\_\_\_ Municipal board meeting minutes on the proposed action (PDF preferred).

**For Proposing or Amending Zoning Ordinances or Local Laws: The above requirements AND**

- \_\_\_\_\_ Report/minutes from Town Board, Village Board or Trustees or Planning Board (PDF preferred)
- \_\_\_\_\_ Zoning Map
- \_\_\_\_\_ Complete text of proposed law, comprehensive plan, or ordinance (PDF preferred)

**Deadline: Please submit completed referrals by close of business 10 business days prior to the Chemung County Planning Board meeting.**

Chemung County Clerk's Office  
210 Lake St., P.O. Box 588  
Elmira, NY 14902-0588  
Linda A. Forrest - County Clerk

Jane Dietterich  
Deputy



Lori Kline  
Deputy

Return To:

KEENE AND KEENE  
443 FULTON ST  
WAVERLY, NY 14892

D

Instrument Number - 202111370  
Recorded On 8/16/2021 At 2:59:34 PM

\* Total Pages - 8

\* Instrument Type - DEED

Invoice Number - 338809

User ID - JAS

Deed Tax Number - 109

\* Grantor - MITSTIFER, WALTER F JR

\* Grantee - AUSTIN RENTALS LLC

\* FEES

DEED TAX	\$740.00
E&A-STATE	\$241.00
RMO-STATE	\$4.75
RMO-COMP R	\$14.25
E&A-COUNTY	\$9.00
RMO-COUNTY	\$1.00
DEED RECORDING	\$55.00
RECORDING SHEET	\$5.00
GAINS AFFIDAVIT	\$5.00
NOTIFICATION LETTER	\$10.00
TOTAL PAID	\$1,085.00

MORTGAGE TAX

MORTGAGE AMOUNT	\$	
BASIC MORTGAGE TAX	\$	
SPEC ADDITIONAL MTG TAX	\$	
Total	\$	0.00

TRANSFER TAX

TRANSFER AMT	\$	185,000.00
TRANSFER TAX	\$	740.00

STATE OF NEW YORK  
CHEMUNG COUNTY CLERK

THIS SHEET CONSTITUTES THE CLERK ENDORSEMENT  
REQUIRED BY SECTION 316-A (5) FOR THE REAL  
PROPERTY LAW OF THE STATE OF NEW YORK.  
DO NOT DETACH

LINDA A. FORREST - COUNTY CLERK

\* - Information denoted by an asterisk may change during the verification process and may not be reflected on this page.

0034WU



**N.Y. DEED - WARRANTY with Lien Covenant**

THIS INDENTURE made the 23rd day of July, 2021

Between

**WALTER F. MITSTIFER, JR. and PATRICIA A. MITSTIFER**, residing at 698 East Sullivanville Road, Cayuta, New York 14824

parties of the first part,

and

**AUSTIN RENTALS, LLC** with an office located at 121 Talmadge Hill Road West, Waverly, New York 14892

party of the second part,

**WITNESSETH** that the parties of the first part, in consideration of ---ONE AND 00/100 ---Dollar (\$1.00--) lawful money of the United States, and other good and valuable consideration paid by the party of the second part, do hereby grant and release unto the party of the second part, and the heirs, distributees and assigns of the party of the second part forever,

**SEE ATTACHED "SCHEDULE A"**

**TOGETHER** with the appurtenances and all the estate and rights of the parties of the first part in and to said premises,

**TO HAVE AND TO HOLD** the premises herein granted unto the party of the second part, the heirs, distributees and assigns of the party of the second part forever.

**AND** said parties of the first part covenant as follows:

**FIRST**, That the party of the second part shall quietly enjoy the said premises;

**SECOND**, That said parties of the first part will forever Warrant the title to said premises.

**THIRD**, That, in Compliance with Sec. 13 of the Lien Law, the grantors will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

**IN WITNESS WHEREOF**, the parties of the first part has hereunto set their hand and seal the day and year first above written.

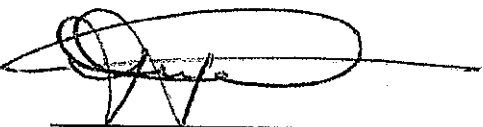
**IN PRESENCE OF**

  
\_\_\_\_\_  
**WALTER F. MITSTIFER, JR.**

  
\_\_\_\_\_  
**PATRICIA A. MITSTIFER**

**STATE OF NEW YORK )**  
**)ss:**  
**COUNTY OF                            )**

On this 22<sup>nd</sup> day of July, 2021 before me, the undersigned, a Notary Public in and for said state, personally appeared Walter F. Mitstifer, Jr. and Patricia A. Mitstifer personally known to me or proved to me on the basis of satisfactory evidence to be the individuals whose names are subscribed to the within instrument and they acknowledged to me that they executed the same in their capacity, and that by their signatures on the instrument, the individuals, or the person upon behalf of which the individuals acted, executed the instrument.

  
\_\_\_\_\_  
**NOTARY PUBLIC**

GABRIEL V. ROSSETTIE  
Notary Public, State of New York  
Reg. No. 01RO6170266  
Qualified in Steuben County  
Commission Expires July 23, 2023

## SCHEDULE "A"

**ALL THAT TRACT OR PARCEL OF LAND**, situate in the Towns of Erin and Veteran, County of Chemung and State of New York, bounded and described in a deed from F.A. Hulbert and Emma R. Hulbert to Charles Hulbert, dated September 8, 1894, and recorded in the Chemung County Clerk's Office July 13, 1931, in Liber 248 of Deeds at Page 376 as follows: "Beginning at a maple tree standing in the southeast corner of Lot No. 42; thence North two degrees East 13.71 chains to chestnut post; thence North 88° West 49.51 chains; thence southerly 12.38 chains to a stone in the center of the highway in the north line of the farm formerly owned by George Wood; thence along said north line 1.65 chains to the northeast corner of said Wood farm; thence South 2° West 13.51 chains to a post; thence South 88° East 39.34 chains to a post; thence North 2° East 11.80 chains to a post in the south line of Lot No. 42; thence on said south line 5° 88' East 11.02 chains to the place of beginning, containing one hundred and seventeen acres of land, be the same more or less."

**ALSO ALL THAT TRACT OR PARCEL OF LAND** situate in the Town of Erin, County of Chemung and State of New York, bounded and described in a deed from Stephen E. Brink and Susie E. Brink, his wife, to said Charles Hulbert, dated December 28, 1920, and recorded in the Chemung County Clerk's Office in Liber 202 of Deeds at Page 136 as follows: "Commencing at a point in the south line of the lands of the first part hereto purchased by deed recorded in Liber 200 of Chemung County Records of Deeds at page 482 where said south line is intersected by the center line of the East highway leading from Sullivanville to Cayuta, and running thence in an easterly direction along said above mentioned south line fifty-one (51) rods to the southeast corner of said farm of said first party; thence in a northerly direction along the east line of said farm forty-three (43) rods to a point in said east line where it is intersected by the center line of the aforesaid highway; thence westerly or southwesterly along the center of highway seventy (70) rods to the place of beginning, being a triangular piece of land situate in the southeast corner of lands of the first party, and containing six and eight tenths (6.8) acres of land, be the same more or less, and being a part of a lot formerly owned by Ruban Lewis."

**ALSO ALL THAT TRACT OR PARCEL OF LAND** situate in the Town of Erin, County of Chemung and State of New York, bounded and described in a deed from Walter M. Spencer and Clara Spencer, husband and wife, to Charles Hulbert dated December 30, 1930, and recorded in the Chemung County Clerk's Office in Liber 260 of Deeds at Page 39 as follows: Commencing at a point in the center of the highway on the East line of lands now owned by Charles Hulbert; thence running southerly sixty-nine (69) rods along said Hulbert's East line to the North line of lands owned by Frank McCoy; thence Easterly along said McCoy's North line ten (10) rods; thence Northeasterly sixty-two (62) rods to a point four (4) rods beyond a hickory tree; thence North twenty-two rods (22) to the center of the highway; thence North twenty-two rods (22) to the center of the highway; thence Westerly along the center of the highway sixteen (16) rods to the place of beginning, containing six and one-fourth (6 ¼) acres of land, be the same more or less, and being a part of the same premises conveyed to the said Walter M. Spencer

and Clara Spencer by William Carr and Lena Carr by Warranty Deed dated November 28, 1930, and recorded in the Chemung County Clerk's Office in Book No. 257 of Deeds at Page 460.0.

**ALSO ALL THOSE OTHER TRACTS OR PARCELS OF LAND** bounded and described in a deed from Albert C. Joy and Hala M. Joy to Charles Hulbert dated February 25, 1932, and recorded in the Chemung County Clerk's Office in Liber 269 of Deeds at Page 447, as follows: Known as fifty-nine (59) acres East side of Lot No. eight (8) Northwest Section of Township Number 5 (5) in the Twelve Townships of the Watkins Flint Purchase excepting and reserving twenty-one (21) acres and one-hundred (100) rods thereof heretofore sold to Bradley Groom by deed from H.S. Leonard to said Groom.

**ALSO ALL THAT TRACT OR OTHER PIECE OF LAND** situate in the said Town and County and originally surveyed as the Northwest Section of Township Number five (5) as fifty (50) acres the West side of Lot Number eight (8) in said Section, bounded North, West, and South by the old line of said lot and East by the line parallel with the West line being the West half of one hundred (100) acres West part of said lot and the same contracted to James Patchin April 10, 1867, and recorded April 10<sup>th</sup> in Liber 45 of Deeds, Chemung County records.

**ALSO ALL THAT PIECE OR PARCEL OF LAND** situate in said Town and County Northwest Section of Township number five (5) as fifty (50) acres, being the East half of one hundred (100) acres West side of lot number eight (8) sold to J. Patchin and same contracted to William Groom March 4, 1852, excepting ten (10) acres sold to Bradley Groom and being the same premises sold by Hannah Curtis and others to Mary L. Smith by deed bearing date September 2, 1878, conveyed by said Mary L. Smith to Charles Taber by deed dated January 27, 1897, and recorded in Chemung County Records in Liber 114 of Deeds at Page 292, excepting and reserving thereout and therefrom three acres in the Northwest corner of the farm hereinbefore described which was reserved in a conveyance thereof from Charles H. Goodyear and Marie Goodyear to William Carr and Lena Carr, also excepting and reserving six and one-fourth (6 ¼) acres, more or less, situate in the Southwest corner of said farm, conveyed by Walter M. Spencer and Clara Spencer, husband and wife, to the said Charles Hulbert by Warranty Deed dated December 30, 1930, and recorded in the Chemung County Clerk's Office in Liber 260 of Deeds at Page 139, to which deed and the record thereof reference is hereby made for a full and complete description.

Excepting so much of Parcels 4 and 5 of the premises hereinbefore described lying north of the main highway through said premises which were conveyed by the said Charles B. Hulbert and Grace B. Hulbert, his wife to the County of Chemung by a deed dated April 16, 1932 and recorded in the Chemung County Clerk's Office in Liber 269 of Deeds at Page 257.

This conveyance is subject to a right of way given by the said Charles Hulbert and Grace B. Hulbert to John B. Tonkin dated June 2, 1931, recorded in the Chemung

County Clerk's Office in Liber 270 of Deeds at Page 61, also a right of way given by said Charles Hulbert and Grace B. Hulbert to Elmira Light, Heat and Power Corporation dated January 14, 1937, and recorded in said Clerk's Office in Liber 296 of Deeds at Page 257.

**EXCEPTING ALL THAT TRACT OR PARCEL OF LAND** situate in the Town of Erin, County of Chemung and State of New York, bounded and described as follows: Beginning at a point in the center of the Benjamin Road where the same is intercepted by the westerly boundary of premises of Hatfield, and running thence in a southwesterly direction along said Hatfield boundary line a distance of 830 feet to a dug road; thence westerly along said dug road, being the northerly boundary of premises of Reed, a distance of 51 feet to a point; thence northerly on a line perpendicular to the Benjamin Road a distance of 619 feet to the center of the Benjamin Road a distance of 484 feet to the place of beginning. Being the same premises described in the Deed from Francis Mitstifer and Mildred Mitstifer to Ralph Dean Mitstifer and Christine June Mitstifer dated October 22, 1975 and recorded October 24, 1975 in Liber 641 at Page 292.

**EXCEPTING ALSO ALL THAT TRACT OR PARCEL OF LAND** situate in the Town of Erin, County of Chemung and State of New York, bounded and described as follows: Beginning at an iron pin located in the northerly limit of the Benjamin Road marking the Town Line between the Towns of Erin and Veteran, and running thence northerly along said town line a distance of 855 feet to an iron pin; thence northeasterly a distance of 1285 feet to an iron pin in the easterly limit of Benjamin Road; thence in a southwesterly direction along said limit of the Benjamin Road a distance of 1636 feet to the iron pin marking the place of beginning, containing twelve acres, more or less. Being the same premises described in the Deed from Walter F. Mitstifer, Sr. to George E. Mitstifer and Deborah L. Mitstifer, dated June 18, 1990 and recorded June 19, 1990 in Liber 838 at Page 346.

**EXCEPTING ALSO ALL THAT TRACT OR PARCEL OF LAND** situate in the Town of Erin, County of Chemung and State of New York, bounded and described as follows: Beginning at a point marking the intersection of the southeasterly limit of Sullivanville Road and the northeasterly limit of Benjamin Road; and running thence in a northeasterly direction along the southeasterly limit of Sullivanville Road a distance of 1000 feet, more or less, to a line fence; running thence in a southeasterly direction a distance of 190 feet to a point; running thence in a southeasterly direction a distance of 903 feet, more or less, to the intersection of the northeasterly limit of Benjamin Road; running thence in a northwesterly direction along the northeasterly limit of Benjamin Road a distance of 150 feet, more or less, to the place of beginning. Being the same premises described in the Deed from Walter F. Mitstifer, Sr. and Grace Mitstifer to Walter F. Mitstifer III, dated January 6, 1993 and recorded January 6, 1993 in Fiche 219 at Page 29.

**EXCEPTING ALSO ALL THAT TRACT OR PARCEL OF LAND**, situate in the Town of Veteran, County of Chemung and State of New York, bounded and described as follows: Beginning at a post in the southerly limit of Benjamin Road at a point marking

the easterly boundary of premises now or formerly of Cummings (Liber 816 of Chemung County Deeds page 83 and running thence easterly along the southerly limit of Benjamin Road a distance of 509 feet to a post; thence southerly a distance of 243 feet along a fence to a post; thence in a southwesterly direction on a curve substantially following the base of a hill a distance of 654 feet to a stake; thence in a northwesterly direction following a line fence a total distance of 647 feet, more or less, to the post marking the place of beginning. Being the same premises described in the Deed from Walter F. Mitstifer, Sr. to Bryan Alan Benjamin and Mary Jane Benjamin, dated June 30, 1993 and recorded July 12, 1993 in Fiche 270 at Page 68.

**EXCEPTING ALSO ALL THAT TRACT OR PARCEL OF LAND**, situate in the Town of Veteran, County of Chemung and State of New York, bounded and described as follows: Beginning at an iron pin set in the northeasterly corner of Benjamin Road, running thence South  $82^{\circ} 04' 14''$  West a distance of 923.88 feet along Benjamin Road to a curve, with a radius of 335.00 feet an Arc of 177.22 feet and a chord of North  $82^{\circ} 46' 27''$  West a distance of 175.16 feet and continuing North  $67^{\circ} 37' 08''$  West a distance of 179.73' to an iron pin set; running thence North  $13^{\circ} 56' 18''$  East a distance of 897.96 feet along lands now or formerly of Walter F. Mitstifer III (Fiche 219-029d) to an iron pin set; running thence North  $88^{\circ} 02' 00''$  East a distance of 996.75 feet along lands now or formerly of Lettie L. Skeeter and Evanna K. Stotz (L. 645, P. 895) to an iron pin found; running thence South  $02^{\circ} 48' 14''$  East a distance of 869.77 feet along lands now or formerly of Peter A. and Lynn K. Fahs (Fiche 1224-017d) to an iron pin set, the point or place of beginning. Being a 23.986 acres parcel of land. All as more particularly described in a survey map prepared by Dennis J. Weiland, L.S., dated October 13, 2005 and revised October 24, 2005, and designated Job No. 05344. Being the same premises described in the Deed from Grace Mitstifer to Amanda Benjamin and Jason Ziegler, dated May 15, 2006 and recorded May 30, 2006 in Document # 0605300015.

**AND BEING** the same premises in a Deed of Correction dated March 12, 2007, recoded April 2, 2007 in Control #200704020072.

**EXCEPTING ALSO ALL THAT TRACT OR PARCEL OF LAND**, situate in the Town of Erin, County of Chemung and State of New York, bounded and described as follows: Beginning at a point on the centerline of Benjamin Road, said point being located on the boundary line between the Town Of Veteran to the west and Town of Erin to the east and running thence from said point of beginning in a southerly direction, on and along the Town of Veteran/ Town of Erin Boundary line a distance of 243 feet to a point; running thence in an easterly direction a distance of approximately 529 feet to a point; running thence in a northerly direction a distance of approximately 278 feet to a point on the centerline of Benjamin Road; running thence in a westerly direction, on and along the centerline of Benjamin Road, a distance of approximately 534 feet to the point on the centerline of Benjamin Road at the boundary between the Town of Veteran to the west and Town of Erin to the east representing the place of beginning; being approximately 3.1 acres of land. Being a portion of the same premises conveyed to Grace Mitstifer by Warranty Deed- Lien Covenant dated August 5, 1997 and recorded August 11, 1997 in Fiche 737, at Page 21 of Chemung County Deeds.

**EXCEPTING ALSO ALL THAT TRACT OR PARCEL OF LAND**, situate in the Town of Erin, County of Chemung and State of New York, bounded and described as follows: Beginning at a point on the centerline of Benjamin Road, said point representing the northwest corner of premises previously conveyed to Ralph D. Mitstifer and Barbara A. Mitstifer, husband and wife (Document #0202050096), and running thence from said place of beginning, in a westerly direction on and along the centerline of Benjamin Road, a distance of 1300 feet to a point; running thence in a southeasterly direction a distance of 648 feet to a point on the northerly boundary of premises now or formerly of Mastrononio; running thence in a northeasterly direction, on and along the northerly boundary of said Mastrononio premises a distance of 419 feet to a point at the northwest corner of premises now or formerly of Agnes Reed; running thence in an easterly direction, on and along the northerly boundary of said Reed premises a distance of 725 feet to a point representing the southwest corner of said Mitstifer premises (Document #0202050096); running thence in a northerly direction, on and along the westerly boundary of Mitstifer premises (Document #0202050096) to the point on the centerline of Benjamin Road representing the place of beginning. Being the same premises described in the Deed from Walter F. Mitstifer and Patricia A. Mitstifer to Ralph D. Mitstifer and Barbara A. Mitstifer, dated and recorded August 9, 2012 in Document # 201218447.

**SUBJECT TO** easements, covenants, restrictions, leases and rights of way of record.

**ALSO SUBJECT TO** a Boundary Line Agreement between William H. Doane and Irene M. Doane and Walter F. Mitstifer and Patricia A. Mitstifer dated September 8, 2016 and recorded October 14, 2016 as instrument # 201625139.

**BEING** a portion of the same premises conveyed to Walter F. Mitstifer, Jr., and Patricia A. Mitstifer, by a Warranty Deed dated February 28, 2012 and recorded February 29, 2012 as Instrument Number 201204631 in the Chemung County Clerk's Office.

**RESERVING** to the grantors or the survivor thereof the right to remove up to 400 tons of gravel in the aggregate during their joint lifetimes from the existing gravel pit area on the premises herein conveyed. Also reserving to the grantors the right to remove ash trees for firewood during their joint lives. Grantors further reserve the right to enter the said premises to remove vehicles and parts that are located on the premises for a period of up to six months following the date of delivery of this deed. Grantors lastly reserve a personal, non-assignable right to continue farming the currently- cultivated portions of the said premises, including storage of farming equipment, for their joint lives or as long as their farming activity continues. These reserved privileges are personal to the grantors and not assignable and shall not interfere with the grantee's other uses of the said premises. Grantors in exercising these privileges shall indemnify, defend, and hold harmless the grantee from any claims, damages, or liabilities arising as a consequence of any harm to person or property in connection with grantors' activities on the said premises.

**QUARRY LEASE**

Made and entered into this 1st day of December 2023 by and between lessor

**Austin Rentals, LLC (landowner)**

and lessee

**Austin's Excavating & Paving, Inc. (mine operator)**

in the Town of Erin and the Town of Veteran, Chemung County, New York.

Witnesseth; That whereas parties of the first part are owners of a certain parcel of land in Town of Erin and Town of Veteran, Chemung County, tax parcel # 31.00-1-1.11 and 31.00-1-5.111, aforesaid on which property a Stone Quarry may exist; and that they are desirous of having the same opened or excavated to ascertain the quality and quantity of such stone, and whereas the said party of the second part is desirous of opening a quarry and of leasing the same as hereinafter provided.

Now therefore, parties of the first part to hereby lease unto party of the second part under terms and conditions hereinafter set forth, the land, where such quarry is believed to exist on the said land of lessors.

For the period beginning 1 day of December 2023 with the option of lease of renewing this lease for a further period of ten (10) years from the said date under terms and conditions hereinafter set forth.

Lessee, as consideration for this lease, is to pay the Lessors the following royalties:

**A mutually agreed upon percentage of market rate.**

Lessee to have right to hook up or connect (with meter) the electric power line on lessors property, if the former (lessee) so desires; Lessee to have right of way over land to said quarry, as well as for his workmen, invitees and to remove said stone.

Lessee to have rights to water from private pond (if private pond exists) (if private pond does not exist lessee to have right to build one at his own expense) for sawing stone.

Lessee to have right to sub-lease or contract out any portion of this lease.

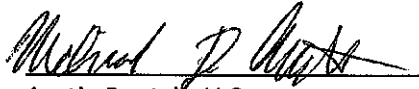
Otherwise this lease to be binding on the heirs, assigns, executors, and administrators of the parties

hereto as it is binding on the parties themselves.

**QUARRY LEASE**

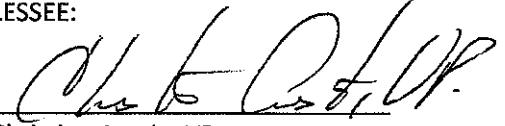
IN WITNESS WHEREOF WE have hereunto set our hands and seals that the day and year first mentioned  
in this agreement.

LESSOR:



Austin Rentals, LLC  
Landowner

LESSEE:



Christine Austin, VP  
Austin's Excavating & Paving, Inc.  
Mine Operator

## Notice Exercising Option to Renew Lease

**Date**

To: **Austin Rentals,**

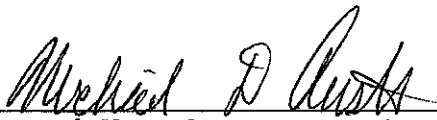
Please be advised that the undersigned, as Lessee under a certain lease for premises known as **tax parcel #31.00-1-11 an 31.00-1-5.111** and dated 12-1-23 (Lease), does hereby exercise his/her option to extend the term of said Lease for a period commencing on Start date and terminating on End date.

During extended term, Lessee shall pay rent of [REDACTED] per annum, payable [REDACTED] per month in advance, in lieu of the rent contained in the original Lease.

It is further provided, however, that all other terms of the Lease shall continue during this extended term as if set forth herein.

Signed under seal this Day of Month, Year.

Yours very truly,

  
\_\_\_\_\_  
Tenant's Name, Lessee      12/1/2023

**Project Narrative**  
**December 20, 2023****Tax Parcels: 31.00-1-1.11 (Town of Erin) & 31.00-1-5.111 (Town of Veteran)**

Austin's Excavating & Paving, Inc. (Austin) proposes to develop a sand and gravel mine at 303 & 368 Benjamin Road in the Town of Veteran and Town of Erin, Chemung County. The Ultimate Life of Mine is 31.2± acres. An excerpt of the Erin, NY USGS quadrangle is attached to detail the location of the operation.

Both the Town of Veteran and the Town of Erin are zoned. In the Town of Veteran, the project is located in the Residential-Agricultural (R-A) zone. Mineral extraction is a conditional use that must be approved by the town. In the Town of Erin, the project is located in the Agricultural-Residential zoning district. Mineral extraction operations that obtain a mining permit from DEC are exempt from town requirements.

The New York Division for Historic Preservation of the Office of Parks, Recreation and Historic Preservation (OPRHP) determined on November 8, 2021 no properties, including archaeological and/or historic resources, listed in or eligible for New York State and National Registers of Historic Places will be impacted by this project (refer to Appendix C of the Mined Land-Use Plan narrative).

NY DEC declared Lead Agency for SEQR on April 18, 2022 (attached) and issued a negative declaration on July 14, 2023 (attached).

Additional correspondence from the Town of Veteran to NY DEC dated September 1, 2023 and September 18, 2023 are provided herein.

Mining Plan Map, Cross Sections, and Reclamation Plan Map exhibits detail the DEC mine permit boundary, extent of mining, setback requirements, final site grading, and final land use. The project area is not within a flood plain.

**Operating Hours**

The proposed hours of operation are detailed in Mined Land-Use Plan (narrative) Section D, Noise Pollution. The proposed hours of operation will be limited to daylight hours with the scale house operation hours of 7 a.m. to 4 p.m. Monday to Friday; 7 a.m. to noon on Saturday; no work on Sundays, New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas.

**Mine Operations**

The proposed mine will recover sand and gravel by general excavation methods. No drilling or blasting is required. The unconsolidated material will not transmit vibrations through the ground. The operation will extract material from above the ground water table to minimize potential impact to surrounding water wells.

**Traffic**

Vehicles entering and exiting the mine will utilize Benjamin Road. Primarily, the traffic will utilize the section of Benjamin Road between the mine entrance and East Sullivanville Road. Communications with the Town have indicated truck traffic from the mine can utilize the crossing over Bulkley Creek. A summary of proposed traffic is provided in Mined Land-Use Plan (narrative) Section A, Traffic. Table A-1 summarizes the anticipated traffic. Note the values provided are average numbers and some days may have additional traffic due to local demand while other days will have no traffic.

All vehicles travelling on public roads must abide to NYDOT regulations including, but not limited to, speed limits and yielding to school bus traffic.

**Zoning Law Summary §9.3, Mineral Extraction**

The proposed improvements comply with the Town of Veteran Zoning Law 2021. The proposed operation complies with §9.3, Mineral Extraction.

*§9.3 – Mineral Extraction*

- A. *Such activity shall not endanger the stability of adjacent land, structures, streets, waterways, other property or water table.*
1. *The mining and reclamation plan prepared for the Department of Environmental Conservation review shall also be reviewed and found acceptable by the Town Board, including:*
    - a. *Setback from property lines and rights-of-way*
    - b. *Barriers to restrict property access*
    - c. *Dust control*
    - d. *Hours of operation*
    - e. *Enforcement of reclamation requirements contained in the New York State Department of Environmental Conservation permit*
    - f. *Excavation applications shall be accompanied by a restoration and rehabilitation plan.*
    - g. *Bonding will be required by the Town when not required by New York State Department of Environmental Conservation.*

The mining plan (narrative & plan) and reclamation plan (narrative & plan) are provided with this submission to the Town. NY DEC requires a reclamation bond be provided for the mining operation. DEC determines the amount of the bond to be provided by the permittee.

- B. *Setback: Excavation activities shall be set back one hundred (100) feet from any property line or public road.*  
The front, side, and rear setbacks for an industrial use shall be 50 feet, 40 feet, and 50 feet respectively. Refer to the September 1, 2023 Town of Veteran letter to NYDEC attached herein.
- C. *Excavation activities shall be designed and conducted so as not to cause any excessive dust, noise, traffic, or other conditions inappropriate for the neighborhood in which it is located.*

The proposed operation is designed and will be conducted to minimize impacts to the surrounding neighborhood. Section D of the Mined Land-Use Plan details efforts made to minimize the impacts of air pollution, noise pollution, water pollution, visual pollution, and a spill prevention plan.

- D. *A haul route management plan shall be submitted to the Town Board showing ingress and egress to locally controlled roads and routing of mineral transport vehicles on locally controlled roads.*

Vehicles entering and exiting the mine will utilize Benjamin Road. Primarily, the traffic will utilize the section of Benjamin Road between the mine entrance and East Sullivanville Road. Communications with the Town have indicated truck traffic from the mine can utilize the crossing over Bulkley Creek.

Austin will enter into an acceptable road use agreement with a financial security with the town if the conditional use permit is granted.

- E. *No excavation shall endanger the stability of adjacent land or structures.*

The proposed operation will not endanger the stability of adjacent land or structures.

- F. *All excavation activities shall be screened from the view of public roads and all residential structures, as approved by the Town Board.*

Excavation activities shall be shield from public view with the use of perimeter berms.

**Zoning Law Summary §10.4, Conditional Use Permit Considerations by the Planning Board**

The proposed improvements comply with the Town of Veteran Zoning Law 2021. The proposed operation complies with §10.4, Conditional Use Permit Considerations by the Planning Board.

*§10.4 – Conditional Use Permit Considerations by the Planning Board*

- A. *The compatibility of scale of the proposed project to surrounding uses;*

The proposed mining operation is located in a rural area. The size of the project parcels is beneficial for a mine operation to provide adequate area to extract, process, and provide screening.

- B. *The potential for the proposed use to have negative impacts, such as traffic or noise, on neighboring uses and or functioning of nearby farm operations,*

Austin will conduct the mining operation in accordance with state and federal regulations and as detailed in the Mined Land-Use Plan to minimize impacts to neighboring uses.

- C. *The constitutional right of the applicant to an economically viable use of property;*

Austin is developing the property in accordance with Town of Veteran and NY DEC requirements.

- D. *The rural tradition of freedom of land use in so far as such use does not cause harm to people or the value and use of neighboring property; and*

Austin will conduct the mining operation in accordance with Town of Veteran and NY DEC requirements and as detailed in the Mined Land-Use Plan to minimize impacts to neighboring uses.

- E. *The existence or proposition of conservation easements or other measures that would tend to mitigate potential adverse impacts and preserve or enhance the pastoral character of the Town.*

There are no known conservation easements for the property.  
No conservation easements are proposed.

**Zoning Law Summary §10.5, Conditional Use Permit Review Criteria for Planning Board Findings**

The proposed improvements comply with the Town of Veteran Zoning Law 2021. The proposed operation complies with §10.5, Conditional Use Permit Review Criteria for Planning Board Findings.

*§10.5 – Conditional Use Permit Review Criteria for Planning Board Findings*

- A. *Will be generally consistent with the goals of the Town Comprehensive Plan;*

Yes, the project will support economic growth in the area.

- B. *Will meet all relevant criteria set forth in this law;*

Yes, the project meets the requirements of Town of Veteran Zoning Law 2021.

- C. *Will be compatible with existing uses adjacent to and near the property;*

Yes, the project is located in a rural area to minimize overall impacts to the Town. Once mine reclamation is complete, the land use will be compatible with existing uses.

- D. *Will be in harmony with the general purpose of this law;*

Yes, the project will be in harmony with the general purpose of the Town of Veteran Zoning Law of 2021. The proposed mining operation will be regulated by the Zoning Law and NY DEC requirements.

- E. *Will not tend to depreciate the value of adjacent property;*

The overall trend of property values may vary during the life of the project. At the completion of mining, the project will not have a negative impact to property values.

- F. *Will not create a hazard to health, safety or the general welfare of the public;*

The project will not create a hazard to health, safety or the general welfare of the public because the proposed mining operation will be regulated by the Town of Veteran Zoning Law 2021 and NY DEC requirements.

- G. *Will not alter the essential character of the neighborhood nor be detrimental to the neighborhood residents;*

The project will not alter the neighborhood character because the proposed mining operation will be regulated by the Town of Veteran Zoning Law 2021 and NY DEC requirements.

- H. *Will not be a nuisance to neighboring land uses in terms of the production of obnoxious or objectionable noise, dust, glare, odor, refuse, fumes, vibrations, unsightliness, contamination or other similar conditions;*

The project will not be nuisance because the proposed mining operation will be regulated by the Town of Veteran Zoning Law 2021 and NY DEC requirements.

- I. *Will not cause undue harm to or destroy existing sensitive natural features on the site or in the surrounding area or cause adverse environmental impacts such as significant erosion or sedimentation, slope destruction, flooding or ponding of water, or degradation of water quality;*

The project will not cause undue harm to or destroy existing natural features. The NY DEC mining permit requirements review these potential impacts and found the project has no impacts.

- J. *Will not destroy or adversely impact significant historic or cultural resource sites;*

There are no significant historic or cultural resource sites. The New York Division for Historic Preservation of the Office of Parks, Recreation and Historic Preservation (OPRHP) determined on November 8, 2021 no properties, including archaeological and/or historic resources, listed in or eligible for New York State and National Registers of Historic Places will be impacted by this project (refer to Appendix C of the Mined Land-Use Plan narrative).

- K. *Will provide adequate landscaping, screening or buffering between adjacent uses which are incompatible with the proposed project.*

The project provides perimeter berms around the mine operation.

**Zoning Law Summary §11.4, Preliminary Site Plan Requirements**

The proposed improvements comply with the Town of Veteran Zoning Law 2021. The proposed operation complies with §11.4, Preliminary Site Plan Requirements

*§11.4 – Preliminary Site Plan Requirements*

- A. *An area map showing the applicant's entire holding, that portion of the applicant's property under construction and any contiguous parcels owned by the applicant, as well as, all properties, their ownership, uses thereon, subdivisions, streets, zoning districts, easements and adjacent buildings within five hundred (500) feet of applicant's property.*

The Mining Plan Map provides the requested information.

- B. *A preliminary site plan shall include the following information:*

- 1. *Title of drawing, including name and address of applicant.*

Provided on the Mining Plan Map.

- 2. *North point, scale and date*

Provided on the Mining Plan Map.

- 3. *Boundaries of the project plotted to scale of not more than one hundred (100) feet to one (1) inch.*

Map scales comply.

- 4. *Existing natural features such as watercourses, waterbodies, wetlands, flood hazard areas, wooded areas and individual large trees. Features to be retained should be noted.*

Provided on the Mining Plan Map.

- 5. *Existing and proposed contours at intervals of not more than two (2) foot contour intervals.*

Provided on the Mining Plan Map.

- 6. *Location of proposed land uses and their areas in acres and location, proposed use and height of all buildings.*

No buildings proposed.

- 7. *Location of all existing or proposed site improvements including streets, drains, culverts, retaining walls, fences and easements, whether public or private.*

Provided on the Mining Plan Map. No improvements shall be dedicated to the Town.

- 8. *Description of sewage disposal and water systems and location. of such facilities.*

Provided on the Mining Plan Map. A private well will be drilled for water. No on-lot septic system is proposed; a porta-potty will be utilized.

9. *Location and proposed development of buffer areas and other landscaping.*

Provided on the Mining Plan Map.

10. *Delineation of the various residential areas, if applicable, indicating for each such area its general extent, description and composition of dwelling unit type, and a calculation of the residential density in dwelling units per gross acre for each such area.*

N/A

11. *Location of all parking and truck-loading areas, with access and egress drives thereto.*

Provided on the Mining Plan Map.

12. *Location, design and size of all signs and lighting facilities. The approximate locations and dimensions of areas proposed for neighborhood parks or playgrounds, or other permanent open space.*

Provided on the Mining Plan Map. An identification sign will be provided along Benjamin Road. No neighborhood parks, playgrounds, or other permanent open space is proposed.

13. *Building orientation and site design for energy efficiency.*

N/A

14. *Location and design of all energy distribution facilities, including electrical, gas and solar energy.*

N/A

15. *Grading and erosion control.*

Provided on the Mining Plan Map.

16. *Description and location of control measures including proposed location of sediment sink/settling pond and interceptor swales, etc.*

Provided on the Mining Plan Map.

17. *Location and design for stormwater management facilities.*

Provided on the Mining Plan Map.

18. *Drainage report including supporting design data and copies of computations used as a basis for the design capacities and performance of drainage facilities.*

No drainage report provided. The use of containment berms and the unconsolidated material will contain runoff in the mining area. The unconsolidated material (sand & gravel) will infiltrate runoff collected in the mining area. At the conclusion of mining, the site will be reclaimed and no impervious surfaces are proposed. Therefore, the post-development site conditions will be similar to the pre-development site conditions.

19. *The boundary lines and dimensions of all property which is offered, or to be offered, for dedication for public use, with the purpose indicated thereon, and of all property that is proposed to be reserved by deed covenant for the common use of the property owners of the development.*

N/A

- C. *The Planning Board may require such additional information that appears necessary for a complete assessment of the project.*

Noted; no response provided or required at this time.

- D. *The Planning Board's review of the preliminary site plan shall include, but is not limited to the following considerations:*

1. *Adequacy and arrangement of vehicular traffic access and circulation.*

Traffic shall enter and exit the site via Benjamin Road. The internal traffic circulation route is provided on the Mining Plan Map. Traffic will enter and proceed to the mineral extraction area to be loaded and then return to the scales to be weighed before exiting to Benjamin Road.

2. *Location, arrangement, appearance and sufficiency of off-street parking and loading.*  
Adequate parking is provided near the scales as detailed on the Mining Plan Map.
3. *Location, arrangement, size and design of buildings, lighting and signs.*

The scales and sign are noted on the Mining Plan Map.

4. *Relationship of the various uses to one another and their scale.*

The Mining Plan Map details the extent of the mining operation and surrounding features.

5. *Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual or noise deterring buffer between adjacent uses and adjoining lands.*

Perimeter berms are utilized to create a visual screen and minimize noise impacts to adjoining lands.

6. *Adequacy of storm water and sanitary waste disposal.*

The use of containment berms and the unconsolidated material will contain runoff in the mining area. The unconsolidated material (sand & gravel) will infiltrate runoff collected in the mining area. At the conclusion of mining, the site will be reclaimed and no impervious surfaces are proposed.

No on-lot septic system is proposed; a porta-potty will be utilized.

7. *Adequacy of structures, roadways and landscaping in areas susceptible to flooding, ponding or erosion.*

The mining area is not susceptible to flooding or ponding. Erosion controls are noted on the Mining Plan Map.

8. *Compatibility of development with natural features of the site and with surrounding land uses.*

The project is located in a rural area to minimize overall impacts to the Town. The site topography promotes the use of the land for mineral extraction. No deep pit will be created as part of the operation to mine sand and gravel to meet local market demands. All perimeter slopes will conform with DEC requirements as detailed on the Cross Sections exhibit. Once mine reclamation is complete, the land use will be compatible with surrounding uses.

9. *Adequacy of floodproofing and prevention measures consistent with flood hazard prevention district regulations.*

N/A

10. *Adequacy of building orientation and site design for energy efficiency. The extent to which the proposed plan conserves energy use and energy resources in the community including the protection of adequate sunlight for use by solar energy systems.*

N/A

11. *Adequacy of open space for play areas, informal recreation and the retention of natural areas such as wildlife habitats, wetlands and wooded areas.*

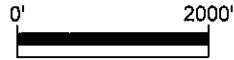
N/A

12. *Adequacy of pedestrian access, circulation, convenience and safety.*

N/A

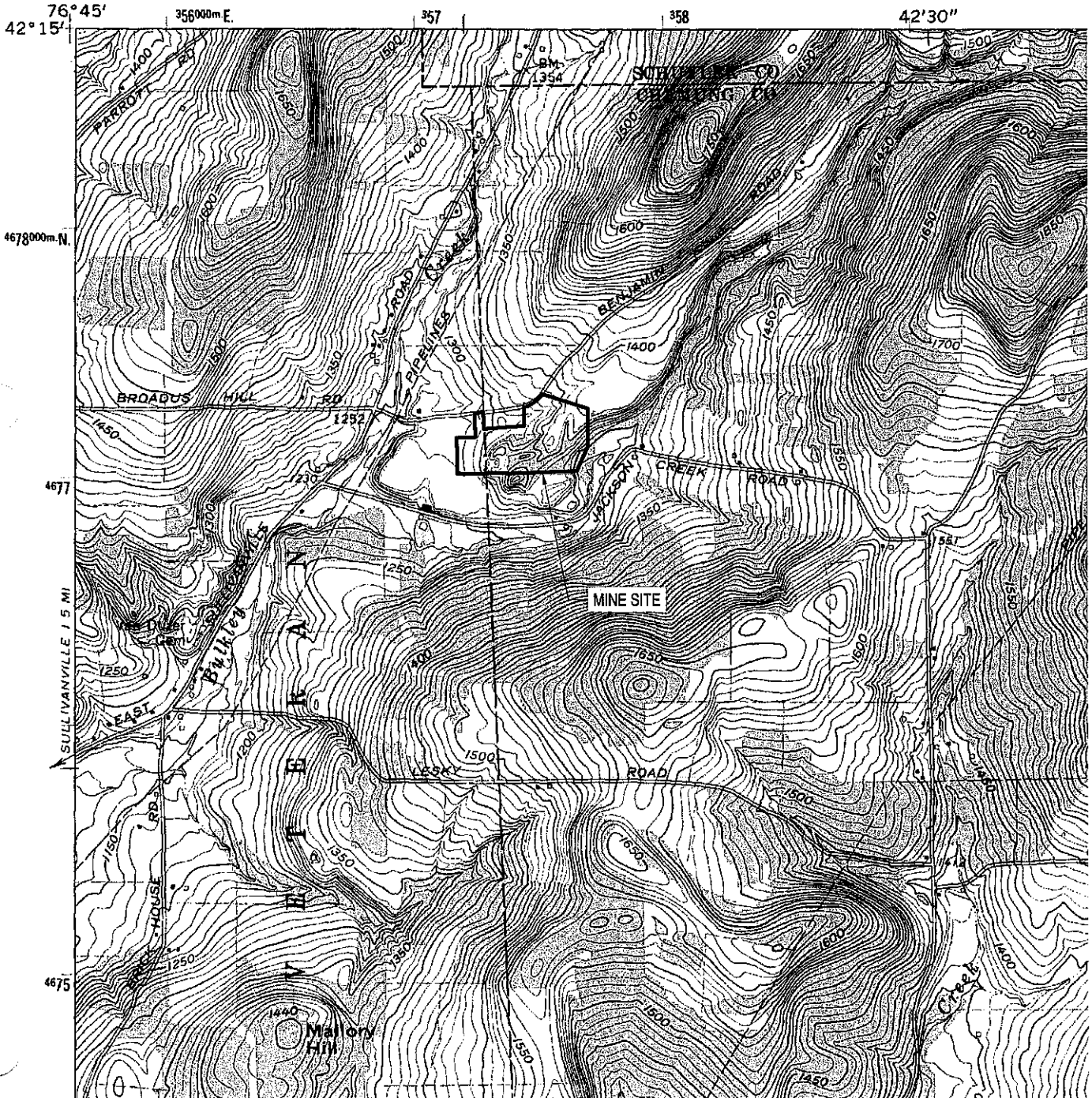
# Erin Quadrangle

Project Location: up & over from bottom right corner  
 13.9" up & 13.9" over



UNITED STATES  
 DEPARTMENT OF THE INTERIOR  
 GEOLOGICAL SURVEY

5668 IV SE FALLS  
 FOUR FALLS



Date: 01/18/22	PROJECT: <b>Mistlifer Mine</b> Austin's Excavating & Paving, Inc. Town of Erin & Town of Veteran, Chemung County, New York
Rev No: 0	
Sheet No: <b>1</b> of 1	TITLE: <b>USGS Location Map</b> Erin NY

**TRACT ENGINEERING, PLLC**  
 120 Ridge Avenue  
 State College, PA 16803  
 814 272 0301  
 www.TractILLC.com

PROJECT NO.:	21.1027		
DRAWING NO.:	Mistlifer		
DRAWN BY: tsg	11/01/21		
CHKD BY: TSG	-		
REV.	DATE	BY	COMMENT

**Full Environmental Assessment Form  
Part 1 - Project and Setting**

**Instructions for Completing Part 1**

Part 1 is to be completed by the applicant or project sponsor. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification.

Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information; indicate whether missing information does not exist, or is not reasonably available to the sponsor; and, when possible, generally describe work or studies which would be necessary to update or fully develop that information.

Applicants/sponsors must complete all items in Sections A & B. In Sections C, D & E, most items contain an initial question that must be answered either "Yes" or "No". If the answer to the initial question is "Yes", complete the sub-questions that follow. If the answer to the initial question is "No", proceed to the next question. Section F allows the project sponsor to identify and attach any additional information. Section G requires the name and signature of the applicant or project sponsor to verify that the information contained in Part 1 is accurate and complete.

**A. Project and Applicant/Sponsor Information.**

Name of Action or Project: Mitsifer Mine		
Project Location (describe, and attach a general location map): 303 & 368 Benjamin Road, Horseheads, NY 14845: Town of Erin & Veteran, Chemung County: 42 14' 01.0" -76 43' 01.4"		
Brief Description of Proposed Action (include purpose or need): Austin's Excavating & Paving, Inc. (Austin) proposes to develop a sand and gravel mine to meet market demands for aggregate.  The Ultimate Life of Mine area is 31.2 acres.		
Name of Applicant/Sponsor: Austin's Excavating & Paving, Inc.	Telephone: 607-565-4313	E-Mail: caustin@austin-excavating.com
Address: 121 Talmadge Hill West		
City/PO: Waverly	State: NY	Zip Code: 14892
Project Contact (if not same as sponsor; give name and title/role): Christine Austin, VP, Austin's Excavating & Paving, Inc.	Telephone: 607-565-4313	E-Mail: caustin@austin-excavating.com
Address: 121 Talmadge Hill West		
City/PO: Waverly	State: NY	Zip Code: 14892
Property Owner (if not same as sponsor): Austin Rentals, LLC	Telephone: 607-565-4313	E-Mail: caustin@austin-excavating.com
Address: 121 Talmadge Hill West		
City/PO: Waverly	State: NY	Zip Code: 14892

**B. Government Approvals**

**B. Government Approvals, Funding, or Sponsorship.** (“Funding” includes grants, loans, tax relief, and any other forms of financial assistance.)

Government Entity	If Yes: Identify Agency and Approval(s) Required	Application Date (Actual or projected)
a. City Counsel, Town Board, <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No or Village Board of Trustees		
b. City, Town or Village Planning Board or Commission <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
c. City, Town or Village Zoning Board of Appeals <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
d. Other local agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
e. County agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
f. Regional agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
g. State agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	NY DEC - Mined Lands Permit	March 2022
h. Federal agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
i. Coastal Resources.		
i. Is the project site within a Coastal Area, or the waterfront area of a Designated Inland Waterway?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
ii. Is the project site located in a community with an approved Local Waterfront Revitalization Program?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
iii. Is the project site within a Coastal Erosion Hazard Area?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

**C. Planning and Zoning**

**C.1. Planning and zoning actions.**

Will administrative or legislative adoption, or amendment of a plan, local law, ordinance, rule or regulation be the only approval(s) which must be granted to enable the proposed action to proceed?  Yes  No

- If Yes, complete sections C, F and G.
- If No, proceed to question C.2 and complete all remaining sections and questions in Part 1

**C.2. Adopted land use plans.**

a. Do any municipally- adopted (city, town, village or county) comprehensive land use plan(s) include the site where the proposed action would be located?  Yes  No

If Yes, does the comprehensive plan include specific recommendations for the site where the proposed action would be located?  Yes  No

b. Is the site of the proposed action within any local or regional special planning district (for example: Greenway; Brownfield Opportunity Area (BOA); designated State or Federal heritage area; watershed management plan; or other?)  Yes  No

If Yes, identify the plan(s):  
 NYS Major Basins: Upper Susquehanna  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

c. Is the proposed action located wholly or partially within an area listed in an adopted municipal open space plan, or an adopted municipal farmland protection plan?  Yes  No

If Yes, identify the plan(s):  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**C.3. Zoning**

a. Is the site of the proposed action located in a municipality with an adopted zoning law or ordinance.  Yes  No  
If Yes, what is the zoning classification(s) including any applicable overlay district?  
Town of Erin - AR

b. Is the use permitted or allowed by a special or conditional use permit?  Yes  No

c. Is a zoning change requested as part of the proposed action?  Yes  No  
If Yes,  
i. What is the proposed new zoning for the site? \_\_\_\_\_

**C.4. Existing community services.**

a. In what school district is the project site located? n/a

b. What police or other public protection forces serve the project site?  
Chemung County Sheriff, NY State Police

c. Which fire protection and emergency medical services serve the project site?  
Erin Volunteer Fire Department

d. What parks serve the project site?  
n/a

**D. Project Details**

**D.1. Proposed and Potential Development**

a. What is the general nature of the proposed action (e.g., residential, industrial, commercial, recreational; if mixed, include all components)? sand and gravel mine

a. Total acreage of the site of the proposed action? \_\_\_\_\_ 31.2 acres  
b. Total acreage to be physically disturbed? \_\_\_\_\_ 31.2 acres  
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? \_\_\_\_\_ 92.4 acres

c. Is the proposed action an expansion of an existing project or use?  Yes  No  
i. If Yes, what is the approximate percentage of the proposed expansion and identify the units (e.g., acres, miles, housing units, square feet)? % 2 acres existing pit Units: ---

d. Is the proposed action a subdivision, or does it include a subdivision?  Yes  No  
If Yes,  
i. Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types) \_\_\_\_\_  
ii. Is a cluster/conservation layout proposed?  Yes  No  
iii. Number of lots proposed? \_\_\_\_\_  
iv. Minimum and maximum proposed lot sizes? Minimum \_\_\_\_\_ Maximum \_\_\_\_\_

e. Will the proposed action be constructed in multiple phases?  Yes  No  
i. If No, anticipated period of construction: \_\_\_\_\_ months  
ii. If Yes:  
• Total number of phases anticipated \_\_\_\_\_  
• Anticipated commencement date of phase 1 (including demolition) \_\_\_\_\_ month \_\_\_\_\_ year  
• Anticipated completion date of final phase \_\_\_\_\_ month \_\_\_\_\_ year  
• Generally describe connections or relationships among phases, including any contingencies where progress of one phase may determine timing or duration of future phases: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

f. Does the project include new residential uses?  Yes  No

If Yes, show numbers of units proposed.

One Family      Two Family      Three Family      Multiple Family (four or more)

Initial Phase completion \_\_\_\_\_  
of all phases \_\_\_\_\_

g. Does the proposed action include new non-residential construction (including expansions)?  Yes  No

If Yes,

- i. Total number of structures \_\_\_\_\_
- ii. Dimensions (in feet) of largest proposed structure: \_\_\_\_\_ height; \_\_\_\_\_ width; and \_\_\_\_\_ length
- iii. Approximate extent of building space to be heated or cooled: \_\_\_\_\_ square feet

h. Does the proposed action include construction or other activities that will result in the impoundment of any liquids, such as creation of a water supply, reservoir, pond, lake, waste lagoon or other storage?  Yes  No

If Yes,

- i. Purpose of the impoundment: \_\_\_\_\_
- ii. If a water impoundment, the principal source of the water:  Ground water  Surface water streams  Other specify: \_\_\_\_\_
- iii. If other than water, identify the type of impounded/contained liquids and their source. \_\_\_\_\_

- iv. Approximate size of the proposed impoundment. Volume: \_\_\_\_\_ million gallons; surface area: \_\_\_\_\_ acres
- v. Dimensions of the proposed dam or impounding structure: \_\_\_\_\_ height; \_\_\_\_\_ length
- vi. Construction method/materials for the proposed dam or impounding structure (e.g., earth fill, rock, wood, concrete): \_\_\_\_\_

**D.2. Project Operations**

a. Does the proposed action include any excavation, mining, or dredging, during construction, operations, or both?  Yes  No  
(Not including general site preparation, grading or installation of utilities or foundations where all excavated materials will remain onsite)

If Yes:

What is the purpose of the excavation or dredging? sand and gravel mine

How much material (including rock, earth, sediments, etc.) is proposed to be removed from the site?

- Volume (specify tons or cubic yards): ~1,350,000
- Over what duration of time? 20+ years

iii. Describe nature and characteristics of materials to be excavated or dredged, and plans to use, manage or dispose of them.  
Sand and gravel will be processed and sold. Overburden will be utilized for reclamation.

iv. Will there be onsite dewatering or processing of excavated materials?  Yes  No  
If yes, describe. sand and gravel will be crushed and/or screened to a marketable product

v. What is the total area to be dredged or excavated? \_\_\_\_\_ 31.2 acres

vi. What is the maximum area to be worked at any one time? \_\_\_\_\_ 10 acres

vii. What would be the maximum depth of excavation or dredging? \_\_\_\_\_ ~85 feet

viii. Will the excavation require blasting?  Yes  No

ix. Summarize site reclamation goals and plan: \_\_\_\_\_  
Site reclaimed to grass meadow unmanaged natural habitat with slopes conforming to NYDEC standards.

b. Would the proposed action cause or result in alteration of, increase or decrease in size of, or encroachment into any existing wetland, waterbody, shoreline, beach or adjacent area?  Yes  No

If Yes:

i. Identify the wetland or waterbody which would be affected (by name, water index number, wetland map number or geographic description): \_\_\_\_\_

ii. Describe how the proposed action would affect that waterbody or wetland, e.g. excavation, fill, placement of structures, or alteration of channels, banks and shorelines. Indicate extent of activities, alterations and additions in square feet or acres:

iii. Will the proposed action cause or result in disturbance to bottom sediments?  Yes  No

If Yes, describe: \_\_\_\_\_

iv. Will the proposed action cause or result in the destruction or removal of aquatic vegetation?  Yes  No

If Yes:

- acres of aquatic vegetation proposed to be removed: \_\_\_\_\_
- expected acreage of aquatic vegetation remaining after project completion: \_\_\_\_\_
- purpose of proposed removal (e.g. beach clearing, invasive species control, boat access): \_\_\_\_\_
- proposed method of plant removal: \_\_\_\_\_
- if chemical/herbicide treatment will be used, specify product(s): \_\_\_\_\_

v. Describe any proposed reclamation/mitigation following disturbance: \_\_\_\_\_

c. Will the proposed action use, or create a new demand for water?  Yes  No

If Yes:

i. Total anticipated water usage/demand per day: \_\_\_\_\_ 10,000 gallons/day

ii. Will the proposed action obtain water from an existing public water supply?  Yes  No

If Yes:

- Name of district or service area: \_\_\_\_\_
- Does the existing public water supply have capacity to serve the proposal?  Yes  No
- Is the project site in the existing district?  Yes  No
- Is expansion of the district needed?  Yes  No
- Do existing lines serve the project site?  Yes  No

iii. Will line extension within an existing district be necessary to supply the project?  Yes  No

If Yes:

- Describe extensions or capacity expansions proposed to serve this project: \_\_\_\_\_
- Source(s) of supply for the district: \_\_\_\_\_

iv. Is a new water supply district or service area proposed to be formed to serve the project site?  Yes  No

If, Yes:

- Applicant/sponsor for new district: \_\_\_\_\_
- Date application submitted or anticipated: \_\_\_\_\_
- Proposed source(s) of supply for new district: \_\_\_\_\_

v. If a public water supply will not be used, describe plans to provide water supply for the project: \_\_\_\_\_  
a private well will be drilled at the site

vi. If water supply will be from wells (public or private), what is the maximum pumping capacity: \_\_\_\_\_ 15 gallons/minute.

d. Will the proposed action generate liquid wastes?  Yes  No

If Yes:

i. Total anticipated liquid waste generation per day: \_\_\_\_\_ gallons/day

ii. Nature of liquid wastes to be generated (e.g., sanitary wastewater, industrial; if combination, describe all components and approximate volumes or proportions of each): \_\_\_\_\_

iii. Will the proposed action use any existing public wastewater treatment facilities?  Yes  No

If Yes:

- Name of wastewater treatment plant to be used: \_\_\_\_\_
- Name of district: \_\_\_\_\_
- Does the existing wastewater treatment plant have capacity to serve the project?  Yes  No
- Is the project site in the existing district?  Yes  No
- Is expansion of the district needed?  Yes  No

Do existing sewer lines serve the project site?  Yes  No  
 Will a line extension within an existing district be necessary to serve the project?  Yes  No  
 If Yes:  
 Describe extensions or capacity expansions proposed to serve this project: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

iv. Will a new wastewater (sewage) treatment district be formed to serve the project site?  Yes  No  
 If Yes:  
 Applicant/sponsor for new district: \_\_\_\_\_  
 Date application submitted or anticipated: \_\_\_\_\_  
 What is the receiving water for the wastewater discharge? \_\_\_\_\_

v. If public facilities will not be used, describe plans to provide wastewater treatment for the project, including specifying proposed receiving water (name and classification if surface discharge or describe subsurface disposal plans):  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

vi. Describe any plans or designs to capture, recycle or reuse liquid waste: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

e. Will the proposed action disturb more than one acre and create stormwater runoff, either from new point sources (i.e. ditches, pipes, swales, curbs, gutters or other concentrated flows of stormwater) or non-point source (i.e. sheet flow) during construction or post construction?  Yes  No  
 If Yes:  
 i. How much impervious surface will the project create in relation to total size of project parcel?  
 \_\_\_\_\_ Square feet or \_\_\_\_\_ 5 acres (impervious surface)  
 \_\_\_\_\_ Square feet or \_\_\_\_\_ 92.4 acres (parcel size)  
 ii. Describe types of new point sources. no new point sources  
 \_\_\_\_\_  
 \_\_\_\_\_  
 iii. Where will the stormwater runoff be directed (i.e. on-site stormwater management facility/structures, adjacent properties, groundwater, on-site surface water or off-site surface waters)?  
on-site stormwater runoff management  
 \_\_\_\_\_  
 If to surface waters, identify receiving water bodies or wetlands: \_\_\_\_\_  
 \_\_\_\_\_  
 Will stormwater runoff flow to adjacent properties?  Yes  No

iv. Does the proposed plan minimize impervious surfaces, use pervious materials or collect and re-use stormwater?  Yes  No

f. Does the proposed action include, or will it use on-site, one or more sources of air emissions, including fuel combustion, waste incineration, or other processes or operations?  Yes  No  
 If Yes, identify:  
 i. Mobile sources during project operations (e.g., heavy equipment, fleet or delivery vehicles)  
mobile excavation equipment (dozers, loaders, excavators, trucks, etc.) and mobile processing equipment (crushers, screens, and stackers)  
 ii. Stationary sources during construction (e.g., power generation, structural heating, batch plant, crushers)  
none  
 iii. Stationary sources during operations (e.g., process emissions, large boilers, electric generation)  
none

g. Will any air emission sources named in D.2.f (above), require a NY State Air Registration, Air Facility Permit, or Federal Clean Air Act Title IV or Title V Permit?  Yes  No  
 If Yes:  
 i. Is the project site located in an Air quality non-attainment area? (Area routinely or periodically fails to meet ambient air quality standards for all or some parts of the year)  Yes  No  
 ii. In addition to emissions as calculated in the application, the project will generate:  
 \_\_\_\_\_ Tons/year (short tons) of Carbon Dioxide (CO<sub>2</sub>)  
 \_\_\_\_\_ Tons/year (short tons) of Nitrous Oxide (N<sub>2</sub>O)  
 \_\_\_\_\_ Tons/year (short tons) of Perfluorocarbons (PFCs)  
 \_\_\_\_\_ Tons/year (short tons) of Sulfur Hexafluoride (SF<sub>6</sub>)  
 \_\_\_\_\_ Tons/year (short tons) of Carbon Dioxide equivalent of Hydrofluorocarbons (HFCs)  
 \_\_\_\_\_ Tons/year (short tons) of Hazardous Air Pollutants (HAPs)

h. Will the proposed action generate or emit methane (including, but not limited to, sewage treatment plants, landfills, composting facilities)?  Yes  No

If Yes:

- i. Estimate methane generation in tons/year (metric): \_\_\_\_\_
- ii. Describe any methane capture, control or elimination measures included in project design (e.g., combustion to generate heat or electricity, flaring): \_\_\_\_\_

i. Will the proposed action result in the release of air pollutants from open-air operations or processes, such as quarry or landfill operations?  Yes  No

If Yes: Describe operations and nature of emissions (e.g., diesel exhaust, rock particulates/dust):

diesel exhaust and dust

j. Will the proposed action result in a substantial increase in traffic above present levels or generate substantial new demand for transportation facilities or services?  Yes  No

If Yes:

- i. When is the peak traffic expected (Check all that apply):  Morning  Evening  Weekend  
 Randomly between hours of \_\_\_\_\_ to \_\_\_\_\_.
- ii. For commercial activities only, projected number of truck trips/day and type (e.g., semi trailers and dump trucks): \_\_\_\_\_

iii. Parking spaces: Existing \_\_\_\_\_ Proposed \_\_\_\_\_ Net increase/decrease \_\_\_\_\_

iv. Does the proposed action include any shared use parking?  Yes  No

v. If the proposed action includes any modification of existing roads, creation of new roads or change in existing access, describe:

vi. Are public/private transportation service(s) or facilities available within 1/2 mile of the proposed site?  Yes  No

vii. Will the proposed action include access to public transportation or accommodations for use of hybrid, electric or other alternative fueled vehicles?  Yes  No

viii. Will the proposed action include plans for pedestrian or bicycle accommodations for connections to existing pedestrian or bicycle routes?  Yes  No

Will the proposed action (for commercial or industrial projects only) generate new or additional demand for energy?  Yes  No

If Yes:

i. Estimate annual electricity demand during operation of the proposed action: \_\_\_\_\_

ii. Anticipated sources/suppliers of electricity for the project (e.g., on-site combustion, on-site renewable, via grid/local utility, or other):

iii. Will the proposed action require a new, or an upgrade, to an existing substation?  Yes  No

l. Hours of operation. Answer all items which apply.

i. During Construction:

- Monday - Friday: \_\_\_\_\_
- Saturday: \_\_\_\_\_
- Sunday: \_\_\_\_\_
- Holidays: \_\_\_\_\_

ii. During Operations:

- Monday - Friday: \_\_\_\_\_ 7 am to 8 pm
- Saturday: \_\_\_\_\_ 7 am to 8 pm
- Sunday: \_\_\_\_\_ none
- Holidays: \_\_\_\_\_ none

m. Will the proposed action produce noise that will exceed existing ambient noise levels during construction, operation, or both?  Yes  No

If yes:

i. Provide details including sources, time of day and duration:  
 Sources include excavation and processing equipment. Equipment will operate as noted in section "l" above.

---

... Will the proposed action remove existing natural barriers that could act as a noise barrier or screen?  Yes  No

Describe: \_\_\_\_\_

---

n. Will the proposed action have outdoor lighting?  Yes  No

If yes:

i. Describe source(s), location(s), height of fixture(s), direction/aim, and proximity to nearest occupied structures:  
 Security light on scale house and at equipment storage areas. Maximum height will be 20'. Light will be directed towards the interior of the site.  
 Lights will be at least 100' from nearest occupied dwelling

ii. Will proposed action remove existing natural barriers that could act as a light barrier or screen?  Yes  No

Describe: \_\_\_\_\_

---

o. Does the proposed action have the potential to produce odors for more than one hour per day?  Yes  No

If Yes, describe possible sources, potential frequency and duration of odor emissions, and proximity to nearest occupied structures: \_\_\_\_\_

---

p. Will the proposed action include any bulk storage of petroleum (combined capacity of over 1,100 gallons) or chemical products 185 gallons in above ground storage or any amount in underground storage?  Yes  No

If Yes:

i. Product(s) to be stored \_\_\_\_\_

ii. Volume(s) \_\_\_\_\_ per unit time \_\_\_\_\_ (e.g., month, year)

iii. Generally, describe the proposed storage facilities: \_\_\_\_\_

---

Will the proposed action (commercial, industrial and recreational projects only) use pesticides (i.e., herbicides, insecticides) during construction or operation?  Yes  No

If Yes:

i. Describe proposed treatment(s):  
 \_\_\_\_\_

---

ii. Will the proposed action use Integrated Pest Management Practices?  Yes  No

---

r. Will the proposed action (commercial or industrial projects only) involve or require the management or disposal of solid waste (excluding hazardous materials)?  Yes  No

If Yes:

i. Describe any solid waste(s) to be generated during construction or operation of the facility:

- Construction: \_\_\_\_\_ tons per \_\_\_\_\_ (unit of time)
- Operation : \_\_\_\_\_ tons per \_\_\_\_\_ (unit of time)

ii. Describe any proposals for on-site minimization, recycling or reuse of materials to avoid disposal as solid waste:

- Construction: \_\_\_\_\_
- Operation: \_\_\_\_\_

iii. Proposed disposal methods/facilities for solid waste generated on-site:

- Construction: \_\_\_\_\_
- Operation: \_\_\_\_\_

s. Does the proposed action include construction or modification of a solid waste management facility?  Yes  No

If Yes:

- i. Type of management or handling of waste proposed for the site (e.g., recycling or transfer station, composting, landfill, or other disposal activities): \_\_\_\_\_
- ii. Anticipated rate of disposal/processing:
  - \_\_\_\_\_ Tons/month, if transfer or other non-combustion/thermal treatment, or
  - \_\_\_\_\_ Tons/hour, if combustion or thermal treatment
- iii. If landfill, anticipated site life: \_\_\_\_\_ years

t. Will the proposed action at the site involve the commercial generation, treatment, storage, or disposal of hazardous waste?  Yes  No

If Yes:

- i. Name(s) of all hazardous wastes or constituents to be generated, handled or managed at facility: \_\_\_\_\_
- ii. Generally describe processes or activities involving hazardous wastes or constituents: \_\_\_\_\_
- iii. Specify amount to be handled or generated \_\_\_\_\_ tons/month
- iv. Describe any proposals for on-site minimization, recycling or reuse of hazardous constituents: \_\_\_\_\_

v. Will any hazardous wastes be disposed at an existing offsite hazardous waste facility?  Yes  No

If Yes: provide name and location of facility: \_\_\_\_\_

If No: describe proposed management of any hazardous wastes which will not be sent to a hazardous waste facility: \_\_\_\_\_

**E. Site and Setting of Proposed Action**

**E.1. Land uses on and surrounding the project site**

Existing land uses.

i. Check all uses that occur on, adjoining and near the project site.

- Urban  Industrial  Commercial  Residential (suburban)  Rural (non-farm)
- Forest  Agriculture  Aquatic  Other (specify): \_\_\_\_\_

ii. If mix of uses, generally describe: \_\_\_\_\_

b. Land uses and covertypes on the project site.

Land use or Covertype	Current Acreage	Acreage After Project Completion	Change (Acres +/-)
• Roads, buildings, and other paved or impervious surfaces	0	0	0
• Forested	23.1	0	-23.1
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)	3.8	31.2	+27.4
• Agricultural (includes active orchards, field, greenhouse etc.)	4.3	0	-4.3
• Surface water features (lakes, ponds, streams, rivers, etc.)	0	0	0
• Wetlands (freshwater or tidal)	0	0	0
• Non-vegetated (bare rock, earth or fill)	0	0	0
• Other Describe: _____			

c. Is the project site presently used by members of the community for public recreation?  Yes  No  
 i. If Yes: explain: \_\_\_\_\_

d. Are there any facilities serving children, the elderly, people with disabilities (e.g., schools, hospitals, licensed day care centers, or group homes) within 1500 feet of the project site?  Yes  No  
 Yes,  
 Identify Facilities: \_\_\_\_\_  
 \_\_\_\_\_

e. Does the project site contain an existing dam?  Yes  No  
 If Yes:  
 i. Dimensions of the dam and impoundment:  
 • Dam height: \_\_\_\_\_ feet  
 • Dam length: \_\_\_\_\_ feet  
 • Surface area: \_\_\_\_\_ acres  
 • Volume impounded: \_\_\_\_\_ gallons OR acre-feet  
 ii. Dam's existing hazard classification: \_\_\_\_\_  
 iii. Provide date and summarize results of last inspection: \_\_\_\_\_  
 \_\_\_\_\_

f. Has the project site ever been used as a municipal, commercial or industrial solid waste management facility, or does the project site adjoin property which is now, or was at one time, used as a solid waste management facility?  Yes  No  
 If Yes:  
 i. Has the facility been formally closed?  Yes  No  
 • If yes, cite sources/documentation: \_\_\_\_\_  
 ii. Describe the location of the project site relative to the boundaries of the solid waste management facility: \_\_\_\_\_  
 \_\_\_\_\_  
 iii. Describe any development constraints due to the prior solid waste activities: \_\_\_\_\_  
 \_\_\_\_\_

g. Have hazardous wastes been generated, treated and/or disposed of at the site, or does the project site adjoin property which is now or was at one time used to commercially treat, store and/or dispose of hazardous waste?  Yes  No  
 If Yes:  
 i. Describe waste(s) handled and waste management activities, including approximate time when activities occurred: \_\_\_\_\_  
 \_\_\_\_\_

h. Potential contamination history. Has there been a reported spill at the proposed project site, or have any remedial actions been conducted at or adjacent to the proposed site?  Yes  No  
 If Yes:  
 i. Is any portion of the site listed on the NYSDEC Spills Incidents database or Environmental Site Remediation database? Check all that apply:  Yes  No  
 Yes – Spills Incidents database Provide DEC ID number(s): \_\_\_\_\_  
 Yes – Environmental Site Remediation database Provide DEC ID number(s): \_\_\_\_\_  
 Neither database  
 ii. If site has been subject of RCRA corrective activities, describe control measures: \_\_\_\_\_  
 \_\_\_\_\_  
 iii. Is the project within 2000 feet of any site in the NYSDEC Environmental Site Remediation database?  Yes  No  
 If yes, provide DEC ID number(s): \_\_\_\_\_  
 iv. If yes to (i), (ii) or (iii) above, describe current status of site(s): \_\_\_\_\_  
 \_\_\_\_\_

v. Is the project site subject to an institutional control limiting property uses?  Yes  No

- If yes, DEC site ID number: \_\_\_\_\_
- Describe the type of institutional control (e.g., deed restriction or easement): \_\_\_\_\_
- Describe any use limitations: \_\_\_\_\_
- Describe any engineering controls: \_\_\_\_\_
- Will the project affect the institutional or engineering controls in place?  Yes  No
- Explain: \_\_\_\_\_

**E.2. Natural Resources On or Near Project Site**

a. What is the average depth to bedrock on the project site? \_\_\_\_\_ 100+ feet

b. Are there bedrock outcroppings on the project site?  Yes  No  
 If Yes, what proportion of the site is comprised of bedrock outcroppings? \_\_\_\_\_ %

c. Predominant soil type(s) present on project site:

Mardin channery silt loam	_____	8 %
Valois gravelly loam	_____	85 %
Volusia channery silt loam	_____	7 %

d. What is the average depth to the water table on the project site? Average: \_\_\_\_\_ feet

e. Drainage status of project site soils:

<input checked="" type="checkbox"/> Well Drained:	_____	85 % of site
<input checked="" type="checkbox"/> Moderately Well Drained:	_____	8 % of site
<input checked="" type="checkbox"/> Poorly Drained	_____	7 % of site

f. Approximate proportion of proposed action site with slopes:

<input checked="" type="checkbox"/> 0-10%:	_____	22 % of site
<input checked="" type="checkbox"/> 10-15%:	_____	61 % of site
<input checked="" type="checkbox"/> 15% or greater:	_____	17 % of site

g. Are there any unique geologic features on the project site?  Yes  No  
 If Yes, describe: \_\_\_\_\_

**ii. Surface water features.**

i. Does any portion of the project site contain wetlands or other waterbodies (including streams, rivers, ponds or lakes)?  Yes  No

ii. Do any wetlands or other waterbodies adjoin the project site?  Yes  No

If Yes to either *i* or *ii*, continue. If No, skip to E.2.i.

iii. Are any of the wetlands or waterbodies within or adjoining the project site regulated by any federal, state or local agency?  Yes  No

iv. For each identified regulated wetland and waterbody on the project site, provide the following information:

- Streams: Name 810-29 Classification C
- Lakes or Ponds: Name \_\_\_\_\_ Classification \_\_\_\_\_
- Wetlands: Name Federal Waters, Federal Waters, Federal Waters,... Approximate Size \_\_\_\_\_
- Wetland No. (if regulated by DEC) \_\_\_\_\_

v. Are any of the above water bodies listed in the most recent compilation of NYS water quality-impaired waterbodies?  Yes  No

If yes, name of impaired water body/bodies and basis for listing as impaired: \_\_\_\_\_

i. Is the project site in a designated Floodway?  Yes  No

j. Is the project site in the 100-year Floodplain?  Yes  No

k. Is the project site in the 500-year Floodplain?  Yes  No

l. Is the project site located over, or immediately adjoining, a primary, principal or sole source aquifer?  Yes  No

If Yes:  
 i. Name of aquifer: \_\_\_\_\_

m. Identify the predominant wildlife species that occupy or use the project site:

deer \_\_\_\_\_ small animals (squirrels, rabbits, etc) \_\_\_\_\_ game birds (turkey, grouse, etc) \_\_\_\_\_

---

n. Does the project site contain a designated significant natural community?  Yes  No

Yes:

i. Describe the habitat/community (composition, function, and basis for designation): \_\_\_\_\_

ii. Source(s) of description or evaluation: \_\_\_\_\_

iii. Extent of community/habitat:

- Currently: \_\_\_\_\_ acres
- Following completion of project as proposed: \_\_\_\_\_ acres
- Gain or loss (indicate + or -): \_\_\_\_\_ acres

---

o. Does project site contain any species of plant or animal that is listed by the federal government or NYS as endangered or threatened, or does it contain any areas identified as habitat for an endangered or threatened species?  Yes  No

If Yes:

i. Species and listing (endangered or threatened): \_\_\_\_\_

---

p. Does the project site contain any species of plant or animal that is listed by NYS as rare, or as a species of special concern?  Yes  No

If Yes:

i. Species and listing: \_\_\_\_\_

---

q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing?  Yes  No

If yes, give a brief description of how the proposed action may affect that use: \_\_\_\_\_

The surrounding forested areas may support hunting and trapping. Mining noise will temporarily impact surrounding animals.

---

**3. Designated Public Resources On or Near Project Site**

a. Is the project site, or any portion of it, located in a designated agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304?  Yes  No

If Yes, provide county plus district name/number: \_\_\_\_\_

b. Are agricultural lands consisting of highly productive soils present?  Yes  No

i. If Yes: acreage(s) on project site? 2.3 ac

ii. Source(s) of soil rating(s): NRCS Web Soil Survey

c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark?  Yes  No

If Yes:

i. Nature of the natural landmark:  Biological Community  Geological Feature

ii. Provide brief description of landmark, including values behind designation and approximate size/extent: \_\_\_\_\_

---

d. Is the project site located in or does it adjoin a state listed Critical Environmental Area?  Yes  No

If Yes:

i. CEA name: \_\_\_\_\_

ii. Basis for designation: \_\_\_\_\_

iii. Designating agency and date: \_\_\_\_\_

e. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?  Yes  No

If Yes:

i. Nature of historic/archaeological resource:  Archaeological Site  Historic Building or District

ii. Name: \_\_\_\_\_

iii. Brief description of attributes on which listing is based: \_\_\_\_\_

---

f. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?  Yes  No

---

g. Have additional archaeological or historic site(s) or resources been identified on the project site?  Yes  No

If Yes:

i. Describe possible resource(s): \_\_\_\_\_

ii. Basis for identification: \_\_\_\_\_

---

h. Is the project site within five miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource?  Yes  No

If Yes:

i. Identify resource: \_\_\_\_\_

ii. Nature of, or basis for, designation (e.g., established highway overlook, state or local park, state historic trail or scenic byway, etc.): \_\_\_\_\_

iii. Distance between project and resource: \_\_\_\_\_ miles.

---

i. Is the project site located within a designated river corridor under the Wild, Scenic and Recreational Rivers Program 6 NYCRR 666?  Yes  No

If Yes:

i. Identify the name of the river and its designation: \_\_\_\_\_

ii. Is the activity consistent with development restrictions contained in 6NYCRR Part 666?  Yes  No

**F. Additional Information**

Attach any additional information which may be needed to clarify your project.

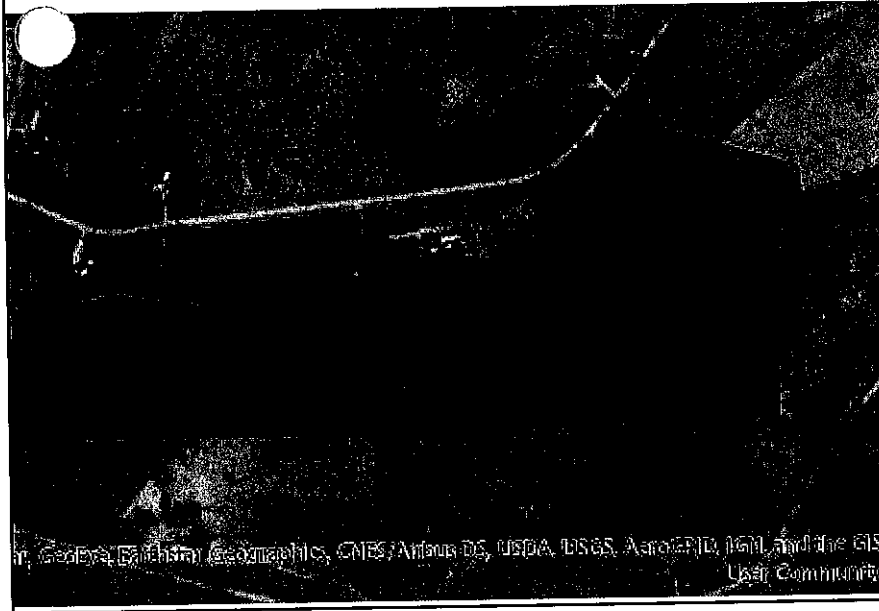
If you have identified any adverse impacts which could be associated with your proposal, please describe those impacts plus any measures which you propose to avoid or minimize them.

**G. Verification**

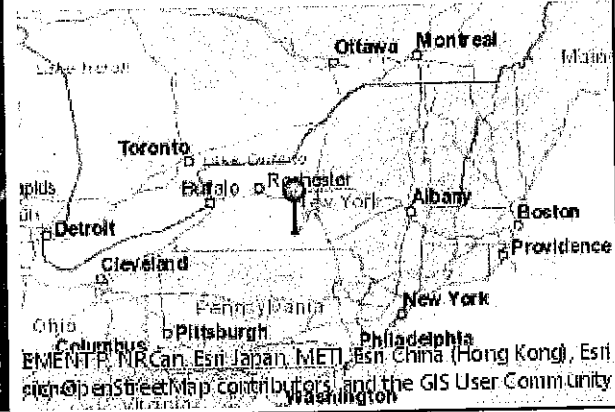
I certify that the information provided is true to the best of my knowledge.

Applicant/Sponsor Name Austin's Excavating & Paving, Inc. Date 02/25/22

Signature  Title Project Engineer  
 Timothy S Gourley, PE for Austin's Excavating & Paving, Inc.



**Disclaimer:** The EAF Mapper is a screening tool intended to assist project sponsors and reviewing agencies in preparing an environmental assessment form (EAF). Not all questions asked in the EAF are answered by the EAF Mapper. Additional information on any EAF question can be obtained by consulting the EAF Workbooks. Although the EAF Mapper provides the most up-to-date digital data available to DEC, you may also need to contact local or other data sources in order to obtain data not provided by the Mapper. Digital data is not a substitute for agency determinations.



B.1.i [Coastal or Waterfront Area]	No
B.1.ii [Local Waterfront Revitalization Area]	No
C.2.b. [Special Planning District]	Yes - Digital mapping data are not available for all Special Planning Districts. Refer to EAF Workbook.
D. [Special Planning District - Name]	NYS Major Basins: Upper Susquehanna
E.1.h [DEC Spills or Remediation Site - Potential Contamination History]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Listed]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Environmental Site Remediation Database]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.iii [Within 2,000' of DEC Remediation Site]	No
E.2.g [Unique Geologic Features]	No
E.2.h.i [Surface Water Features]	Yes
E.2.h.ii [Surface Water Features]	Yes
E.2.h.iii [Surface Water Features]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
E.2.h.iv [Surface Water Features - Stream Name]	810-29
E.2.h.iv [Surface Water Features - Stream Classification]	C
E.2.h.iv [Surface Water Features - Wetlands Name]	Federal Waters
E.2.h.v [Impaired Water Bodies]	No
F 2.i. [Floodway]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.

E.2.j. [100 Year Floodplain]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.2.k. [500 Year Floodplain]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.2.l. [Aquifers]	No
E.2.m. [Natural Communities]	No
E.2.n. [Endangered or Threatened Species]	No
E.2.o. [Rare Plants or Animals]	No
E.2.p. [Rare Plants or Animals]	No
E.3.a. [Agricultural District]	No
E.3.b. [National Natural Landmark]	No
E.3.c. [National Natural Landmark]	No
E.3.d. [Critical Environmental Area]	No
E.3.e. [National or State Register of Historic Places or State Eligible Sites]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.3.f. [Archeological Sites]	No
E.3.g. [Archeological Sites]	No
E.3.h. [Designated River Corridor]	No

# NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 8  
6274 East Avon-Lima Road, Avon, NY 14414-9516  
P: (585) 226-5400 | F: (585) 226-2830  
www.dec.ny.gov

April 18, 2022

Supervisor Dawn Schmidt  
Town of Erin  
1138 Breesport Rd  
Erin, NY 14838

Supervisor William Winkky  
Town of Veteran  
4049 Watkins Rd  
Millport, NY 14864

Re: Mitstifer Mine – New Mined Land Reclamation Permit  
Towns of Erin and Veteran, Chemung County  
DEC ID No. 8-0799-00027/00001 Mine File No. 80874

## SEQR LEAD AGENCY COORDINATION REQUEST

Dear Potential Involved or Interested Agency:

The Region 8 Office of the New York State Department of Environmental Conservation (the Department) has received an application for a new Mined Land Reclamation (MLR) permit for the Mistifer Mine, located at 303 and 368 Benjamin Rd in the Towns of Erin and Veteran.

The proposed mine would have a 29.7-acre Life of Mine (LOM) and a 10-acre Permit Term Area (PTA). Mining operations would include crushing and screening. Copies of the permit application, the State Environmental Quality Review Act (SEQR) Full Environmental Assessment Form (FEAF), and the SEQR Coordination Data Sheet are enclosed.

The purpose of this request is to determine under Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law (ECL) and 6 NYCRR Part 617 the following:

- Your jurisdiction in the action described in the enclosed permit application. According to the SEQR EAF provided, no local approvals required for the proposed action. The Department is seeking confirmation of this information or, if not confirmed, information on the local approval(s) that would be required;
- If you have a discretionary jurisdiction, your interest in assuming the responsibilities of SEQR Lead Agency; and
- Issues of concern which you believe should be evaluated in the SEQR review.

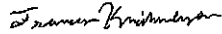
The Lead Agency must determine the need for an environmental impact statement (EIS) on this project. In accordance with our regulatory authority over mining, the Department intends to serve as Lead Agency for this project.

Please contact me **within 30 days** of the date of this letter with your agency's consent or objection to the DEC serving as the Lead Agency in the review of this proposal. If no response is received, we will assume you have no interest in being Lead Agency and the Department will serve as the Lead Agency.

Mistifer Mine – SEQR Lead Agency Coordination  
DEC ID No. 8-0799-00027/0000

Please feel free to contact me at (585) 226-5382 or [frances.knickmeyer@dec.ny.gov](mailto:frances.knickmeyer@dec.ny.gov) if you have any questions or need additional information.

Sincerely,



Digitally signed by  
Frances Knickmeyer  
Date: 2022.04.18  
09:26:10 -04'00'

Frances Knickmeyer  
Environmental Analyst

Enc: SEQR Coordination Data Sheet  
Mined Land Reclamation Application  
SEQR Long EAF

Ecc: D. Cedar, Town of Erin Planning Board (w/out attachments)  
K. Ripley, Town of Veteran Code Enforcement (w/out attachments)  
T. Gourley, Tract Engineering, PLLC (w/out attachments)  
S. Army, NYSDEC (w/out attachments)

Mistifer Mine – SEQR Lead Agency Coordination  
DEC ID No. 8-0799-00027/0000

**SEQR COORDINATION DATA SHEET**

**Project Name:** Mistifer Mine – Mined Land Reclamation Permit Modification

**Project Location:** 303 and 368 Benjamin Rd  
Towns of Erin and Veteran , Chemung County

**Project Description:**

The proposed mine would have a 29.7-acre Life of Mine (LOM) and a 10-acre Permit Term Area (PTA). Mining operations would include crushing and screening.

**DEC ID No.:** 8-0799-00027/00001

**DEC Permits:** Mined Land Reclamation

**SEQR Classification:** Type I

**DEC Contact Person:** Frances Knickmeyer  
NYSDEC Region 8  
6274 East Avon-Lima Road  
Avon, New York 14414  
(585) 226-5400  
[dep.r8@dec.ny.gov](mailto:dep.r8@dec.ny.gov)

**DEC Position:** In accordance with our regulatory authority over mining, DEC intends to serve as lead agency for this project.

**Comments:** We would appreciate input regarding any issues, concerns, or recommendations that your agency may have regarding the proposal. **Please respond no later than May 18, 2022.**

Frances Knickmeyer  
Environmental Analyst

**Full Environmental Assessment Form**  
**Part 3 - Evaluation of the Magnitude and Importance of Project Impacts**  
**and**  
**Determination of Significance**

Part 3 provides the reasons in support of the determination of significance. The lead agency must complete Part 3 for every question in Part 2 where the impact has been identified as potentially moderate to large or where there is a need to explain why a particular element of the proposed action will not, or may, result in a significant adverse environmental impact.

Based on the analysis in Part 3, the lead agency must decide whether to require an environmental impact statement to further assess the proposed action or whether available information is sufficient for the lead agency to conclude that the proposed action will not have a significant adverse environmental impact. By completing the certification on the next page, the lead agency can complete its determination of significance.

**Reasons Supporting This Determination:**

To complete this section:

- Identify the impact based on the Part 2 responses and describe its magnitude. Magnitude considers factors such as severity, size or extent of an impact.
- Assess the importance of the impact. Importance relates to the geographic scope, duration, probability of the impact occurring, number of people affected by the impact and any additional environmental consequences if the impact were to occur.
- The assessment should take into consideration any design element or project changes.
- Repeat this process for each Part 2 question where the impact has been identified as potentially moderate to large or where there is a need to explain why a particular element of the proposed action will not, or may, result in a significant adverse environmental impact.
- Provide the reason(s) why the impact may, or will not, result in a significant adverse environmental impact
- For Conditional Negative Declarations identify the specific condition(s) imposed that will modify the proposed action so that no significant adverse environmental impacts will result.
- Attach additional sheets, as needed.

Please see attachment.

**Determination of Significance - Type 1 and Unlisted Actions**

SEQR Status:  Type 1  Unlisted

Identify portions of EAF completed for this Project:  Part 1  Part 2  Part 3

Upon review of the information recorded on this EAF, as noted, plus this additional support information

considering both the magnitude and importance of each identified potential impact, it is the conclusion of the \_\_\_\_\_ as lead agency that:

A. This project will result in no significant adverse impacts on the environment, and, therefore, an environmental impact statement need not be prepared. Accordingly, this negative declaration is issued.

B. Although this project could have a significant adverse impact on the environment, that impact will be avoided or substantially mitigated because of the following conditions which will be required by the lead agency:

There will, therefore, be no significant adverse impacts from the project as conditioned, and, therefore, this conditioned negative declaration is issued. A conditioned negative declaration may be used only for UNLISTED actions (see 6 NYCRR 617.7(d)).

C. This Project may result in one or more significant adverse impacts on the environment, and an environmental impact statement must be prepared to further assess the impact(s) and possible mitigation and to explore alternatives to avoid or reduce those impacts. Accordingly, this positive declaration is issued.

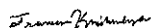
Name of Action: Mistifer Mine New Mined Land Reclamation Permit

Name of Lead Agency: NYSDEC

Name of Responsible Officer in Lead Agency: Frances Knickmeyer

Position of Responsible Officer: Environmental Analyst

Signature of Responsible Officer in Lead Agency:



Digitally signed by Frances Knickmeyer  
Date: 2023.07.14 11:51:02 -04'00'

Date: July 14, 2023

Signature of Preparer (if different from Responsible Officer)

Date:

**For Further Information:**

Contact Person: Frances Knickmeyer

Address: 6274 East Avon-Lima Rd, Avon, NY 14414

Telephone Number: 585-226-5382

E-mail: frances.knickmeyer@dec.ny.gov

**For Type 1 Actions and Conditioned Negative Declarations, a copy of this Notice is sent to:**

Chief Executive Officer of the political subdivision in which the action will be principally located (e.g., Town / City / Village of)

Other involved agencies (if any)

Applicant (if any)

Environmental Notice Bulletin: <http://www.dec.ny.gov/enb/enb.html>

# NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 8  
6274 East Avon-Lima Road, Avon, NY 14414-9516  
P: (585) 226-5400 | F: (585) 226-2830  
www.dec.ny.gov

## State Environmental Quality Review

### SEQR Full Environmental Assessment Form Part 3 - Evaluation of the Magnitude and Importance of Project Impacts (Continuation)

**Date:** July 14, 2023

**Project Number:** 8-0799-00027/00001

**Name of Action:** Mistifer Mine (Mine ID 80874)  
New Mined Land Reclamation Permit

**SEQR Status:** Type 1

**Preparer's Name:** Frances Knickmeyer, Environmental Analyst  
NYSDEC Division of Environmental Permits  
6274 East Avon-Lima Rd, Avon, NY 14414  
[Frances.knickmeyer@dec.ny.gov](mailto:Frances.knickmeyer@dec.ny.gov)  
585-226-5382

#### Reasons Supporting the SEQR Determination:

##### 1. Impact on Land

The proposed sand and gravel mine site is located in the Town of Erin and the Town of Veteran in Chemung County (tax parcels 31.00-1-5.111 and 31.00-1-1.11). The site is currently agricultural land and forest. The proposed mine would have a 31.2-acre Life of Mine (LOM) and a 12.6-acre Permit Term Area (PTA). All mining will be above the water table.

Approximately 60,000 tons of unconsolidated loam underlain by gravel will be removed from the mine annually, with an estimated life of mine of 20 years. The mining limit top of slope will be 1.25 times (minimum) the height of the cut. The area to be mined is primarily forested, however it does not appear to be of unique or notable character. Based on the proposed footprint, there will be no impacts to a nearby Freshwater Wetland or stream. There will be permanent alteration to the existing topography with the removal of sand and gravel as well as the final reclamation of the area. Approximately 23.1 acres of forested land will be converted to grassland after mining activities cease. Topsoil will be



Department of  
Environmental  
Conservation

stockpiled before mining activities begin and will be replaced as part of the reclamation. The erosion potential is low given the topography of the site and the final contours that are proposed. The DEC has determined there will be no significant adverse impacts to land resources resulting from this project.

## 2. Impacts on Surface Waters and Groundwater

There are no streams, regulated wetlands, or other water bodies located in the 31.2-acre LOM. Appropriate erosion controls and stockpile areas will be installed and maintained on-site.

Mining will occur above the water table. The mine floor will be at least 3 feet above the water table.

The mine will require SWPPP/MSGP coverage. Stormwater will be directed internally to the mine and surface water will not leave the site. Stormwater from adjacent lands and waterbodies will not be affected by the excavation, and stormwater generated on the project site will be contained and controlled within the mine, with no proposed discharge from the property.

The DEC has determined there will be no significant adverse impacts to nearby surface waters or groundwater are expected resulting from this project.

## 3. Impacts on Plants and Animals

There will be disruption and dislocation of common wildlife species and loss of existing habitat during mine operations and reclamation. This impact is unavoidable because of the human intrusion, equipment operation, and stripping of vegetation which are inherent to mining operations. After mining activities cease, the reclamation will include the creation 27.4 acres of grassland. Topsoil will be stockpiled before mining activities begin and will be replaced, where applicable, as part of the reclamation. The temporary and permanent losses of habitat are not necessarily significant or adverse impacts to common plant and animal species. Upon review, no threatened or endangered species will be impacted and the impacts to habitat are not considered to be significant.

The DEC has determined there will be no significant adverse impacts to plants and animals are expected resulting from this project.

## 4. Impacts on Agriculture

The new mine will have no off-site impacts on agricultural lands outside of the project area. No agricultural drainage features will be altered nor will access to other agricultural lands be affected.

The mine will result in the conversion of 4.3 acres previously used as agricultural land. Although the site is not located within a designated agricultural district as certified by Agriculture and Markets Law (Article 25), it does contain approximately 2.3 acres of highly productive soil.

23.1 acres of forested land will be converted to grassland, for a net loss of 23.1 acres of forested land.

Before mining operations begin, topsoil will be removed and stockpiled. Upon reclamation, the topsoil will be replaced, graded, and seeded, creating an additional 27.4 acres of grassland in the project area.

Based on the limited amount agricultural land to be affected and the fact that this land is not located within a designated agricultural district, no significant adverse impacts to agricultural lands are expected to result from this project.

#### 5. Impact on Historic and Archaeological Resources

The project site is not located within an area designated as sensitive for archaeological sites on the New York State Historic Preservation Office (SHPO) archaeological site inventory. On November 8, 2021, the Division for Historic Preservation of the Office of Parks, Recreation and Historic Preservation (OPRHP) determined that the project will not have an impact on archaeological or historic resources listed in or eligible for the New York State and national Registers of Historic Places. Based on this evaluation, the project will have no significant adverse impacts on cultural resources.

#### 6. Impact on Transportation

Mining operations will result in an increase in truck traffic on Benjamin Road from a single mine access road. Approximately 2 trucks per hour are expected while the mine is operating. Traffic will be generated randomly between 7:00 am and 8:00 pm Monday – Saturday. Based on the information provided, the increase in truck traffic is not expected to have a significant adverse impact to traffic on Benjamin Road or the surrounding area.

#### 7. Impact on Noise

The proposed mine site is located in a rural, residential area. As a new mine, this will be a new noise source for the area although the site has been used recently for active agriculture and previously contained a small gravel pit. There are 11 receptors in the vicinity; the closest receptor location (a house) is approximately 387 feet away from the nearest source. Based on the proposed equipment to be used on-site, the maximum sound pressure level from operations (without mitigation) attenuated by distance to the nearest receptors is

74 decibels (dBA). This calculation is based on the worst-case scenario in which all equipment is in operation simultaneously and no attenuation from noise barriers such as existing vegetation is factored in. The existing land use is rural agricultural, and the ambient noise level is estimated to be 52 dBA. The maximum future noise level at the receptors will be 74 dBA which is an increase of 22 dBA. According to the Department's guidance on Assessing and Mitigating Noise Impacts (DEP-00-1), a sound pressure level increase of 11 dB 'deserves consideration of avoidance and mitigation measures in most cases' and in non-industrial settings the addition of any noise sources should not raise the ambient noise level above a maximum of 65 dB.

Work will be limited to the following hours of operations: 7 am – 8 pm Monday – Saturday with no operations occurring on Sundays or major holidays.

The application proposes that noise levels will be mitigated with the installation of sidewalls and berms. The maximum mitigated noise level from typical mine operations will be 57 dBA.

With the mitigation proposed, no significant adverse noise impacts are expected to result from this project.

#### 8. Impact on Air

The majority of the proposed mine site is forested. The remainder of the proposed mine site is meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural). Nearby receptors include a few individual residential homes.

The proposed project's potential impacts on air quality and dust are related to site preparation, material excavation, aggregate processing operations, and truck traffic.

Air emissions from this facility will comply with all requirements of State and Federal law. Emission potentials to emit are not projected to exceed Title V thresholds and emission sources for this facility will be eligible for coverage under the Department's air facility registration process.

The proposed operation is a new mine. The majority of potential air and dust impacts are best mitigated through a combination of good operating practices and engineered control devices on equipment and on land. Dust will be minimized and controlled by controlling vehicle speeds, watering internal roadways, and using water to suppress dust at the processing facilities.

With the mitigation proposed, no significant adverse air impacts are expected to result from this project.

## 9. Consistency with Community Plans

Neither the Town of Erin nor the Town of Veteran sent comments or objections in response to the Department's April 18, 2022 request to be Lead Agency for the remainder of the SEQR process. The applicant indicated the proposed mine does not need special approvals from either town.

As a part of our completeness determination, the Department will reach back out to the Town of Erin and the Town of Veteran (the Towns). In accordance with Mined-land Reclamation Law (MLRL), the Towns will have 30 days to review and comment to the DEC on certain specific issues relating to this application and operation of the mine. For sites that have not yet been permitted by the DEC, the MLRL affords the Towns the opportunity to make determinations and notify the Department and applicant in regard to:

- Appropriate setbacks from property boundaries or public thoroughfare rights-of-way,
- Fabricated or natural barriers designed to restrict access if needed, and the type, length, height and location of the barriers,
- Dust control,
- Hours of operation, and
- Whether mining is prohibited at this location.

As it relates to other land use impacts, DEC finds that significant, long term adverse impacts are unlikely should this mine be developed as proposed and mining activities proceed under a valid mining permit. Land affected by surface mining in the production of saleable aggregate products, in compliance with the policies and regulations of the Mined Land Reclamation Law (MLRL) and consistent with the proposed reclamation objective will promote future beneficial uses for the land.

### Notes

This application review and significance determination is only for the proposed LOM and operations as described above. Any future modification which, in the judgement of DEC, results in a material change in the environmental conditions at the site, or in the scope of the permitted activity, or would require one or more material changes to any MLRL permit condition will be considered a new application and will be reviewed pursuant to all applicable regulations.

STATE OF NEW YORK

COUNTY OF CHEMUNG



TOWN OF VETERAN  
4049 WATKINS ROAD  
MILLPORT, NEW YORK 14864  
(607) 739-1476

Frances Knickmeyer  
Environmental Analyst  
Division of Environmental Permits, Region B  
6274 East Avon-Lima Road  
Avon, NY 14414-9516

September 1, 2023

Frances,

It was a pleasure to meet with you and your colleagues via the telephone conference with Attorney Groff and myself on August 24, 2023.

We understand that the MLRL supersedes all other state and local laws relating to the extractive mining industry in NYS. As we noted, the Town has enacted a Zoning Law determining permissible uses in the Residential-Agriculture Zoning District where the project site is located. Mineral extraction is a use which requires a conditional use permit from the Town Planning Board in this district. As such, we understand that the Town can impose conditions with any issued conditional use permit in the following limited areas which are superseded: ingress and egress to Benjamin Road (a Town of Veteran Road), setbacks, perimeter berms, dust control and hours of operation.

As your colleagues noted in our telephone conference, Section 9.3 of the Town Zoning Law provides for a setback of 100 ft with respect to mineral extraction activities. For DEC to recognize such a restriction your colleagues advised that the same would have to be of general applicability. Reading the Town law, that is admittedly not the case. However, Article 5 of the Zoning Law does provide Area and Bulk regulations with respect to all industrial uses which are therefore of "general applicability". The front, side and rear setbacks for an industrial use are 50 ft, 40 ft and 50 ft, respectively. The Town respectfully requests that DEC impose these Town setback limitations, rather than the proposed setbacks of 25 ft, in any approval it may grant relative to this application.

With respect to hours of operation, it seemed that DEC may approve the applicant's request of 7:00 a.m. to 8:00 p.m. Monday through Saturday. There are residential and non-commercial, non-industrial uses immediately adjacent to and in close proximity to the site. Such requested hours of operation would have a material and adverse impact on those uses. The Town requests that DEC establish hours of operation of 8:00 a.m. to 5:00 p.m. Monday through Friday and 9:00 a.m. to noon on Saturday, if it approves the application.

Given that Benjamin Road may not have a load capability consistent with the associated truck traffic of the operation, if the Town grants a conditional use permit it may be conditioned upon an acceptable road use agreement with the applicant together with a bond or other security.

Sincerely,

A handwritten signature in black ink, appearing to be "DL", written over a circular stamp.

David Lewis, Supervisor  
Town of Veteran, New York

STATE OF NEW YORK

COUNTY OF CHEMUNG



TOWN OF VETERAN  
4049 WATKINS ROAD  
MILLPORT, NEW YORK 14864  
(607) 739-1476

Frances Knickmeyer  
Environmental Analyst  
Division of Environmental Permits, Region B  
6274 East Avon-Lima Road  
Avon, NY 14414-9516

September 18, 2023

Frances,

Thank you for the opportunity to append some additional comments to our initial response from September 1, 2023. In the interim we have had the opportunity to hear from residents during a both a Planning Board meeting and a Town Board meeting. Both events were dominated by opposition to the project and concerns over the impact that this operation will have on surrounding properties from a perspective of noise, dust, road use, aquifer impact, and hours of operation.

The specific items that I would like call to your attention are related to site access, noise, water well depths, and area hazards. With respect to site access, the typical ingress and egress route will likely traverse one, or two, Chemung County maintained bridges within Town of Veteran. One of these bridges is currently posted with a 10-ton limit. I would advise the applicant of the potential impact regarding access to the site from the Town of Veteran. While I also understand that a noise study was performed in the complete application, I am not qualified to determine if the residential concerns regarding the type of noise was adequately investigated. Specifically, there is a concern regarding the higher frequency sound associated with the reverse warning beeping installed on construction equipment; no one desires an incessant sound as alarming and annoying as those devices while on their property. It was brought to our attention that there are several property owners in the area with shallow wells, some as shallow as 20 feet, according to their reports. They are concerned with the impact that this activity might have on their water supply. Finally, I believe that it is worth mentioning that there is a natural gas pipeline routed through the area. Residents are often reminded of risks associated with its presence by the pipeline operator. In reflection upon those notifications, the residents have a concern related to the impact of the mining operation and traffic on the pipeline.

Again, thank you for the extended opportunity to comment on behalf of the Town of Veteran and our residents.

Sincerely,

A handwritten signature in black ink, appearing to read "David Lewis".

David Lewis, Supervisor  
Town of Veteran, New York

# **MINED LAND-USE PLAN**

## **MITSTIFER MINE**

**TOWN OF ERIN & TOWN OF VETERAN  
CHEMUNG COUNTY, NEW YORK**

**PREPARED FOR:**

**AUSTIN'S EXCAVATING & PAVING, INC.  
121 TALMADGE HILL WEST  
WAVERLY, NY 14892  
607-565-4313**

**PREPARED BY:**

**TRACT ENGINEERING, PLLC**

**FEBRUARY 25, 2022  
REVISED DECEMBER 18, 2023**



12/18/23

**TRACT ENGINEERING, PLLC**  
120 Ridge Ave  
State College, Pennsylvania 16803  
P: 814-272-0301

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- Appendix B – Soils Map & Information
- Appendix C – OPRHP Clearance
- Appendix D – Erosion & Sediment Control
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- Mine Plan dated February 25, 2022, revised December 18, 2023
- Cross Sections dated February 25, 2022, revised April 22, 2022

# MINING PLAN

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## **A. Introduction**

Austin's Excavating and Paving, Inc. (Austin) proposes to develop a sand and gravel mine along Benjamin Road in the Town of Erin and the Town of Veteran, Chemung County. The Town of Erin and the Town of Veteran are zoned; mining is not prohibited at this location. An excerpt of the Erin, NY USGS quadrangle is provided in Appendix A.

Benjamin Road is situated north of the proposed mine. The Ultimate Life of Mine is 31.2± acres.

The New York Division for Historic Preservation of the Office of Parks, Recreation and Historic Preservation (OPRHP) determined on November 8, 2021 no properties, including archaeological and/or historic resources, listed in or eligible for New York State and National Registers of Historic Places will be impacted by this project (see Appendix C).

The Reclamation Plan (narrative & exhibit) details the reclamation methodology, final site grading, and final land use. The narrative and exhibit are separate from this report.

## **General Geographic Location**

The proposed mining operation will be 31.2 acres of the 92.4 contiguous acres owned by Austin Rentals, LLC. The proposed mine is located on portions of tax parcels 31.00-1-5.111 and 31.00-1-1.11. The parcel data was obtained from Chemung County GIS data accessed January 2022.

## **Physical Location**

The mine site is located south of Benjamin Road at the boundary of the Town of Erin and Town of Veteran, Chemung County, New York. The site is approximately 0.25 miles east of the intersection of Benjamin Road and East Sullivanville Road. The approximate center of the project site is 42° 14' 05.1", -76° 43' 39.6". Appendix A details the mine location.

## **Adjacent Land-use Features**

Adjacent land uses are as follows:

North:	private lands – forest & dwellings
South:	private lands – forest & dwellings
West:	private lands – agriculture field & dwellings
East:	private lands – agriculture field & dwellings

## Traffic

The proposed mining operation will increase traffic to Benjamin Road. As the mine develops, the estimated annual peak production will be approximately 60,000 tons per year. Table A-1 presents the estimated average truck traffic.

**Table A-1: Typical Operations of the proposed Mitstifer Mine**

Annual Production (tons)	60,000
Number of Working Months	12
Number of Working Weeks per Month	4
Number of Working Days per Week	6
Number of Working Days per Year	288
Number of Working Hours per Day	10
Typical Truck Payload (tons)	20
Trucks per year	3,000
Trucks per day (average)	11
Trucks per hour (average)	2

All mine traffic will utilize Benjamin Road. The distribution of truck will be a function of local demand. An estimated 75% of the traffic will go west from the operation to East Sullivanville Road.

## ***B. Existing Conditions of the Land***

### **Past Mining History**

The proposed mining permit area has been previously mined for sand and gravel. The extent of past mining is detailed on the Mining Plan Map.

### **Previous Land Use**

The previous land use of the site is agriculture and forest.

### **Vegetation**

A majority of the proposed mine permit area is forested.

The operation will extend to the east into the sloped forested area.

### **Topography**

The topography of the site is presented in the attached exhibits.

### **Drainage / Hydrology**

There are no defined drainage swales in the mine area. Overall drainage from the site is to the north and south. The extents of soil types and soil descriptions can be found in Appendix B.

The project area soils are listed in Table B-1. Soils information was acquired from the NRCS website ([websoilsurvey.nrcs.usda.gov](http://websoilsurvey.nrcs.usda.gov)) in March 2022.

Mineral extraction will be conducted to minimize earth disturbance. Proper scheduling of the mining activities will:

1. Reduce exposed disturbed soil area
2. Control erosion at the source
3. Eliminate upslope water from flowing across the work area
4. Stabilize disturbed areas by seeding and mulching as soon as possible to reduce the erosion and sedimentation impacts of the soil types that have a higher risk of erosion and surface water runoff

**Table B-1: Project Area Soils**

<b>Soil Map Unit Symbol</b>	<b>Map Unit Name</b>
MdB	Mardin channery silt loam, 2 to 8 percent slopes
MdC	Mardin channery silt loam, 8 to 15 percent slopes
VaB	Valois gravelly loam, 2 to 8 percent slopes
VaC	Valois gravelly loam, 8 to 15 percent slopes
VaD	Valois gravelly loam, 15 to 25 percent slopes
VaE	Valois gravelly loam, 25 to 40 percent slopes
VoB	Volusia channery silt loam, 2 to 8 percent slopes

The Valois gravelly loam (VaB) is a Prime Farmland Soil classified by the NRCS Web Soil Survey. All VaB topsoil will be stockpiled in perimeter berms and utilized for reclamation.

The proposed operation will not intercept the regional water table. The static water elevation in the Merrick water well (M1) is near the proposed pit floor elevation. Should groundwater be encountered in the pit floor, impacts to the Merrick well are not anticipated because the mining is located down gradient from the well and the depth of the well in the unconsolidated material is below final pit floor.

One (1) test pit was dug in the existing pit floor to examine the mineral reserve and presence of groundwater or bedrock. An excavator was utilized to dig the test pit fifteen (15') deep. The bottom of the test pit elevation was 1285'±. The material characteristics are suitable for a marketable material. No groundwater or bedrock was encountered. No borings were completed at the site.

Due to potential variations in the geologic composition of the mineral reserves, clay lenses may be encountered. The clay lenses may create a perched aquifer in the mining area. If water is encountered, it will most likely seep into the pit through the highwall face, be collected by a pit sump, and then infiltrated into the pit floor. No special water handling shall be required (i.e. the pit sump will not be pumped).

NWI wetlands are located to the southeast of the mining area and are shown on the exhibits. The wetland is southeast of the mining operation and will not be impacted by the mining operation.

The mining plan cross sections detail the mining area.

**Man-made Features**

There are no buildings within the proposed mining area.

No utilities are present within the mining area.

## **C. Description of Mineral & Mining Method**

### **Name of Deposit**

The target mineral resource present at the proposed Mitstifer Mine site is a moraine-type deposit of unconsolidated ice contact sand and gravel comprised primarily of sedimentary lithologies. The sand and gravel unit was deposited beneath and/or adjacent to glacial ice during the Pleistocene Epoch which ended approximately 12,000 years before present. The mine site is mapped as glacial till on the Finger Lakes Surficial Geologic Map of New York (Rickard, L.V. and Fisher, D.W. 1970). Bedrock uplands surrounding the project site are comprised of Devonian sandstone, siltstone and shale.

Rickard, LV and Fisher DW., 1970 Finger Lakes Sheet in *Surficial Geologic Map of New York*; *New York State Museum*. New York State Museum Map and Chart Series, The University of the State of New York, Albany, New York.

### **Name of Material**

The mineral proposed for mining is unconsolidated gravelly loam underlain by sand and gravel of glacial origin. Sand and gravel composition is mainly locally derived sandstone, siltstone and shale originating from bedrock units present in the vicinity. Its end-use is typically for applications of general construction where a granular material that transmits water well and is somewhat compactable is required. Examples where sand and gravel are commonly used is in the construction of septic drain fields, road sub-base, aggregates and foundation back fill, among many others. There are literally hundreds of examples in construction where sand and gravel is the primary material of choice because of its desirable physical properties.

### **Mining Operation**

The mine will surface mine unconsolidated material from above the regional water table.

No impacts are anticipated to Buckley Creek and Jackson Creek and the wetland along Jackson Creek.

No impacts are anticipated to any endangered or threatened species.

### **Mining Method**

Erosion and sedimentation controls will be installed prior to the commencement of mining. These controls include: perimeter berms, pit sumps, sediment traps and ancillary features, ditches, and outlet protection measures as detailed in the application.

The topsoil will be stripped ahead of mining and stored along the perimeter of the mining area. Stockpiles will be seeded and mulched. These soil storage areas will be in place to ensure that the site can be revegetated for the proposed post mining landuse. The estimated depth of topsoil (A Horizon) for the site is four (4") inches to eight (8") inches. An average topsoil depth of six (6") inches over the site disturbed area (27.6 acres) results in approximately 22,250 CY of topsoil. The A Horizon will be stockpiled at the perimeter of the site or utilized for concurrent reclamation. The prime farmland soils at the eastern portion of the site will be stockpiled where noted on the Mining Plan Map.

The topsoil stockpiled in the perimeter berms will be utilized for final reclamation. B & C Horizon materials may also be incorporated into the topsoil for site reclamation. The topsoil replacement depth will be four (4") to six (6") inches. Excess topsoil not need for final reclamation will be stockpiled in the mining area to be processed for resale.

The topsoil berms and overburden berms will also act as a containment system to keep any sediment laden runoff from leaving the site and upslope runoff from entering the site. Once vegetation has become established on the soil storage berms, the operation will be virtually self-contained so that under normal climatic conditions there will be no runoff leaving the site.

Mining will be conducted by general excavation in accordance with highwall height (25' typ, 35' max) recommendations. Intermediate benches will be created to facilitate mineral extraction or provide access to the mining pit floor. Onsite processing activities may include crushing and screening to a marketable product.

Equipment to be used during the mining activities include: dozers, loaders, excavators, trucks, and other processing equipment such as crushers, screens, and stackers. Air quality permits shall be obtained for processing equipment used at the site as required by NY DEC. An Air Facility Registration shall be obtained for processing equipment with a throughput capacity of 150 tons per hour or greater.

Security lighting will be installed in the vicinity of the scales and scale house as well as equipment storage areas. All lighting will be oriented to minimize glare to neighboring properties.

The life of the mine is a function of market demand. The estimated life of mine to is approximately 20 years.

### **Mining Sequence**

Mining will be limited to "AREAS TO BE AFFECTED THIS TERM" as detailed on the Mining Plan Map exhibit. The initial mining operation will start at the west side of the permit area and advance to the east.

#### Construction Sequence:

1. Topsoil and overburden will be stripped and stockpiled in perimeter berms for the mineral extraction area and mining support area.
2. All berms, screening and containment, within the "Area to be Affected this Term" shall be constructed upon permit authorization.
3. Install E&S controls: rock dam, silt fence, and pit sumps.
4. Mineral extraction will begin at the west side of the reserves and advance east.
5. Pit sumps and/or sediment traps will be installed to control runoff.
6. The driveway, scales, and scale house will be constructed along the access road.

Additional erosion and sediment controls will be utilized as additional areas are affected or as site conditions warrant. Sediment traps may be installed as part of the future mining operation. E&S controls will be utilized in accordance with the New York State Standards and Specifications for Erosion and Sediment Control, November 2016.

Concurrent reclamation will be ongoing throughout the life of the operation as long as it does not interfere with mineral extraction.

#### **Grading, Setbacks, & Mine Floor**

Existing topography within the mining area will be utilized to the greatest extent possible to promote the function of erosion and sediment controls and limit stormwater runoff from leaving the site. All stormwater within the mining area will be collected and infiltrated within the mining area sumps and sediment traps.

The mining limit top of slope will be 1.5 times (minimum) the height of the cut. Refer to mining plan and cross sections for additional details

Refer to the Reclamation Plan for information on reclamation slopes.

The proposed final mine floor elevation will be 1285'± at the west end of the operation and gradually slope upward to 1290'± at the east end of the operation.

#### **Processing**

Crushers, screens, and stackers may be utilized at the site to process material to a useable end product to meeting market demands. Air quality permits will be obtained to operate the processing equipment as required by NY DEC.

No material washing is proposed at the site. Processing equipment shall utilize water for dust suppression. Approximately 10,000 gallons per day of water will be used for dust suppression.

### **Haulage Ways**

The site will be accessed from Benjamin Road. The access road will have a stabilized aggregate surface. A scale and a scale house will be constructed near the entrance driveway. Haul roads will be utilized to access the stockpile and mineral extraction areas.

### **Disposition of Stockpiles & Waste Materials**

Overburden and waste materials from onsite material operations and processing will be stockpiled onsite to be utilized for site reclamation.

Product stockpiles will be located throughout the mining area to meet market demands.

## ***D. Pollution Control & Prevention of Environmental Damage***

### **Air Pollution**

Minor dust will be created by the mine operation. Vehicle speeds will be controlled to minimize dust. During dry periods, internal roadways may be watered to control dust. The processing facilities will utilize water to suppress dust.

A well will be drilled to supply water for dust control. The pump utilized will be selected at the time of installation based upon final well depth, potential yield, and static water elevation. The maximum water withdrawal from the well in a 24-hour period will be 100,000 gallons. The maximum pumping rate for the system will be 69 gallons per minute to not exceed the maximum water withdrawal limit of 100,000 gallons per day. The proposed rated capacity of the pump will be 15 gallons per minute.

$$15 \text{ gpm} \times 24 \text{ hours} = 21,600 < 100,000 \text{ gallons per day}$$

### **Noise Pollution**

Noise impacts to the surrounding properties will be minimal due to the rural location of the operation. The operator will implement noise mitigation efforts to minimize impacts to adjacent properties. All mining equipment and trucks will have mufflers to reduce engine noise. The perimeter berms will be constructed to serve as a physical barrier to adjacent properties.

Operations in unconfined areas will be minimized to the extent possible. Noise will be controlled by the method of operations and the implementation of a berm around the site. Equipment used for the removal and transport of raw materials to the processing facility will be maintained in ways to reduce noise generation (ie mufflers). Excessive engine revving will be minimized, especially in areas of initial mineral recovery where the topography may be elevated above adjacent natural ground and sound is more likely to migrate outward from operations. The mining area will begin to self-absorb sound as mineral removal will create perimeter walls. Once the pit is established and the majority of pit area will be below the natural ground or behind berms, machinery noise generated within these areas will be absorbed by the pit area itself and the berm around the working areas.

The processing equipment will be maintained to minimize unnecessary noise levels (ie loose belts, plates, screens). The processing facilities will relocate throughout the site to be near the mineral extraction area.

Because of the rural nature of the area and the remote location of the site, the noise pollution for this site will be very minimal. Additionally, hours of operation

will be generally during daylight hours. The operation may work nights as circumstances warrant.

The following measures will mitigate noise pollution:

1. Operation hours will be limited to daylight hours: 7 am to 5 pm Monday – Friday & 7 am to 12 pm Saturdays\*
2. Scale House operation hours will be limited to daylight hours: 7 am to 4pm Monday – Friday & 7 am to 12 pm Saturdays\*
3. No work on Sundays, New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas\*
4. Mufflers on all engines
5. Perimeter berms
6. Speed limit of 10 MPH for all vehicles.

*\* hours of operation may be modified during emergency conditions*

Refer to Appendix E for the noise evaluation report. The report was developed in accordance with DEC program policy DEP-00-1. Mitigation measures are identified for the operation to meet the DEP-00-1 requirements.

The proposed operation will minimize impacts to Merrick parcel (lot 31.00-1-1.12) by implementing the aforementioned measures.

### **Water Pollution**

All stormwater runoff will be controlled in the mine site. Perimeter berms will control runoff in the mine operation. The stormwater will be collected in sumps, sediment traps, and/or rock dams to infiltrate into the unconsolidated subsurface; no pumping of the pit sumps is proposed. Sumps and sediment traps shall be cleaned on an annual basis.

Rock dams and sediment traps shall be sized in accordance with the New York State Standards and Specifications for Erosion and Sediment Control, November 2016. Applicable sections are provided in Appendix D.

### **Visual Pollution**

The topsoil and/or overburden berms will be constructed along perimeter of the operation to serve as a physical barrier to adjacent properties.

## **Petroleum Spill Prevention Plan**

Fuel will be stored onsite in a 1,000 gallon tank with secondary containment. No petroleum storage tanks with a capacity of 1,100 gallons or greater will be utilized unless such tanks meet the Petroleum Bulk Storage registration requirements. In the event of a fuel spill, the spill will be immediately contained and the situation evaluated to determine the course of action. Typical response will be to utilize spill absorbents to contain and clean up the spill.

A petroleum spill kit with absorbents (pads, speedi-dry, etc.) and other essential equipment shall be kept and maintained at the site.

**Table D-1: Spill Response Equipment**

<b>Material</b>	<b>Storage Location</b>
First Aid Kit	Shed / Storage Trailer
Gloves	Shed / Storage Trailer
Safety Goggles	Shed / Storage Trailer
Absorbent Pads	Shed / Storage Trailer
Oil Dry	Shed / Storage Trailer
Buckets	Shed / Storage Trailer
Shovels	Shed / Storage Trailer
Fire Extinguisher	Shed / Storage Trailer

***E. Map***

Included with this narrative is the Mined Land-Use Plan and Cross Sections.

APPENDIX A

Project Location Map

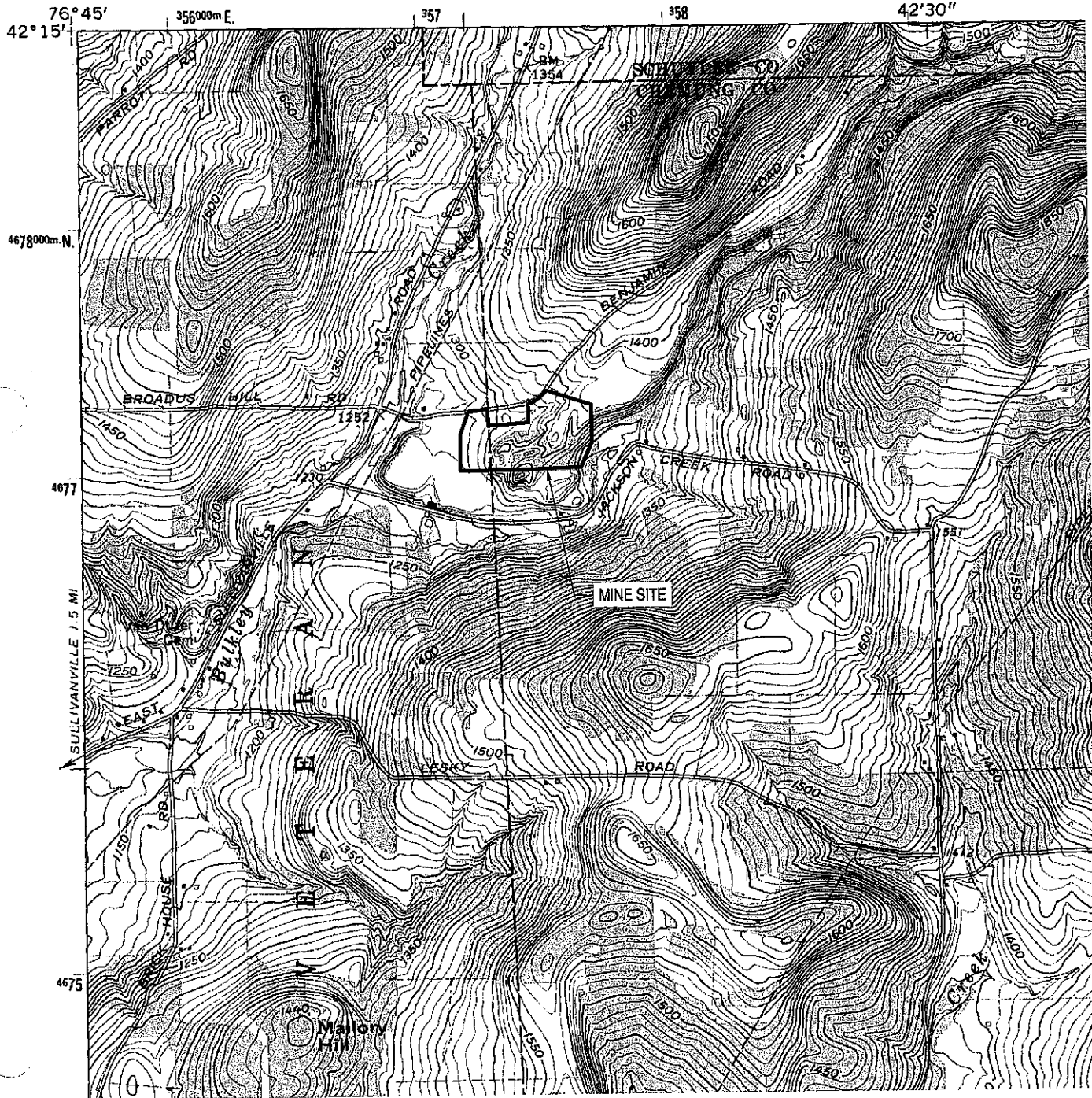
Erin Quadrangle

Project Location: up & over from bottom right corner  
 13.9" up & 13.9" over



UNITED STATES  
 DEPARTMENT OF THE INTERIOR  
 GEOLOGICAL SURVEY

5688 IV SE  
 FOUR FALLS



Date: 02/28/22  
 Rev No: 1  
 Sheet No:  
**1** of 1

PROJECT: **Mistifer Mine**  
 Austin's Excavating & Paving, Inc.  
 Town of Erin & Town of Veteran, Chemung County, New York

TITLE: **USGS Location Map**  
 Erin NY

**TRACT ENGINEERING, PLLC**  
 120 Ridge Avenue  
 State College, PA 16803  
 814 272 0301  
 www.TractLLC.com

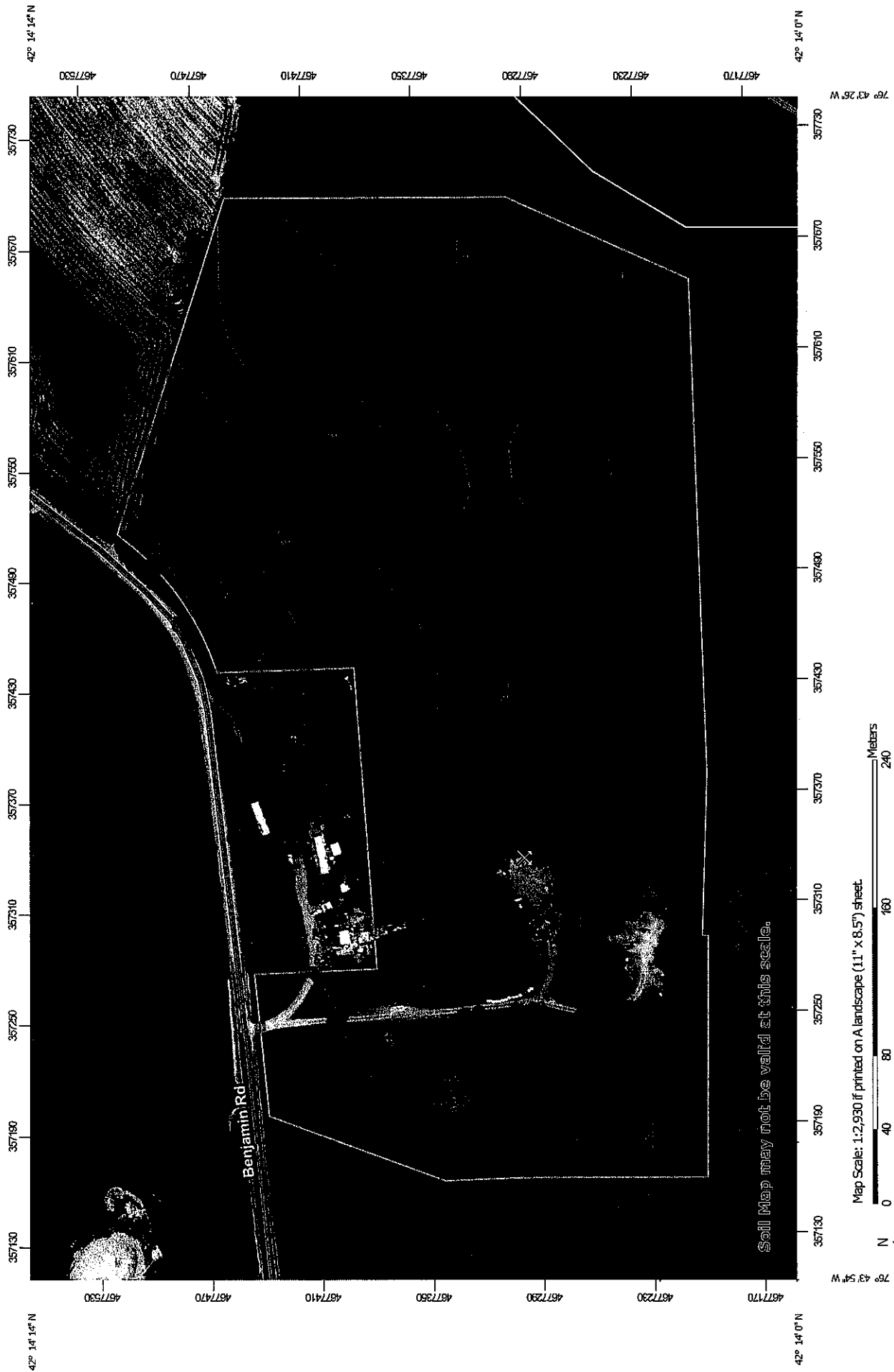
PROJECT NO.: 21-1027  
 DRAWING NO.: Mistifer  
 DRAWN BY: tsg  
 CHECK BY: TSG  
 03/1/22

REV.	DATE	BY	COMMENT
1	03/1/22	tsg	DEC COMMENTS 03/15/22

Appendix B

Project Soils Map & Information

Soil Map—Chemung County, New York  
(Mistifite, wine)



Soil Map may not be valid at this scale.

Map Scale: 1:2,930 if printed on A landscape (11" x 8.5") sheet.



Map projection: Web Mercator Corner coordinates: WGS84 Edge ticks: UTM Zone 18N WGS84



Natural Resources  
Conservation Service

Web Soil Survey  
National Cooperative Soil Survey

## MAP LEGEND

- Area of Interest (AOI)
  - Area of Interest (AOI)
  - Soils
  - Soil Map Unit Polygons
  - Soil Map Unit Lines
  - Soil Map Unit Points
- Special Point Features
  - Blowout
  - Borrow Pit
  - Clay Spot
  - Closed Depression
  - Gravel Pit
  - Gravelly Spot
  - Landfill
  - Lava Flow
  - Marsh or swamp
  - Mine or Quarry
  - Miscellaneous Water
  - Perennial Water
  - Rock Outcrop
  - Saline Spot
  - Sandy Spot
  - Severely Eroded Spot
  - Sinkhole
  - Slide or Slip
  - Sodic Spot
- Water Features
  - Streams and Canals
- Transportation
  - Rails
  - Interstate Highways
  - US Routes
  - Major Roads
  - Local Roads
- Background
  - Aerial Photography
- Other
  - Spoil Area
  - Stony Spot
  - Very Stony Spot
  - Wet Spot
  - Other
- Special Line Features

## MAP INFORMATION

The soil surveys that comprise your AOI were mapped at 1:20,000.

**Warning:** Soil Map may not be valid at this scale. Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service  
Web Soil Survey URL:  
Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Chemung County, New York  
Survey Area Data: Version 19, Aug 29, 2021

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Apr 1, 2020—Oct 1, 2020

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

## Map Unit Legend

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
MdB	Mardin channery silt loam, 2 to 8 percent slopes	2.2	7.0%
MdC	Mardin channery silt loam, 8 to 15 percent slopes	0.1	0.4%
VaB	Valois gravelly loam, 2 to 8 percent slopes	2.3	7.4%
VaC	Valois gravelly loam, 8 to 15 percent slopes	18.4	59.0%
VaD	Valois gravelly loam, 15 to 25 percent slopes	2.7	8.7%
VaE	Valois gravelly loam, 25 to 40 percent slopes	2.3	7.4%
VoB	Volusia channery silt loam, 2 to 8 percent slopes	3.1	10.0%
<b>Totals for Area of Interest</b>		<b>31.2</b>	<b>100.0%</b>

Appendix C  
OPRHP Clearance



**Parks, Recreation,  
and Historic Preservation**

**GHY HOCHUL**  
Governor

**ERIK KULLESEID**  
Commissioner

November 08, 2021

Tim Gourley  
Tract Engineering, PLLC  
120 Ridge Avenue  
State College, PA 16803

Re: DEC  
Mitstifer Pit Mine Expansion  
Benjamin Road, Towns of Erin and Veteran, NY  
21PR07412

Dear Tim Gourley:

Thank you for requesting the comments of the Office of Parks, Recreation and Historic Preservation (OPRHP). We have reviewed the project in accordance with the New York State Historic Preservation Act of 1980 (Section 14.09 of the New York Parks, Recreation and Historic Preservation Law). These comments are those of the OPRHP and relate only to Historic/Cultural resources. They do not include potential environmental impacts to New York State Parkland that may be involved in or near your project. Such impacts must be considered as part of the environmental review of the project pursuant to the State Environmental Quality Review Act (New York Environmental Conservation Law Article 8) and its implementing regulations (6 NYCRR Part 617).

Based upon this review, it is the opinion of OPRHP that no properties, including archaeological and/or historic resources, listed in or eligible for the New York State and National Registers of Historic Places will be impacted by this project.

If further correspondence is required regarding this project, please be sure to refer to the OPRHP Project Review (PR) number noted above.

Sincerely,

R. Daniel Mackay

Deputy Commissioner for Historic Preservation  
Division for Historic Preservation

## Appendix D Erosion & Sediment Control

PAGE

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Perimeter Dike/Swale	3.35
Buffer Filter Strip	5.03
Compost Filter Sock	5.07
Rock Dam	5.17
Sediment Trap	5.46
Silt Fence	5.54
Straw Bale Dike	5.63

# STANDARD AND SPECIFICATIONS FOR PERIMETER DIKE/SWALE



## Definition & Scope

A **temporary** ridge of soil formed by excavating an adjoining swale located along the perimeter of the site or disturbed area. Its purpose is to prevent off site storm runoff from entering a disturbed area and to prevent sediment laden storm runoff from leaving the construction site or disturbed area.

## Conditions Where Practice Applies

Perimeter dike/swale is constructed to divert flows from entering a disturbed area, or along tops of slopes to prevent flows from eroding the slope, or along base of slopes to direct sediment laden flows to a trapping device.

The perimeter dike/swale shall remain in place until the disturbed areas are permanently stabilized.

## Design Criteria

See Figure 3.14 on page 3.36 for details.

The perimeter dike/swale shall not be constructed outside property lines or setbacks without obtaining legal easements from affected adjacent property owners. A design is not required for perimeter dike/swale. The following criteria shall be used:

Drainage area – Less than 2 acres (for drainage areas larger than 2 acres but less than 10 acres, see earth dike or construction ditch; for drainage areas larger than 10 acres, see standard and specifications for diversion).

Height – 18 inches minimum from bottom of swale to top of dike evenly divided between dike height and swale depth.

Bottom width of dike – 2 feet minimum.

Width of swale – 2 feet minimum.

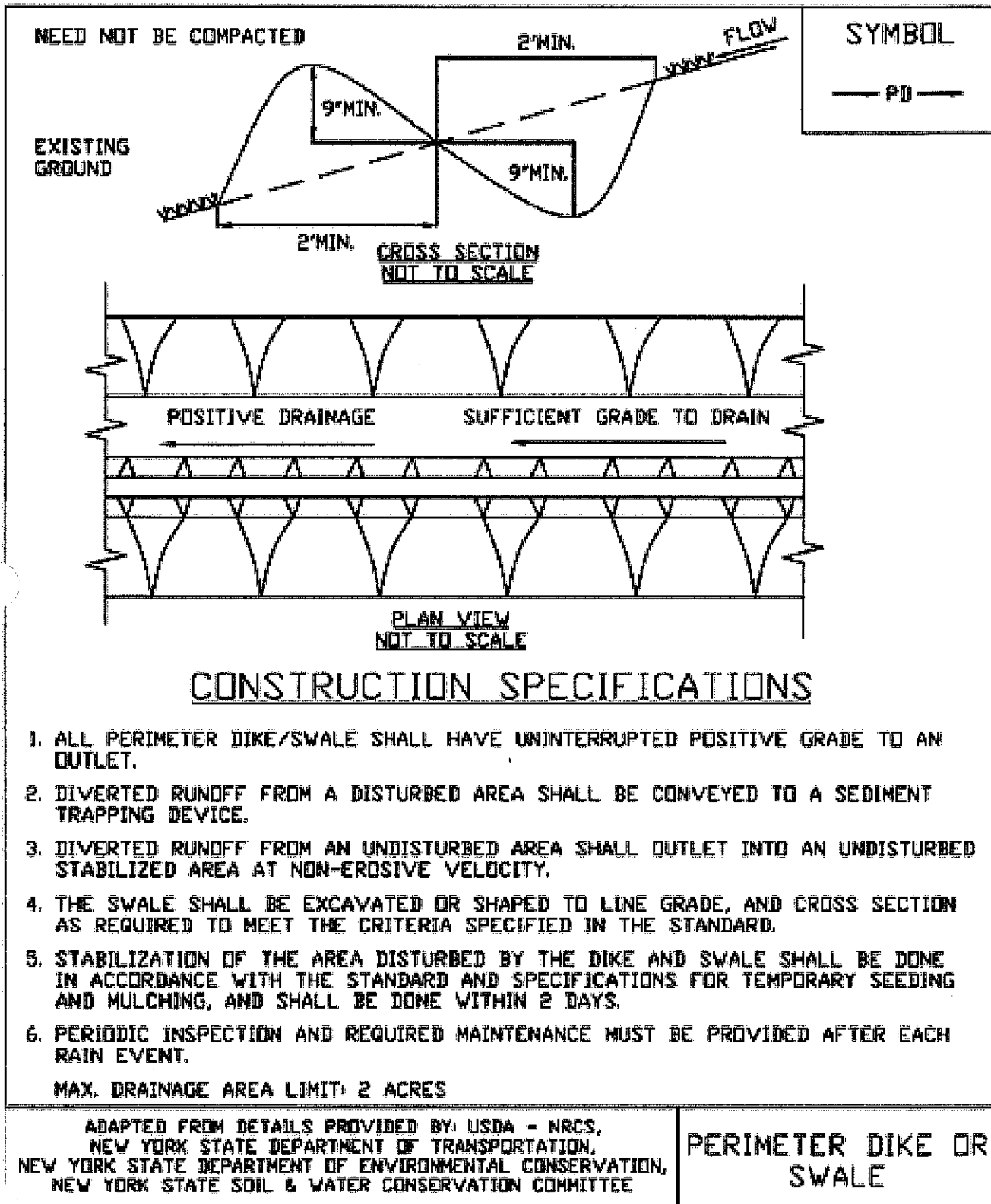
Grade – Dependent upon topography, but shall have positive drainage (sufficient grade to drain) to an adequate outlet. Maximum allowable grade not to exceed 8 percent.

Stabilization – The disturbed area of the dike and swale shall be stabilized within 2 days of installation, in accordance with the standard and specifications for construction ditch (page 3.4).

## Outlet

1. Perimeter dike/swale shall have a stabilized outlet.
2. Diverted runoff from a protected or stabilized upland area shall outlet directly onto an undisturbed stabilized area.
3. Diverted runoff from a disturbed or exposed upland area shall be conveyed to a sediment trapping device such as a sediment trap, sediment basin, or to an area protected by any of these practices.
4. The on-site location may need to be adjusted to meet field conditions in order to utilize the most suitable outlet.

**Figure 3.14  
Perimeter Dike/Swale Detail**



# STANDARD AND SPECIFICATIONS FOR BUFFER FILTER STRIP



Land Slope (%)	Minimum Filter Strip Width (ft.)
≤10	50
20	60
30	85
40	105
50	125
60	145
70	165

## Definition & Scope

A **temporary/permanent** well vegetated grassed area below a disturbed area that can be used to remove sediment from runoff prior to it reaching surface waters or other designated areas of concern, such as parking lots and road pavement.

## Condition Where Practice Applies

This practice is effective when the flow is in the form of sheet flow and the vegetative cover is established prior to disturbance. Surface water must be protected from sediment-laden runoff until buffer filter strip vegetation is established, and then the proposed disturbance can be undertaken. This practice is effective when the flow is in the form of sheet flow (maximum of 150 feet).

## Design Criteria

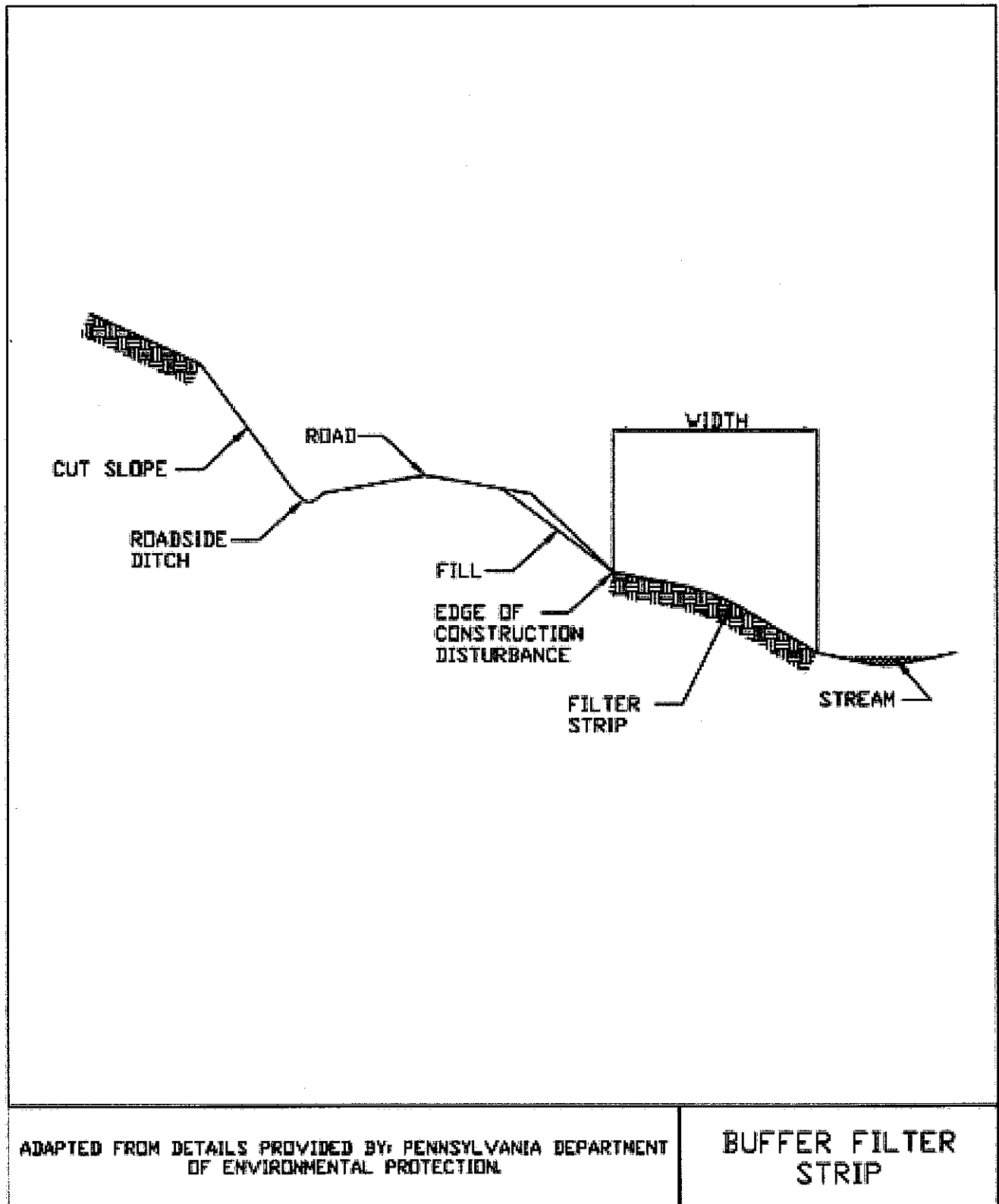
1. The vegetation should be a well established perennial grass. Wooded and brushy areas are not acceptable for purposes of sediment removal.
2. The minimum buffer filter strip width for stream protection shall be in accordance with the following table:

3. The minimum buffer filter strip width to protect paved areas during construction is 20 feet.

## Maintenance

If at any time the width of the buffer filter strip has been reduced by sediment deposition to half its original width or concentrated flow has developed, suitable additional practices should be installed. The erosion and sediment control plan shall include these details.

**Figure 5.1**  
**Buffer Filter Strip**



# STANDARD AND SPECIFICATIONS FOR COMPOST FILTER SOCK



## Definition & Scope

A **temporary** sediment control practice composed of a degradable geotextile mesh tube filled with compost filter media to filter sediment and other pollutants associated with construction activity to prevent their migration offsite.

## Condition Where Practice Applies

Compost filter socks can be used in many construction site applications where erosion will occur in the form of sheet erosion and there is no concentration of water flowing to the sock. In areas with steep slopes and/or rocky terrain, soil conditions must be such that good continuous contact between the sock and the soil is maintained throughout its length. For use on impervious surfaces such as road pavement or parking areas, proper anchorage must be provided to prevent shifting of the sock or separation of the contact between the sock and the pavement. Compost filter socks are utilized both at the site perimeter as well as within the construction areas. These socks may be filled after placement by blowing compost into the tube pneumatically, or filled at a staging location and moved into its designed location.

## Design Criteria

1. Compost filter socks will be placed on the contour with both terminal ends of the sock extended 8 feet upslope at a 45 degree angle to prevent bypass flow.

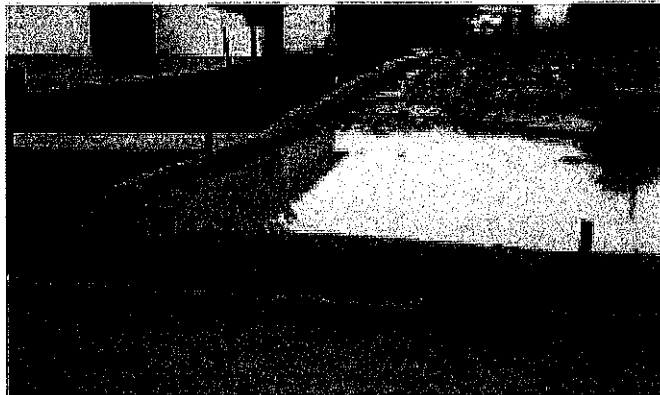
Diameters designed for use shall be 12" – 32" except

that 8" diameter socks may be used for residential lots to control areas less than 0.25 acres.

3. The flat dimension of the sock shall be at least 1.5 times the nominal diameter.
4. The **Maximum Slope Length** (in feet) above a compost filter sock shall not exceed the following limits:

Dia. (in.)	Slope %						
	2	5	10	20	25	33	50
8	225*	200	100	50	20	—	—
12	250	225	125	65	50	40	25
18	275	250	150	70	55	45	30
24	350	275	200	130	100	60	35
32	450	325	275	150	120	75	50

\* Length in feet



5. The compost infill shall be well decomposed (matured at least 3 months), weed-free, organic matter. It shall be aerobically composted, possess no objectionable odors, and contain less than 1%, by dry weight, of man-made foreign matter. The physical parameters of the compost shall meet the standards listed in Table 5.2 - Compost Standards Table. **Note: All biosolids compost produced in New York State (or approved for importation) must meet NYS DEC's 6 NYCRR Part 360 (Solid Waste Management Facilities) requirements. The Part 360 requirements are equal to or more stringent than 40 CFR Part 503 which ensure safe standards for pathogen reduction and heavy metals content. When using compost filter socks adjacent to surface water, the compost should have a low nutrient value.**
6. The compost filter sock fabric material shall meet the

7. Compost filter socks shall be anchored in earth with 2" x 2" wooden stakes driven 12" into the soil on 10 foot centers on the centerline of the sock. On uneven terrain, effective ground contact can be enhanced by the placement of a fillet of filter media on the disturbed area side of the compost sock.
8. All specific construction details and material specifications shall appear on the erosion and sediment control constructions drawings when compost filter socks are included in the plan.
3. Socks shall be inspected weekly and after each runoff event. Damaged socks shall be repaired in the manner required by the manufacturer or replaced within 24 hours of inspection notification.
4. Biodegradable filter socks shall be replaced after 6 months; photodegradable filter socks after 1 year. Polypropylene socks shall be replaced according to the manufacturer's recommendations.
5. Upon stabilization of the area contributory to the sock, stakes shall be removed. The sock may be left in place and vegetated or removed in accordance with the stabilization plan. For removal the mesh can be cut and the compost spread as an additional mulch to act as a soil supplement.

**Maintenance**

1. Traffic shall not be permitted to cross filter socks.
2. Accumulated sediment shall be removed when it reaches half the above ground height of the sock and disposed of in accordance with the plan.

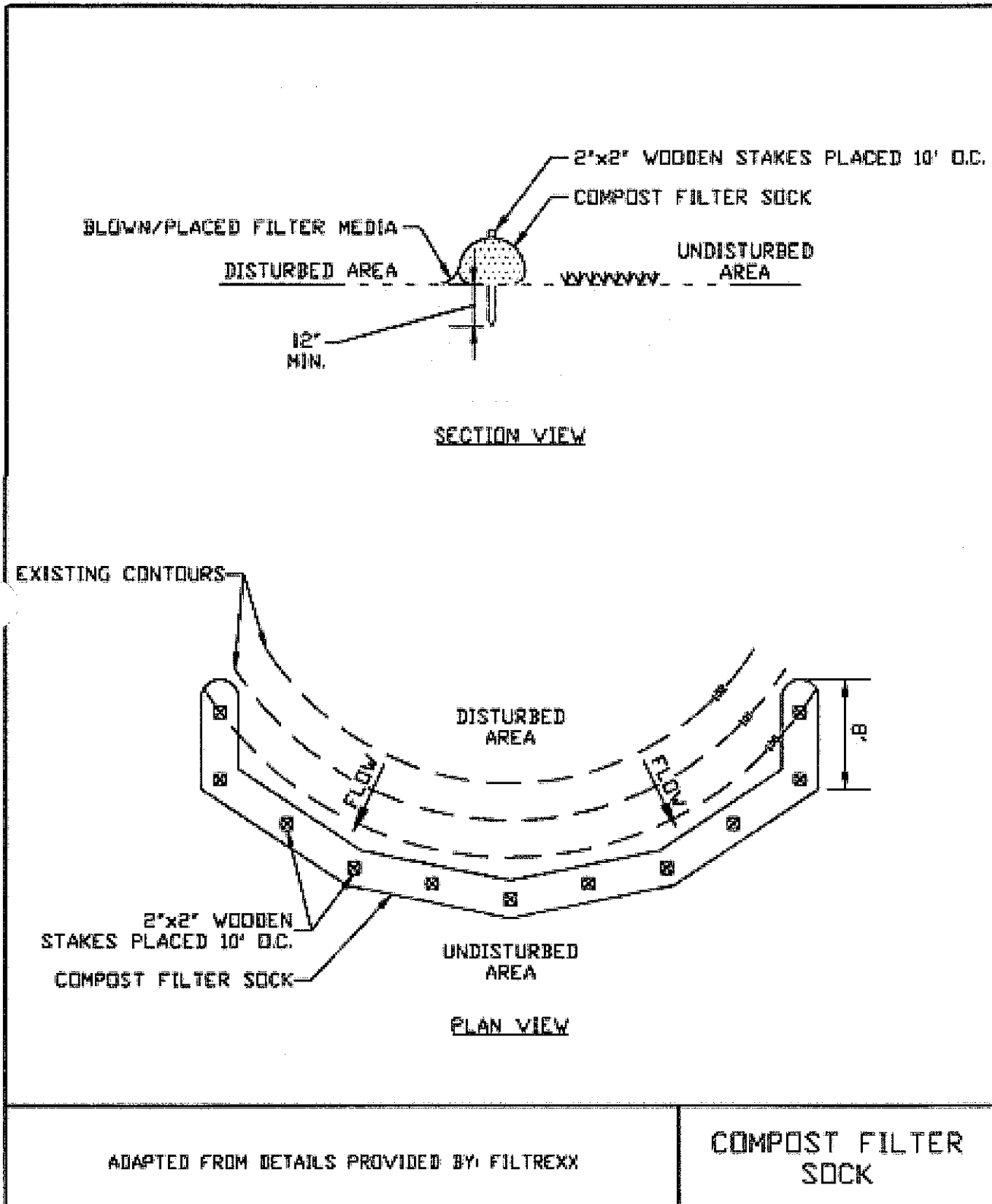
**Table 5.1 - Compost Sock Fabric Minimum Specifications Table**

Material Type	3 mil HDPE	5 mil HDPE	5 mil HDPE	Multi-Filament Polypropylene (MFPP)	Heavy Duty Multi-Filament Polypropylene (HDMFPP)
Material Characteristics	Photodegradable	Photodegradable	Biodegradable	Photodegradable	Photodegradable
Sock Diameters	12" 18"	12" 18" 24" 32"	12" 18" 24" 32"	12" 18" 24" 32"	12" 18" 24" 32"
Mesh Opening	3/8"	3/8"	3/8"	3/8"	1/8"
Tensile Strength		26 psi	26 psi	44 psi	202 psi
Ultraviolet Stability % Original Strength (ASTM G-155)	23% at 1000 hr.	23% at 1000 hr.		100% at 1000 hr.	100% at 1000 hr.
Minimum Functional Longevity	6 months	9 months	6 months	1 year	2 years

**Table 5.2 - Compost Standards Table**

Organic matter content	25% - 100% (dry weight)
Organic portion	Fibrous and elongated
pH	6.0 - 8.0
Moisture content	30% - 60%
Particle size	100% passing a 1" screen and 10 - 50% passing a 3/8" screen
Soluble salt concentration	5.0 dS/m (mmhos/cm) maximum

**Figure 5.2  
Compost Filter Sock**



# STANDARD AND SPECIFICATIONS FOR ROCK DAM



## Definition & Scope

A rock embankment located to capture and retain sediment on the construction site and prevent sedimentation in offsite water bodies.

## Conditions Where Practice Applies

The rock dam may be used instead of the standard sediment basin with barrel and riser. The rock dam is preferred when it is difficult to construct a stable, earthen embankment and rock materials are readily available. The site should be accessible for periodic sediment removal. This rock dam shall not be located in a perennial stream. The top of the dam will serve as the overflow outlet. The inside of the dam will be faced with smaller stone to reduce the rate of seepage so a sediment pool forms during runoff events.

## Design Criteria

**Drainage Area:** The drainage area for this off stream structure is limited to 50 acres.

**Location:** The location of the dam should:

- provide a large area to trap sediment
- intercept runoff from disturbed areas
- be accessible to remove sediment
- not interfere with construction activities

**Storage Volume:** The storage volume behind the dam shall be at least 3,600 cubic feet per acre of drainage area to the dam. This volume is measured one foot below the crest of the dam.

## **Dam Section:**

Top Width	5 feet minimum @ crest
Side Slopes	2:1 upstream slope 3:1 downstream slope
Height	6' max to spillway crest

**Length of Crest:** The crest length should be designed to carry the 10 yr. peak runoff with a maximum flow depth of 1 foot and 1 foot of freeboard.

Rock at the abutments should extend at least 2 feet above the spillway and be at least 2 feet thick. These rock abutments should extend at least one foot above the downstream slope to prevent abutment scour. A rock apron at least 1.5 feet thick should extend downstream from the toe of the dam a distance equal to the height of the dam to protect the outlet area from scour.

**Rock Fill:** The rock fill should be well graded, hard, erosion resistant stone with a minimum  $d_{50}$  size of 9 inches. A "key trench" lined with geotextile filter fabric should be installed in the soil foundation under the rock fill. The filter fabric must extend from the key trench to the downstream edge of the apron and abutments to prevent soil movement and piping under the dam.

The upstream face of the dam should be covered with a fine washed gravel (NYS-DOT #1 or #1A gravel, crushed stone or equal) a minimum 3 feet thick to reduce the drainage rate.

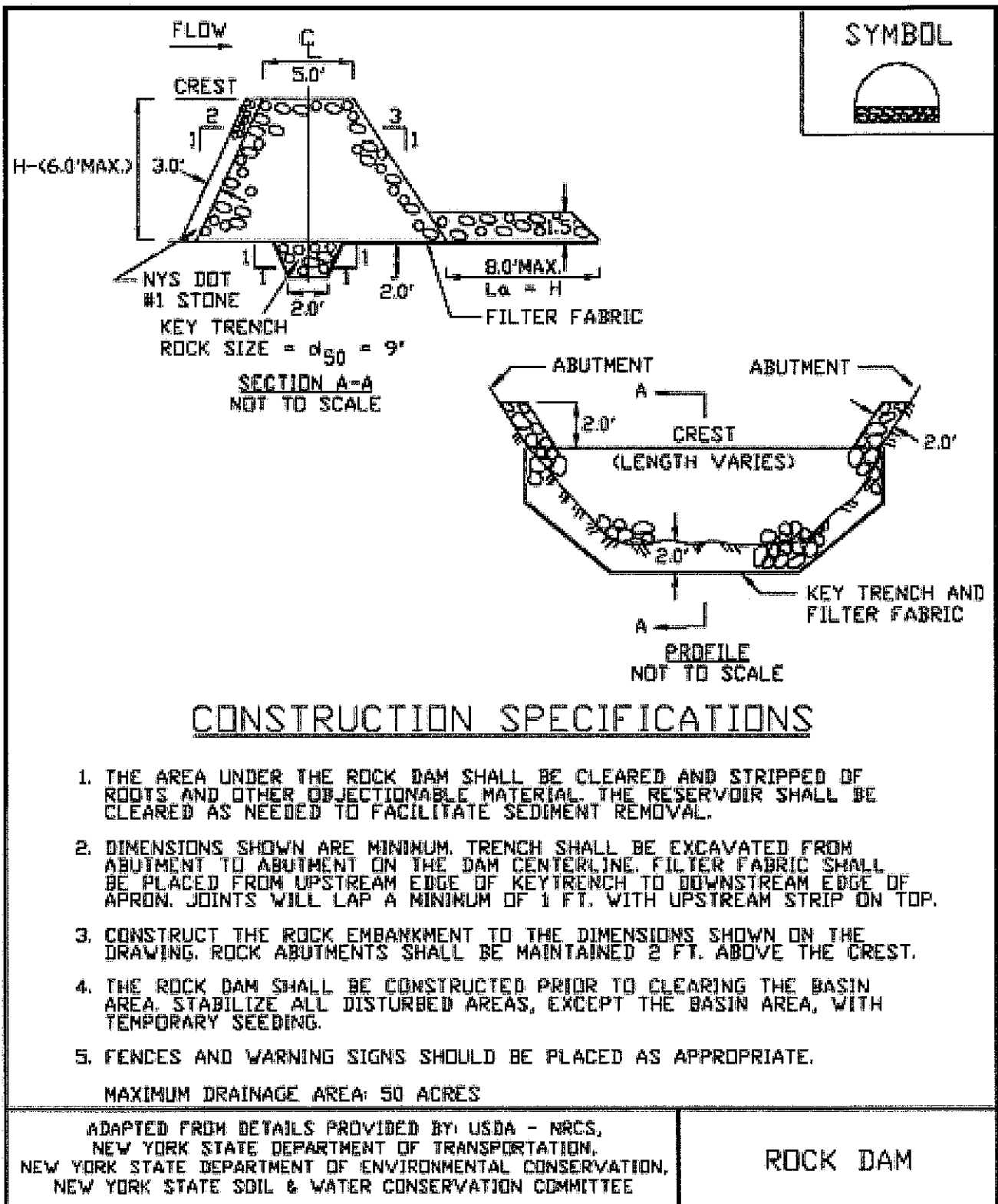
**Trapping Efficiency:** To obtain maximum trapping efficiency, design for a long detention period. Usually a minimum of eight (8) hours before the basin is completely drained. Maximize the length of travel of sediment laden water from the inlet to the drain for a minimum length to width ratio of 2 to 1 or greater. Achieve a surface area equal to 0.01 acres per cfs (inflow) based on the 10-year storm. See Figure 5.7 on page 5.18 for details.

## Maintenance

Check the basin area after each rainfall event. Remove sediment and restore original volume when sediment accumulates to one-half the design volume. Check the structure for erosion, piping, and rock displacement after each significant event and replace immediately.

Remove the structure and any sediment immediately after the construction area has been permanently stabilized. All water should be removed from the basin prior to the removal of the rock dam. Sediment should be placed in designated disposal areas and not allowed to flow into streams or drainage ways during structure removal.

**Figure 5.7  
Rock Dam**



# STANDARD AND SPECIFICATIONS FOR SEDIMENT TRAP



## Definition & Scope

A **temporary** sediment control device formed by excavation and/or embankment to intercept sediment-laden runoff and trap the sediment in order to protect drainageways, properties, and rights-of-way below the sediment trap from sedimentation.

## Conditions Where Practice Applies

A sediment trap is usually installed in a drainageway, at a storm drain inlet, or other points of collection from a disturbed area for one construction season.

Sediment traps should be used to artificially break up the natural drainage area into smaller sections where a larger device (sediment basin) would be less effective.

## Design Criteria

If the drainage area to the proposed trap location exceeds 5 acres, or the trap is in place beyond one construction season, or any of the additional design criteria presented here cannot be met, a full Sediment Basin must be used. See Standard and Specification for Sediment Basin on page 5.19.

## Drainage Area

The maximum drainage area for all sediment traps shall be 5 acres.

## Location

Sediment traps shall be located so that they can be installed prior to grading or filling in the drainage area they are to protect. Traps must **not be located any closer than 20 feet** from a proposed building foundation if the trap is to func-

tion during building construction. Locate traps to obtain maximum storage benefit from the terrain and for ease of cleanout and disposal of the trapped sediment.

## Trap Size

The volume of a sediment trap as measured at the elevation of the crest of the outlet shall be at least 3,600 cubic feet per acre of drainage area. A minimum length to width ratio of 2:1 should be provided. The volume of a constructed trap shall be calculated using standard mathematical procedures. The volume of a natural sediment trap may be approximated by the equation: Volume (cu.ft.) = 0.4 x surface area (sq.ft.) x maximum depth (ft.).

## Trap Cleanout

Sediment shall be removed and the trap restored to the original dimensions when the sediment has accumulated to ½ of the design depth of traps I-II, and 1/3 the depth for trap III. Sediment removed from the trap shall be deposited in a protected area and in such a manner that it will not erode.

## Embankment

All earth embankments for sediment traps shall not exceed five (5) feet in height as measured at the low point of the original ground along the centerline of the embankment. Embankments shall have a minimum four (4) foot wide top and side slopes of 2:1 or flatter. The embankment shall be compacted by traversing with equipment while it is being constructed. The embankment shall be stabilized with seed and mulch as soon as it is completed

The elevation of the top of any dike directing water to any sediment trap will equal or exceed the maximum height of the outlet structure along the entire length of the trap.

## Excavation

All excavation operations shall be carried out in such a manner that erosion and water pollution shall be minimal. Excavated portions of sediment traps shall have 1:1 or flatter slopes.

## Outlet

The outlet shall be designed, constructed, and maintained in such a manner that sediment does not leave the trap and that erosion at or below the outlet does not occur.

Sediment traps must outlet onto stabilized (preferable undisturbed) ground, into a watercourse, stabilized channel, or into a storm drain system. Distance between inlet and outlet should be maximized to the longest length practicable.

All traps must be seeded and mulched immediately after construction.

## Trap Details Needed on Erosion and Sediment Control Plans

Each trap shall be delineated on the plans in such a manner that it will not be confused with any other features. Each trap on a plan shall indicate all the information necessary to properly construct and maintain the structure. If the drawings are such that this information cannot be delineated on the drawings, then a table shall be developed. If a table is developed, then each trap on a plan shall have a number and the numbers shall be consecutive.

The following information shall be shown for each trap in a summary table format on the plans.

1. Trap number
2. Type of trap
3. Drainage area
4. Storage required
5. Storage provided (if applicable)
6. Outlet length or pipe sizes
7. Storage depth below outlet or cleanout elevation
8. Embankment height and elevation (if applicable)

## Type of Sediment Traps

There are three (3) specific types of sediment traps which vary according to their function, location, or drainage area.

- I. Pipe Outlet Sediment Trap
- II. Stone Outlet Sediment Trap
- III. Compost Filter Sock Sediment Trap

### **I. Pipe Outlet Sediment Trap**

A Pipe Outlet Sediment Trap consists of a trap formed by embankment or excavation. The outlet for the trap is through a perforated riser and a pipe through the embankment. The outlet pipe and riser shall be made of steel, corrugated metal or other suitable material. The top of the embankment shall be at least 1 ½ feet above the crest of the riser. The preferred method of dewatering the sediment trap is by surface skimmer. See Dewatering Device Standard, page 5.10. If the riser alone is used for dewatering, the top 2/3 of the riser shall be perforated with one (1) inch nominal diameter holes or slits spaced six (6) inches vertically and horizontally placed in the concave portion of the corrugated pipe.

No holes or slits will be allowed within six (6) inches of the top of the horizontal barrel. All pipe connections shall be watertight. The riser shall be wrapped with ½ to ¼ inch hardware cloth wire then wrapped with filter cloth with a sieve size between #40-80 and secured with strapping or connecting band at the top and bottom of the cloth. The

cloth shall cover an area at least six (6) inches above the highest hole and six (6) inches below the lowest hole. The top of the riser pipe shall not be covered with filter cloth. The riser shall have a base with sufficient weight to prevent flotation of the riser. Two approved bases are:

1. A concrete base 12 in. thick with the riser embedded 9 in. into the concrete base, or
2. One quarter inch, minimum, thick steel plate attached to the riser by a continuous weld around the circumference of the riser to form a watertight connection. The plate shall have 2.5 feet of stone, gravel, or earth placed on it to prevent flotation. In either case, each side of the square base measurement shall be the riser diameter plus 24 inches.

Pipe outlet sediment traps shall be limited to a five (5) acre maximum drainage area. Pipe outlet sediment trap is interchangeable in the field with stone outlet provided that these sediment traps are constructed in accordance with the detail and specifications for that trap.

Select pipe diameter from the following table:  
See details for Pipe Outlet Sediment Trap ST-I in Figure 5.25 and 5.26 on pages 5.49 and 5.50.

Optional sediment trap dewatering devices are shown on Figure 5.29 on Page 5.53.

### Minimum Sizes

Barrel Diameter <sup>1</sup> (in.)	Riser Diameter <sup>1</sup> (in.)	Maximum Drainage Area (ac.)
12	15	1
15	18	2
18	21	3
21	24	4
21	27	5

<sup>1</sup> Barrel diameter may be same size as riser diameter



## II. Stone Outlet Sediment Trap

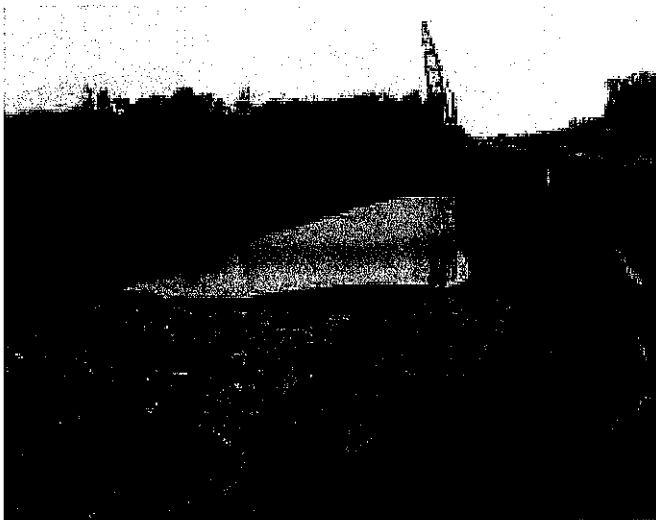
A Stone Outlet Sediment Trap consists of a trap formed by an embankment or excavation. The outlet of this trap is over a stone section placed on level ground. The minimum length (feet) of the outlet shall be equal to four (4) times the drainage area (acres).

Required storage shall be 3,600 cubic feet per acre of drainage area.

The outlet crest (top of stone in weir section) shall be level, at least one (1) foot below top of embankment and no more than one (1) foot above ground beneath the outlet. Stone used in the outlet shall be small riprap (4 in. x 8 in.). To provide more efficient trapping effect, a layer of filter cloth should be embedded one (1) foot back into the upstream face of the outlet stone or a one (1) foot thick layer of two (2) inch or finer aggregate shall be placed on the upstream face of the outlet.

Stone Outlet Sediment Traps may be interchangeable in the field with pipe outlet sediment traps provided they are constructed in accordance with the detail and specifications for those traps. Stone outlet sediment traps shall be limited to a five (5) acre maximum drainage area.

See details for Stone Outlet Sediment Trap ST-II in Figure 5.27 on page 5.51



## III. Compost Sock Sediment Trap

A compost sock sediment trap consists of a trap formed by creating an enclosure of geotextile mesh tubes filled with a compost filter media. These traps are used in locations where there is no opportunity to direct runoff into larger traps or well vegetated areas. This could occur at site entrances and access points or in tight areas due to construction boundary limits.

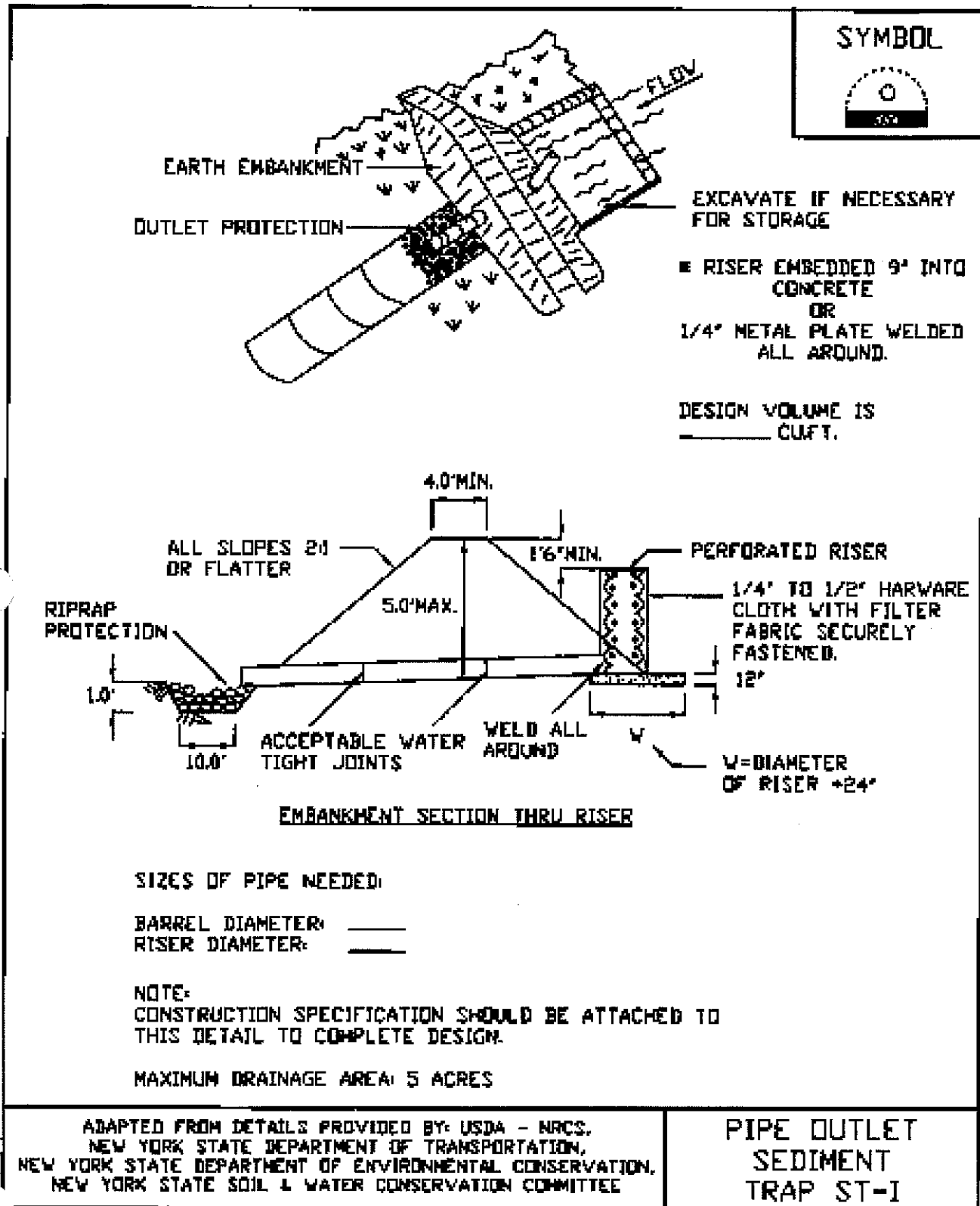
Surface runoff can be directed to the trap with standard conveyance practices. Groundwater or surface ponding in low areas can be pumped into the compost sock sediment trap with appropriate energy dissipation at the pump outlet to prevent scour.

Design criteria for Compost Sock Sediment Trap


1. The maximum drainage area tributary to the trap shall be 5 acres.
2. The minimum settled height above ground shall be 2.0 feet formed by staking 3 compost filter socks in a pyramid as shown in Figure 5.28 on page 5.52.
3. The storage volume provided in the compost sock sediment trap shall be 3,600 cubic feet per tributary drainage acre.
4. If necessary, additional storage area can be created by excavating a sump 1 foot deep beginning at least 5 feet away from the inside sock.
5. All compost filter sock materials, mesh, and compost, will meet the material specifications listed in the Compost Filter Sock standard. No spillway is required.
6. Compost filter sock sediment traps shall be inspected weekly and after every rainfall event. Sediment shall be removed when it reaches one third,  $1/3$ , the height of the trap.
7. The maximum limit of use for a compost sock sediment trap is one (1) year. The existing trap shall be replaced if there is a need for a trap beyond that time limit.
8. Upon completion of the work, the compost sock sediment trap shall be removed. The compost within the socks may be used during cleanup as a vegetative growth medium in accordance with the site stabilization plan.



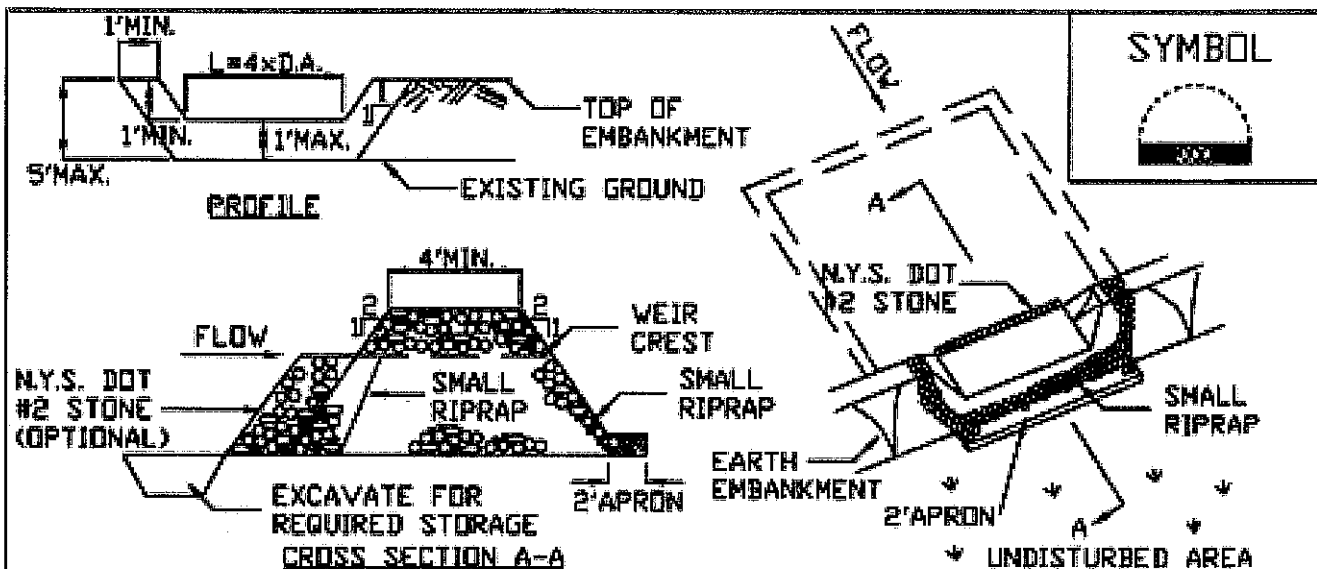
**Figure 5.25**  
**Pipe Outlet Sediment Trap: ST-I**



**Figure 5.26**  
**Pipe Outlet Sediment Trap: ST-I - Construction Specifications**

<p><b>CONSTRUCTION SPECIFICATIONS</b></p>	<p><b>SYMBOL</b></p> 
<ol style="list-style-type: none"> <li>1. AREA UNDER EMBANKMENT SHALL BE CLEARED, GRUBBED AND STRIPPED OF ANY VEGETATION AND ROOT MAT. THE POOL AREA SHALL BE CLEARED.</li> <li>2. THE FILL MATERIAL FOR THE EMBANKMENT SHALL BE FREE OF ROOTS OR OTHER WOODY VEGETATION AS WELL AS OVER-SIZED STONES, ROCKS, ORGANIC MATERIAL, OR OTHER OBJECTIONABLE MATERIAL. THE EMBANKMENT SHALL BE COMPACTED BY TRAVERSING WITH EQUIPMENT WHILE IT IS BEING CONSTRUCTED.</li> <li>3. VOLUME OF SEDIMENT STORAGE SHALL BE 3600 CUBIC FEET PER ACRE OF CONTRIBUTORY DRAINAGE.</li> <li>4. SEDIMENT SHALL BE REMOVED AND TRAP RESTORED TO ITS ORIGINAL DIMENSIONS WHEN THE SEDIMENT HAS ACCUMULATED TO 1/2 THE DESIGN DEPTH OF THE TRAP. REMOVED SEDIMENT SHALL BE DEPOSITED IN A SUITABLE AREA AND STABILIZED.</li> <li>5. THE STRUCTURE SHALL BE INSPECTED AFTER EACH RAIN AND REPAIRS MADE AS NEEDED.</li> <li>6. CONSTRUCTION OPERATIONS SHALL BE CARRIED OUT IN SUCH A MANNER THAT EROSION AND SEDIMENT ARE CONTROLLED.</li> <li>7. THE STRUCTURE SHALL BE REMOVED AND AREA STABILIZED WHEN THE DRAINAGE AREA HAS BEEN PROPERLY STABILIZED.</li> <li>8. ALL FILL SLOPES SHALL BE 2:1 OR FLATTER; CUT SLOPES 1:1 OR FLATTER.</li> <li>9. ALL PIPE CONNECTIONS SHALL BE WATERTIGHT.</li> <li>10. THE TOP 2/3 OF THE RISER SHALL BE PERFORATED WITH ONE (1) INCH DIAMETER HOLES OR SLITS SPACED SIX (6) INCHES VERTICALLY AND HORIZONTALLY AND PLACED IN THE CONCAVE PORTION OF PIPE. NO HOLES WILL BE ALLOWED WITHIN SIX (6) INCHES OF THE HORIZONTAL BARREL.</li> <li>11. THE RISER SHALL BE WRAPPED WITH 1/4 TO 1/2 INCH HARDWARE CLOTH WIRE THEN WRAPPED WITH FILTER CLOTH (HAVING AN EQUIVALENT SIEVE SIZE OF 40-80). THE FILTER CLOTH SHALL EXTEND SIX (6) INCHES ABOVE THE HIGHEST HOLE AND SIX (6) INCHES BELOW THE LOWEST HOLE. WHERE ENDS OF THE FILTER CLOTH COME TOGETHER, THEY SHALL BE OVER-LAPPED, FOLDED AND STAPLED TO PREVENT BYPASS.</li> <li>12. STRAPS OR CONNECTING BANDS SHALL BE USED TO HOLD THE FILTER CLOTH AND WIRE FABRIC IN PLACE. THEY SHALL BE PLACED AT THE TOP AND BOTTOM OF THE CLOTH.</li> <li>13. FILL MATERIAL AROUND THE PIPE SPILLWAY SHALL BE HAND COMPACTED IN FOUR (4) INCH LAYERS. A MINIMUM OF TWO (2) FEET OF HAND COMPACTED BACKFILL SHALL BE PLACED OVER THE PIPE SPILLWAY BEFORE CROSSING IT WITH CONSTRUCTION EQUIPMENT.</li> <li>14. THE RISER SHALL BE ANCHORED WITH EITHER A CONCRETE BASE OR STEEL PLATE BASE TO PREVENT FLOTATION. FOR CONCRETE BASE THE DEPTH SHALL BE TWELVE (12) INCHES WITH THE RISER EMBEDDED NINE (9) INCHES. A 1/4 INCH MINIMUM THICKNESS STEEL PLATE SHALL BE ATTACHED TO THE RISER BY A CONTINUOUS WELD AROUND THE BOTTOM TO FORM A WATERTIGHT CONNECTION AND THEN PLACE TWO (2) FEET OF STONE, GRAVEL, OR TAMPED EARTH ON THE PLATE.</li> </ol>	
<p>ADAPTED FROM DETAILS PROVIDED BY: USDA - INRCS,          NEW YORK STATE DEPARTMENT OF TRANSPORTATION,          NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION,          NEW YORK STATE SOIL &amp; WATER CONSERVATION COMMITTEE</p>	<p><b>PIPE OUTLET          SEDIMENT TRAP          ST-I</b></p>

**Figure 5.27**  
**Stone Outlet Sediment Trap: ST-II**



**OPTION:** A ONE FOOT LAYER OF N.Y.S. DOT #2 STONE MAY BE PLACED ON THE UPSTREAM SIDE OF THE RIPRAP IN PLACE OF THE EMBEDDED FILTER CLOTH.

### CONSTRUCTION SPECIFICATIONS

1. AREA UNDER EMBANKMENT SHALL BE CLEARED, GRUBBED AND STRIPPED OF ANY VEGETATION AND ROOT MAT. THE POOL AREA SHALL BE CLEARED.
2. THE FILL MATERIAL FOR THE EMBANKMENT SHALL BE FREE OF ROOTS AND OTHER WOODY VEGETATION AS WELL AS OVER-SIZED STONES, ROCKS, ORGANIC MATERIAL OR OTHER OBJECTIONABLE MATERIAL. THE EMBANKMENT SHALL BE COMPACTED BY TRAVERSING WITH EQUIPMENT WHILE IT IS BEING CONSTRUCTED.
3. ALL CUT AND FILL SLOPES SHALL BE 2:1 OR FLATTER.
4. THE STONE USED IN THE OUTLET SHALL BE SMALL RIPRAP 4'-8' ALONG WITH A 1' THICKNESS OF 2" AGGREGATE PLACED ON THE UP-GRADE SIDE ON THE SMALL RIPRAP OR EMBEDDED FILTER CLOTH IN THE RIPRAP.
5. SEDIMENT SHALL BE REMOVED AND TRAP RESTORED TO ITS ORIGINAL DIMENSIONS WHEN THE SEDIMENT HAS ACCUMULATED TO 1/2 THE DESIGN DEPTH OF THE TRAP. IT SHALL BE PLACED ON SITE AND STABILIZED.
6. THE STRUCTURE SHALL BE INSPECTED AFTER EACH RAIN AND REPAIRS MADE AS NEEDED.
7. CONSTRUCTION OPERATIONS SHALL BE CARRIED OUT IN SUCH A MANNER THAT EROSION AND SEDIMENT ARE CONTROLLED.
8. THE STRUCTURE SHALL BE REMOVED AND THE AREA STABILIZED WHEN THE DRAINAGE AREA HAS BEEN PROPERLY STABILIZED.

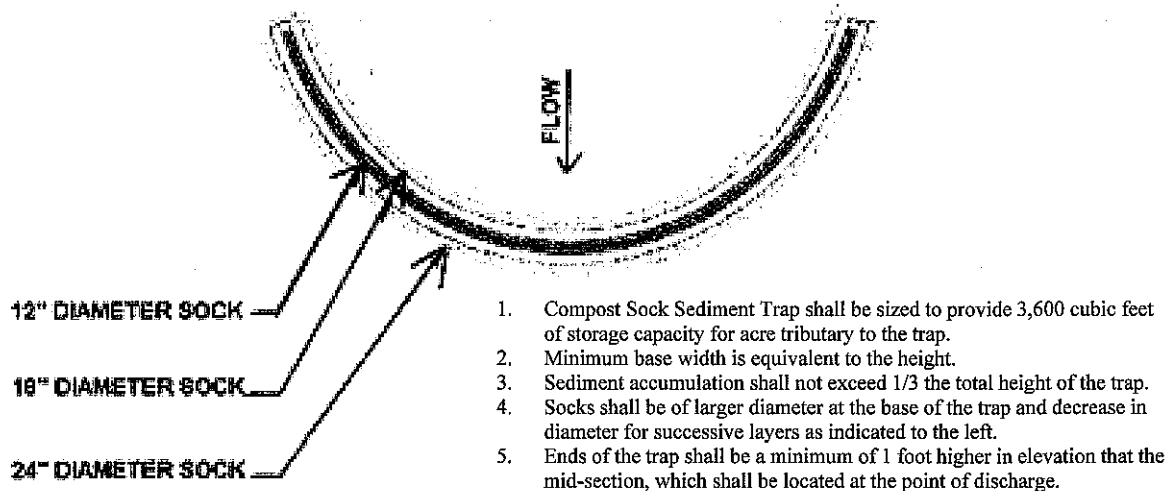
MAXIMUM DRAINAGE AREA 5 ACRES

ADAPTED FROM DETAILS PROVIDED BY: USDA - NRCS,  
NEW YORK STATE DEPARTMENT OF TRANSPORTATION,  
NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION,  
NEW YORK STATE SOIL & WATER CONSERVATION COMMITTEE

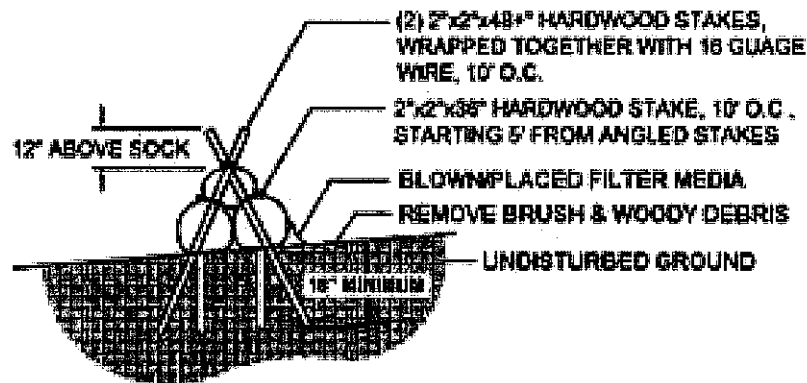
**STONE OUTLET  
SEDIMENT TRAP  
ST-II**

## Figure 5.28 Compost Filter Sock Sediment Trap: ST-III

### Plan View



### Staking Detail

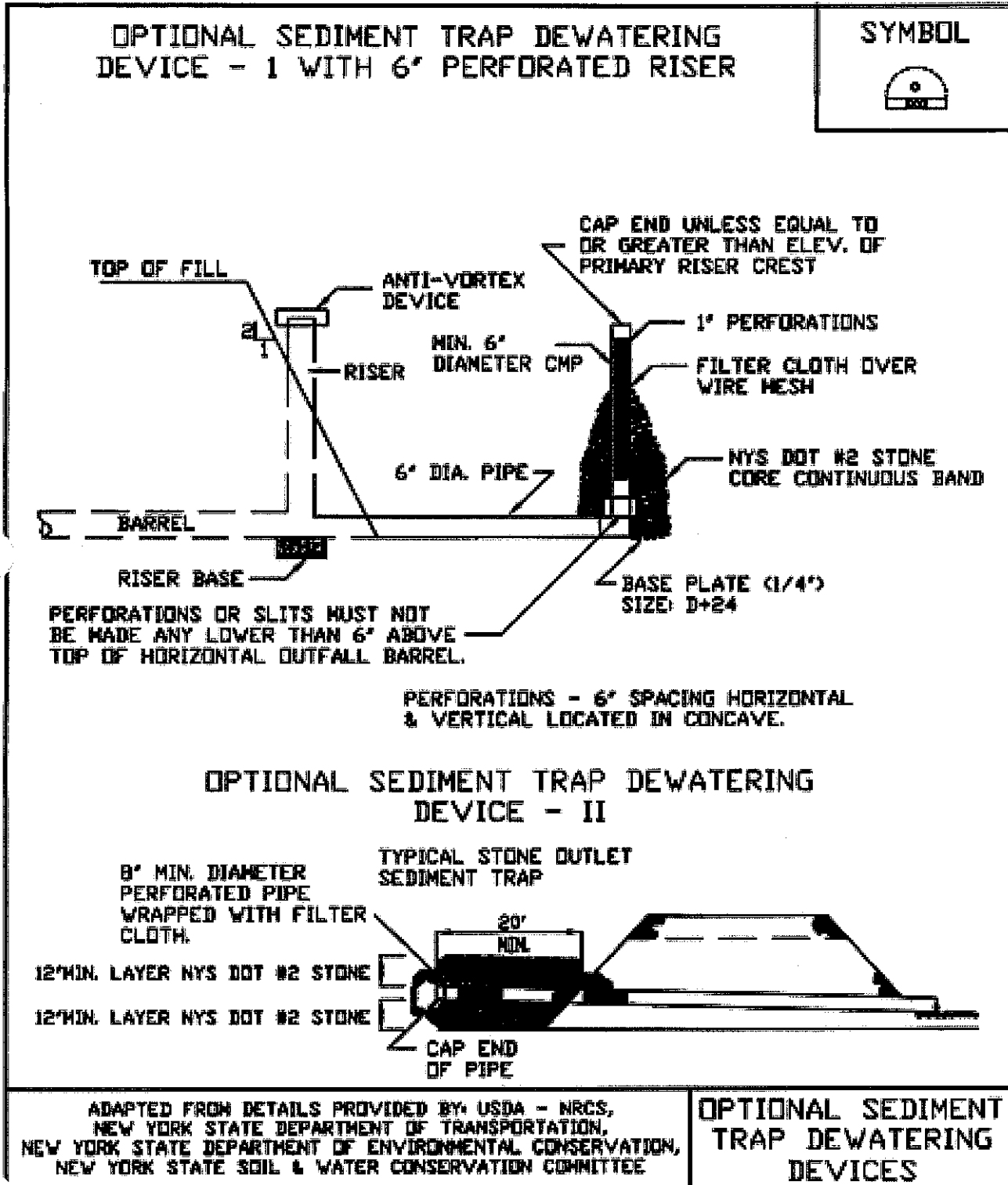


\* Figures adapted from Filtrexx

#### Specifications:

1. Sock infill and filter media material shall meet the standards of Table 5.1 on page 5.8 . Compost shall meet the compost filter sock standard of Table 5.2 on page 5.8.
2. Compost sock sediment traps shall not exceed three socks in height and shall be stacked in pyramidal form as shown above. Minimum trap height is one 24 inch diameter sock. Additional storage may be provided by means of an excavated sump 12 inches deep extending 1 to 3 feet upslope of the socks along the lower side of the trap.
3. Compost sock sediment traps shall provide 3,600 cubic feet storage capacity with 12 inches of freeboard for each tributary drainage acreage. (See manufacturer for anticipated settlement.)
4. The maximum tributary drainage area is 5.0 acres. Since compost socks are "flow-through," no spillway is required.
5. Compost sock sediment traps shall be inspected weekly and after each runoff event. Sediment shall be removed when it reaches 1/3 the height of the socks.
6. Photodegradable and biodegradable socks shall not be used for more than 1 year.

**Figure 5.29**  
**Optional Sediment Trap Dewatering Devices**  
**for Traps with <5 Acres Drainage Area**



# STANDARD AND SPECIFICATIONS FOR SILT FENCE



## Definition & Scope

A **temporary** barrier of geotextile fabric installed on the contours across a slope used to intercept sediment laden runoff from small drainage areas of disturbed soil by temporarily ponding the sediment laden runoff allowing settling to occur. The maximum period of use is limited by the ultraviolet stability of the fabric (approximately one year).

## Conditions Where Practice Applies

A silt fence may be used subject to the following conditions:

1. Maximum allowable slope length and fence length will not exceed the limits shown in the Design Criteria for the specific type of silt fence used ; and
2. Maximum ponding depth of 1.5 feet behind the fence; and
3. Erosion would occur in the form of sheet erosion; and
4. There is no concentration of water flowing to the barrier; and
5. Soil conditions allow for proper keying of fabric, or other anchorage, to prevent blowouts.

## Design Criteria

1. Design computations are not required for installations of 1 month or less. Longer installation periods should be designed for expected runoff.
2. All silt fences shall be placed as close to the disturbed area as possible, but at least 10 feet from the toe of a slope steeper than 3H:1V, to allow for maintenance and

roll down. The area beyond the fence must be undisturbed or stabilized.

3. The type of silt fence specified for each location on the plan shall not exceed the maximum slope length and maximum fence length requirements shown in the following table:

Slope	Steepness	Slope Length/Fence Length (ft.)		
		Standard	Reinforced	Super
<2%	< 50:1	300/1500	N/A	N/A
2-10%	50:1 to 10:1	125/1000	250/2000	300/2500
10-20%	10:1 to 5:1	100/750	150/1000	200/1000
20-33%	5:1 to 3:1	60/500	80/750	100/1000
33-50%	3:1 to 2:1	40/250	70/350	100/500
>50%	> 2:1	20/125	30/175	50/250

**Standard Silt Fence (SF)** is fabric rolls stapled to wooden stakes driven 16 inches in the ground.

**Reinforced Silt Fence (RSF)** is fabric placed against welded wire fabric with anchored steel posts driven 16 inches in the ground.

**Super Silt Fence (SSF)** is fabric placed against chain link fence as support backing with posts driven 3 feet in the ground.

4. Silt fence shall be removed as soon as the disturbed area has achieved final stabilization.

The silt fence shall be installed in accordance with the appropriate details. Where ends of filter cloth come together, they shall be overlapped, folded and stapled to prevent sediment bypass. Butt joints are not acceptable. A detail of the silt fence shall be shown on the plan. See Figure 5.30 on page 5.56 for Reinforced Silt Fence as an example of details to be provided.

## Criteria for Silt Fence Materials

1. Silt Fence Fabric: The fabric shall meet the following specifications unless otherwise approved by the appropriate erosion and sediment control plan approval authority. Such approval shall not constitute statewide acceptance.

### Super Silt Fence



Fabric Properties	Minimum Acceptable Value	Test Method
Grab Tensile Strength (lbs)	110	ASTM D 4632
Elongation at Failure (%)	20	ASTM D 4632
Mullen Burst Strength (PSI)	300	ASTM D 3786
Puncture Strength (lbs)	60	ASTM D 4833
Minimum Trapezoidal Tear Strength (lbs)	50	ASTM D 4533
Flow Through Rate (gal/min/sf)	25	ASTM D 4491
Equivalent Opening Size	40-80	US Std Sieve ASTM D 4751
Minimum UV Residual (%)	70	ASTM D 4355

2. Fence Posts (for fabricated units): The length shall be a minimum of 36 inches long. Wood posts will be of sound quality hardwood with a minimum cross sectional area of 3.5 square inches. Steel posts will be standard T and U section weighing not less than 1.00 pound per linear foot. Posts for super silt fence shall be standard chain link fence posts.

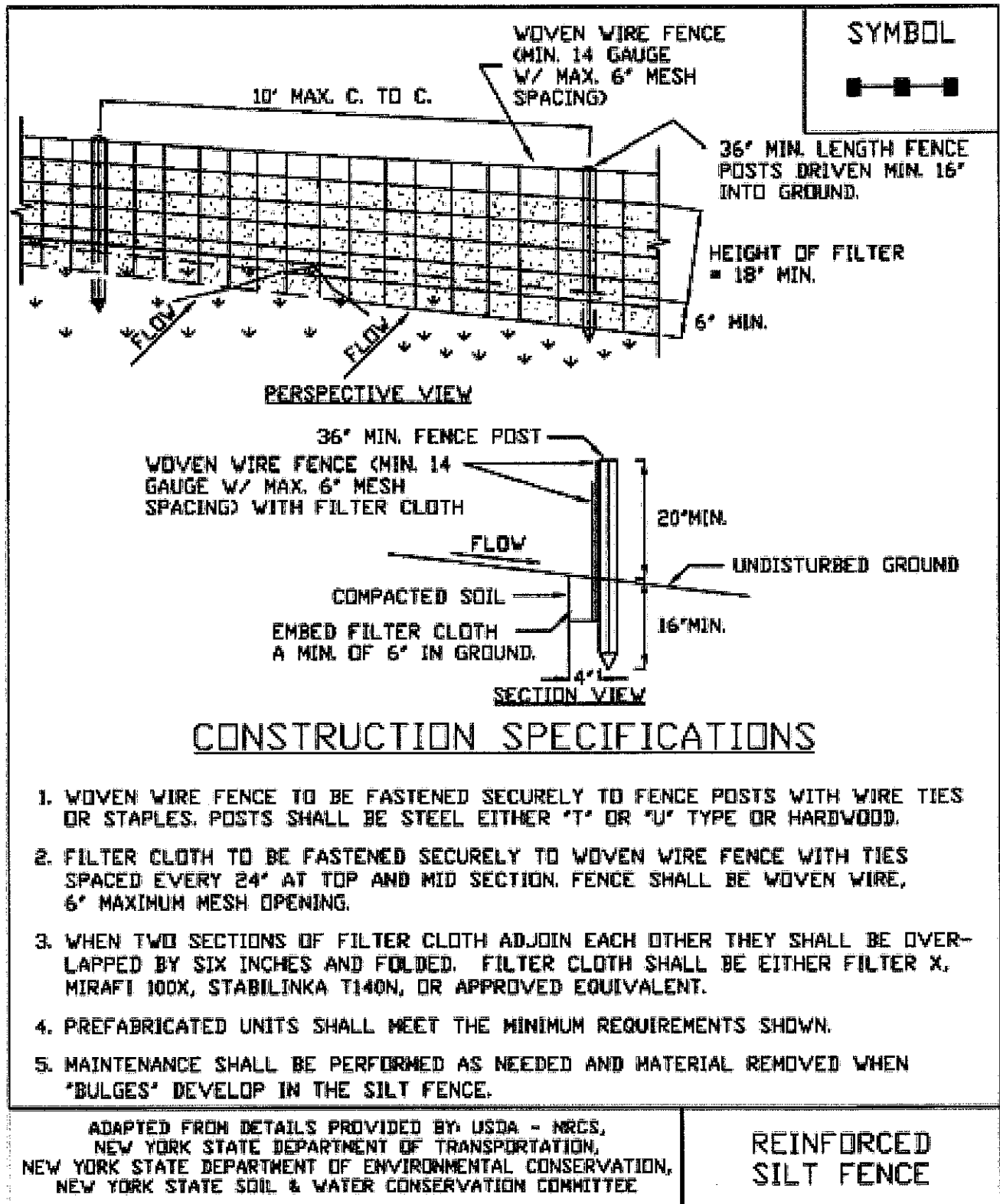
Wire Fence for reinforced silt fence: Wire fencing shall be a minimum 14 gage with a maximum 6 in. mesh opening, or as approved.

4. Prefabricated silt fence is acceptable as long as all material specifications are met.

### Reinforced Silt Fence



**Figure 5.30  
Reinforced Silt Fence**



# STANDARD AND SPECIFICATIONS FOR STRAW BALE DIKE



quarter of an acre per 100 feet of dike and the length of slope above the dike shall be less than 100 feet.

## Design Criteria

The above table is adequate, in general, for a one-inch rain-fall event. Larger storms could cause failure of this practice. Use of this practice in sensitive areas for longer than one month should be specifically designed to store expected runoff. All bales shall be placed on the contour with cut edge of bale adhering to the ground. See Figure 5.34 on page 5.64 for details.

## Definition & Scope

A **temporary** barrier of straw, or similar material, used to intercept sediment laden runoff from small drainage areas of disturbed soil to reduce runoff velocity and effect deposition of the transported sediment load. Straw bale dikes have an estimated design life of three (3) months.

## Condition Where Practice Applies

The straw bale dike is used where:

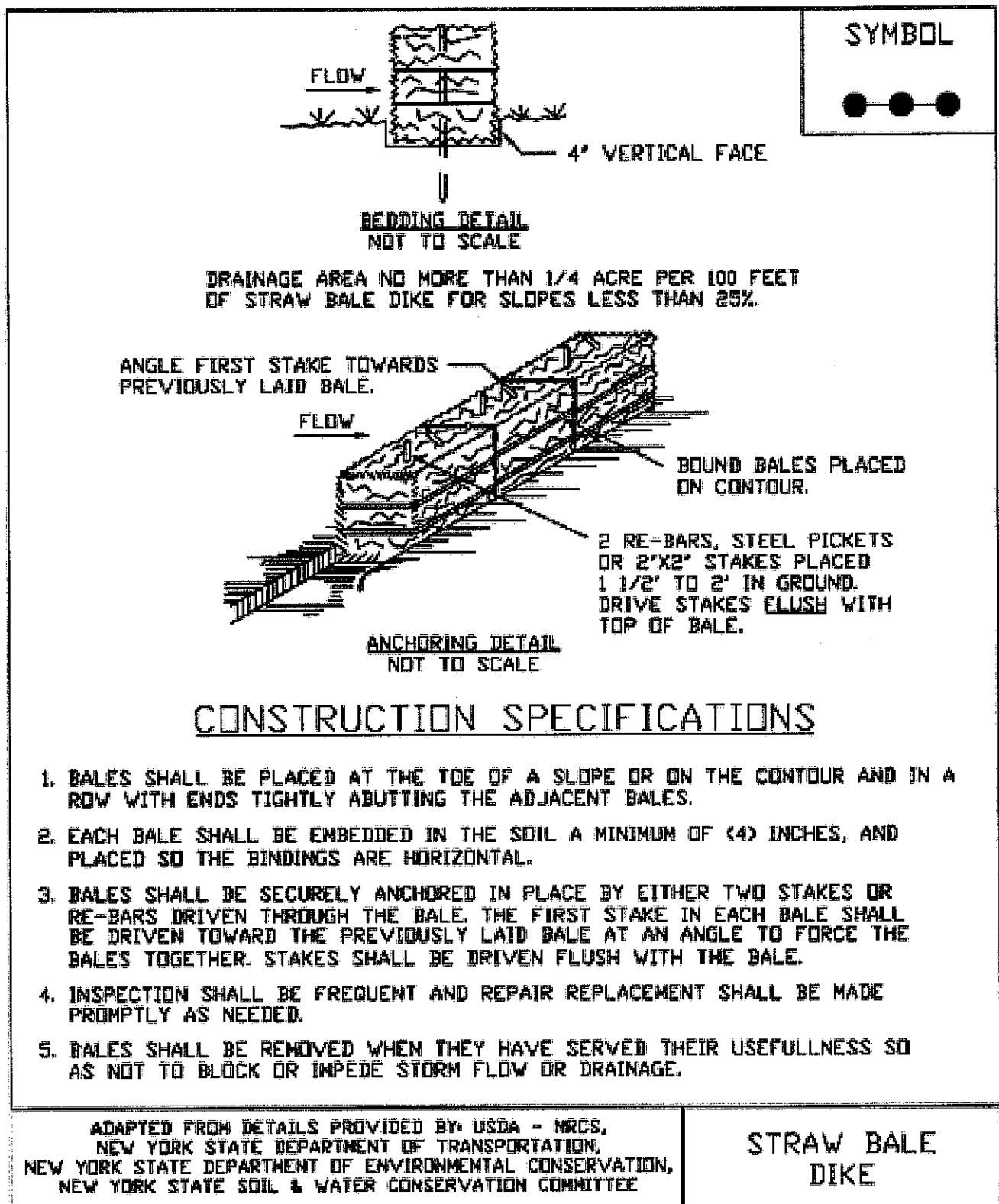
1. No other practice is feasible.
2. There is no concentration of water in a channel or other drainageway above the barrier.
3. Erosion would occur in the form of sheet erosion.
4. Length of slope above the straw bale dike does not exceed the following limits with the bale placed 10 feet from the toe of the slope:

Constructed Slope	Percent Slope	Slope Length (ft.)
2:1	50	25
3:1	33	50
4:1	25	75

Where slope gradient changes through the drainage area, steepness refers to the steepest slope section contributing to the straw bale dike.

The practice may also be used for a single family lot if the slope is less than 15 percent. The contributing drainage areas in this instance shall be less than one

**Figure 5.34  
Straw Bale Dike**



Appendix E  
Noise Evaluation



February 10, 2022

Tim Gourley, PE  
Tract Engineering, PLLC  
120 Ridge Ave  
State College, PA 1680

Re: Mitstifer Mine – Noise Evaluation

Tim:

Great Lakes Environmental & Safety Consultants, Inc. (“Great Lakes”) was retained by Tract Engineering to perform a Noise Impact Evaluation as set forth in DEP-00-1 “Assessing and Mitigating Noise Impacts” by the New York State Department of Environmental Conservation (“NYSDEC”). The site in question is located along the southern side of Benjamin Road in Erin, NY about 1/4-mile east of the intersection with E Sullivanville Rd. The proposed mine will consist of one pit with a maximum depth of approximately 80 feet. A site map can be found attached to this report. The proposed operations at the site include the use of a crusher, screen plant, stacker, loader, dozer, and excavator.

The noise impact at receptors near the site was first evaluated without regard factors such as topography or vegetation that may impact the attenuation of the sound. This was done by first estimating the sound pressure level (“SPL”) at a distance of 50 feet by each piece of equipment. This information was taken from machinery manuals as well as accepted values published by the Federal Highway Administration and academic articles. Distances and geographic information were obtained from Google Earth. The current ambient background was assumed to be 52 a-weighted decibels (“dBA”).

Sound attenuation over distance was calculated by the following:

$$I_{ij} = S_i - \left( 20 \log \left( \frac{D_{ij}}{50} \right) \right)$$
$$T_j = 10 \log_{10} \left( \sum_{i=1} 10^{\frac{I_{ij}}{10}} + 10^{\frac{C}{10}} \right)$$

Where:

- $I_{ij}$ : Impact at receptor  $j$  from source  $i$
- $S_i$ : SPL at 50' from source  $i$
- $D_{ij}$ : Distance between receptor  $j$  and source  $i$
- $T_j$ : Total SPL at receptor  $j$
- $C$ : Current ambient sound level

In order to estimate the attenuation from physical barriers a Fresnel analysis was used. The two barriers of interest are the sidewalls of the completed pit and the proposed berm that will be constructed around the operation when operating on the surface. The height of the sidewalls were estimated along the path to each receptor using the proposed contour lines on the attached drawing. The berm (where present) was assumed to be 12 feet high.

The attenuation for these barriers was calculated by the following:

$$N = \frac{2}{\lambda} (A + B - r)$$

$$\Delta L_b = 10 \log \left( \frac{\sqrt{2\pi N}}{\tanh \sqrt{2\pi N}} \right) + K_b$$

Where:

$\Delta L_b$ : Barrier attenuation

A: Distance from source to top of barrier

B: Distance from receptor to top of barrier

r: Straight-line distance from source to receptor

N: Maximum Fresnel number

$\lambda$ : Wavelength of the sound of interest (in this case, 2')

$K_b$ : Barrier constant (in this case, 8)

A wavelength of 2 feet was used as this corresponds to our assumed frequency of 550 Hz. For berms, the appropriate barrier constant is 8 (Long, 2014).

Noise impacts at each receptor were calculated from each of three possible source locations. The equipment is anticipated to be operated at each of these locations as material is removed from the pit. Below are the anticipated noise impacts at each receptor from each of the three sources.

Receptor ID	Current Ambient (dBA)	Berm Present?	Sidewall Height (ft)	No Mitigation		Mitigation from Sidewall and Berm	
				New SPL (dBA)	Increase in SPL (dBA)	New SPL (dBA)	Increase in SPL (dBA)
1A	52	Yes	18	74	22	56	4
2A	52	Yes	28	64	12	53	1
3A	52	No	6	65	13	57	5
3B	52	No	6	65	13	57	5
3C	52	No	6	65	13	57	5
4A	52	No	6	64	12	57	5
4B	52	Yes	6	64	12	54	2
5A	52	No	16	65	13	55	3
6A	52	No	66	64	12	52	0
7A	52	No	20	60	8	54	2
7B	52	No	20	60	8	54	2

Table #1: Anticipated noise impacts from source location #1 (west)

				No Mitigation		Mitigation from Sidewall and Berm	
Receptor ID	Current Ambient (dBA)	Berm Present?	Sidewall Height (ft)	New SPL (dBA)	Increase in SPL (dBA)	New SPL (dBA)	Increase in SPL (dBA)
1A	52	Yes	30	69	17	53	1
2A	52	Yes	44	71	19	53	1
3A	52	Yes	30	61	9	52	0
3B	52	Yes	30	61	9	52	0
3C	52	Yes	30	61	9	52	0
4A	52	Yes	30	60	8	52	0
4B	52	Yes	30	60	8	52	0
5A	52	No	6	60	8	54	2
6A	52	No	40	63	11	53	1
7A	52	No	30	62	10	53	1
7B	52	No	36	63	11	53	1

*Table #2: Anticipated noise impacts from source location #2 (north)*

				No Mitigation		Mitigation from Sidewall and Berm	
Receptor ID	Current Ambient (dBA)	Berm Present?	Sidewall Height (ft)	New SPL (dBA)	Increase in SPL (dBA)	New SPL (dBA)	Increase in SPL (dBA)
1A	52	Yes	30	65	13	53	1
2A	52	Yes	64	65	13	52	0
3A	52	Yes	24	59	7	52	0
3B	52	Yes	24	59	7	52	0
3C	52	Yes	24	59	7	52	0
4A	52	Yes	18	59	7	53	1
4B	52	No	10	59	7	54	2
5A	52	No	66	59	7	52	0
6A	52	No	40	66	14	53	1
7A	52	No	16	65	13	54	2
7B	52	No	16	66	14	54	2

*Table #3: Anticipated noise impacts from source location #3 (east)*

The results of the evaluation show that the NYSDEC threshold of 65 dBA for new Sound Pressure Level (SPL) was not exceeded at any receptor. Additionally, the NYSDEC threshold for an increase to the existing ambient SPL of 6 dBA was not exceeded for any receptor. Attached to this report are all materials used in these calculations as well as satellite imagery and maps showing the locations of all receptors.

Please feel free to contact our office if there are any questions about this report.

**Reference:**

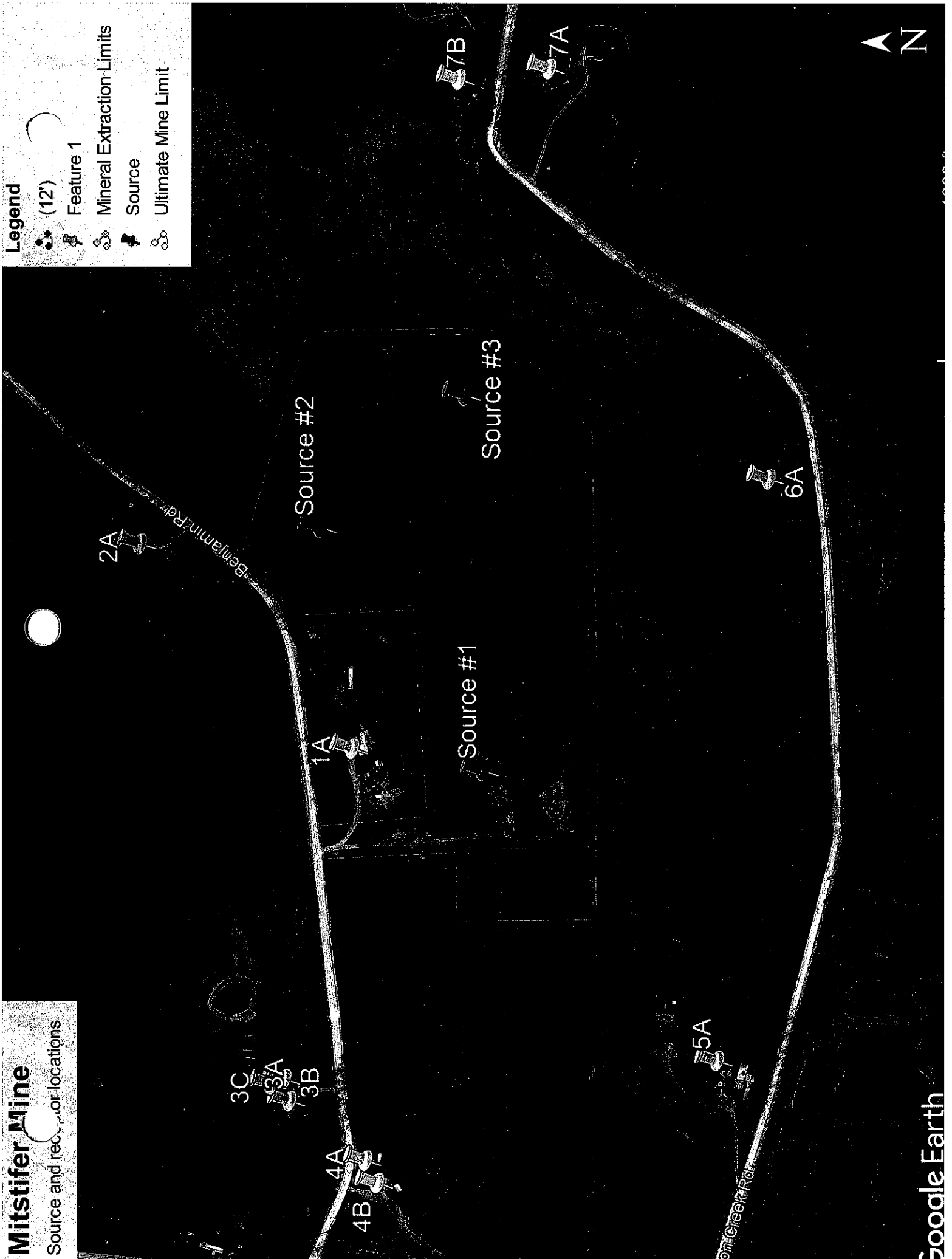
Long, Marshall. Architectural Acoustics, Elsevier Science & Technology, 2014. ProQuest Ebook Central

# Mitstifer Mine

Source and recovery locations

## Legend

- (12')
- Feature 1
- Mineral Extraction Limits
- Source
- Ultimate Mine Limit





Name	Model	SPL at 50' (dBA)	Reference
Crusher	NA	83	From "Noise assessment of stone/aggregate mines: six case studies", table 1, Primary Crusher (Outside).
Screen	NA	87	From "Noise assessment of stone/aggregate mines: six case studies", table 1, Screening Tower B(N) (Outside).
Stacker	NA	85	From "Noise assessment of stone/aggregate mines: six case studies", table 5, "Belst, transfer points, bins".
Loader	CAT 966	76	Published figure for CAT 966M
Dozer	CAT D6R	86	Published Figure for CAT D6R Series II
Excavator	CAT 320E L	71	SWL of 016 dBA

ID	Data Entry				SPL From Equipment							No Mitigation		Mitigation					
	Distance to Equipment (ft)	Distance to Wall/Edge (ft)	Wall height (ft)	Pit Depth (ft)	Current Ambient (dBA)	Crusher (dBA)	Screen (dBA)	Stacker (dBA)	Loader (dBA)	Dozer (dBA)	Excavator (dBA)	Total (dBA)	New SPL (dBA)	Increase (dBA)	Total Propagation Distance (ft)	Difference of Distances (ft)	Mitigation from Wall & Edge (dBA)	New SPL (dBA)	Increase (dBA)
1A	387	172	12	18	52	65	69	67	58	68	53	74	74	22	389.50	2.50	20	56	4
2A	1177	919	12	28	52	56	60	58	49	59	44	64	64	12	1180.16	3.16	21	53	1
3A	1112	899	0	6	52	56	60	58	49	59	44	65	65	13	1112.08	0.08	9	57	5
3B	1062	900	0	6	52	56	60	58	49	59	44	65	65	13	1062.11	0.11	10	57	5
3C	1101	901	0	6	52	56	60	58	49	59	44	65	65	13	1101.09	0.09	9	57	5
4A	1194	977	0	6	52	55	59	57	48	58	43	64	64	12	1194.08	0.08	9	57	5
4B	1237	809	12	6	52	55	59	57	48	58	43	64	64	12	1237.47	0.47	13	54	2
5A	1089	818	0	16	52	56	60	58	49	59	44	65	65	13	1089.47	0.47	13	55	3
6A	1185	825	0	66	52	56	60	58	49	59	44	64	64	12	1191.00	6.00	24	52	0
7A	2026	874	0	20	52	51	55	53	44	54	39	60	60	8	2026.17	0.17	11	54	2
7B	1990	758	0	20	52	51	55	53	44	54	39	60	60	8	1990.16	0.16	10	54	2

Source Location #1 (West)

ID	Data Entry				SPL From Equipment						No Mitigation		Mitigation						
	Distance to Equipment (ft)	Distance to Wall/Edge (ft)	Wall height (ft)	Pit Depth (ft)	Current Ambient (dBA)	Crusher (dBA)	Screen (dBA)	Stacker (dBA)	Loader (dBA)	Dozer (dBA)	Excavator (dBA)	Total (dBA)	New SPL (dBA)	Increase (dBA)	Total Propagation Distance (ft)	Difference of Distances (ft)	Mitigation from Wall & Edge (dBA)	New SPL (dBA)	Increase (dBA)
1A	635	414	12	30	52	61	61	61	61	61	61	69	69	17	639.13	4.13	22	53	1
2A	517	266	12	44	52	63	63	63	63	63	63	70	71	19	523.44	6.44	24	53	1
3A	1662	1438	12	30	52	53	53	53	53	53	53	60	61	9	1665.95	3.95	22	52	0
3B	1599	1378	12	30	52	53	53	53	53	53	53	61	61	9	1603.01	4.01	22	52	0
3C	1614	1390	12	30	52	53	53	53	53	53	53	61	61	9	1617.96	3.96	22	52	0
4A	1845	1626	12	30	52	52	52	52	52	52	52	59	60	8	1849.04	4.04	22	52	0
4B	1916	1696	12	30	52	51	51	51	51	51	51	59	60	8	1920.02	4.02	22	52	0
5A	1918	797	0	6	52	51	51	51	51	51	51	59	60	8	1918.02	0.02	8	54	2
6A	1300	595	0	40	52	55	55	55	55	55	55	62	63	11	1301.13	1.13	17	53	1
7A	1476	853	0	30	52	54	54	54	54	54	54	61	62	10	1476.72	0.72	15	53	1
7B	1343	768	0	36	52	54	54	54	54	54	54	62	63	11	1344.13	1.13	17	53	1

Source Location #2 (North)

ID	Data Entry			SPL From Equipment							No Mitigation		Mitigation						
	Distance to Equipment (ft)	Distance to Wall/Edge (ft)	Wall height (ft)	Pit Depth (ft)	Current Ambient (dBA)	Crusher (dBA)	Screen (dBA)	Stacker (dBA)	Loader (dBA)	Dozer (dBA)	Excavator (dBA)	Total (dBA)	New SPL (dBA)	Increase (dBA)	Total Propagation Distance (ft)	Fresnel Number	Mitigation from Wall & Edge (dBA)	New SPL (dBA)	Increase (dBA)
1A	1051	440	12	30	52	57	57	57	57	57	57	64	65	13	1052.61	1.61	18	53	1
2A	1015	335	12	64	52	57	57	57	57	57	57	65	65	13	1019.45	4.45	22	52	0
3A	2081	1386	12	24	52	51	51	51	51	51	51	58	59	7	2081.98	0.98	16	52	0
3B	2104	1296	12	24	52	51	51	51	51	51	51	58	59	7	2104.86	0.86	15	52	0
3C	2057	1400	12	24	52	51	51	51	51	51	51	58	59	7	2058.04	1.04	16	52	0
4A	2230	1103	12	18	52	50	50	50	50	50	50	58	59	7	2230.46	0.46	13	53	1
4B	2296	1104	0	10	52	50	50	50	50	50	50	58	59	7	2296.04	0.04	9	54	2
5A	2053	1204	0	66	52	51	51	51	51	51	51	66	66	14	2055.56	2.56	20	52	0
6A	909	613	0	40	52	58	58	58	58	58	58	66	66	14	911.69	2.69	20	53	1
7A	988	837	0	16	52	57	57	57	57	57	57	65	65	13	988.85	0.85	15	54	2
7B	922	751	0	16	52	58	58	58	58	58	58	65	66	14	922.75	0.75	15	54	2

Source Location #3 (East)

Name	Model	SPL at 50' (dBA)	Reference
Crusher	NA	83	From "Noise assessment of stone/aggregate mines: six case studies", table 1, Primary Crusher (Outside).
Screen	NA	87	From "Noise assessment of stone/aggregate mines: six case studies", table 1, Screening Tower B(N) (Outside).
Stacker	NA	85	From "Noise assessment of stone/aggregate mines: six case studies", table 5, "Belst, transfer points, bins".
Loader	CAT 966	76	Published figure for CAT 966M
Dozer	CAT D6R	86	Published Figure for CAT D6R Series II
Excavator	CAT 320E L	71	SWL of 016 dBA

# RECLAMATION PLAN

## MITSTIFER MINE

TOWN OF ERIN & TOWN OF VETERAN  
CHEMUNG COUNTY, NEW YORK

PREPARED FOR:

AUSTIN'S EXCAVATING & PAVING, INC.  
121 TALMADGE HILL WEST  
WAVERLY, NY 14892

607-565-4313

PREPARED BY:

TRACT ENGINEERING, PLLC

FEBRUARY 25, 2022  
REVISED DECEMBER 18, 2023



12/18/23

TRACT ENGINEERING, PLLC  
120 Ridge Ave  
State College, Pennsylvania 16803  
P: 814-272-0301

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**Appendices**

- Appendix A – USGS Location Map
- Appendix B – Soils Map & Information
- Appendix C – Erosion & Sediment Control

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**Exhibits**

- Reclamation Plan dated February 25, 2022, revised December 18, 2023
- Cross Sections dated February 25, 2022, revised April 22, 2022

# RECLAMATION PLAN

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## ***A. Land Use Objective***

The mine site is located south of Benjamin Road at the boundary of the Town of Erin and Town of Veteran, Chemung County, New York. The site is approximately 0.25 miles east of the intersection of Benjamin Road and East Sullivanville Road. The approximate center of the project site is 42° 14' 05.1", -76° 43' 39.6". Appendix A details the mine location.

The permit area was utilized for agriculture and forested prior to mining. The entire post-mining area will be a grass meadow unmanaged natural habitat. The reclamation plan and land-use objective is not in conflict with the goals and objectives of the local community. The Town of Erin and the Town of Veteran are zoned; mining is not prohibited at this location.

At the completion of reclamation, the mining area will be turned over to the landowner for their use. Subsequent development will be at the discretion of the landowner.

## **B. Reclamation Method**

### **Topsoil & Overburden Replacement**

The amount of mineral to be removed from the mining area does not permit reclamation to approximate original contour. A graded slope reclamation plan is proposed for the post-mining site utilizing stockpiled overburden and topsoil.

Overburden and material processing wastes will be utilized for initial grading. Topsoil will then be distributed across the site. Refer to Appendix B for soils information and Appendix C for topsoiling specifications.

### **Grading & Slope Treatment**

Final reclamation slopes shall be in accordance with NY DEC regulations. All slopes created either by excavation of a mineral or by the disposal of spoil shall be left no steeper than the following:

1. Coarse sand and gravel – 33° (1.5H:1V)
2. Fine sand, silt and clay – 26° (2H:1V) revegetated slope

The attached reclamation plan and cross sections detail the most probable final topography. Actual topography will vary based upon final mine limits, quality of material mined, and quantity of mineral processing waste.

Refer to Appendix C for planting and mulching specifications.

### **Disposition of Wastes**

All overburden and material processing waste will be incorporated into the final site reclamation.

Residual materials and junk will be properly disposed at facilities permitted to accept such material.

Equipment and property of the operator will be removed from the site at the completion of mining.

### **Treatment of Haulageways**

Haul roads within the mine site will be reclaimed.

### **Water Impoundment Treatment**

There are no proposed water features.

All stormwater sumps shall be reclaimed.

### **Final Drainage**

Final drainage will be generally to the west as indicated on the attached reclamation plan.

### **Revegetation**

Reclaiming the land will be achieved by grading the areas as shown in Reclamation Plan. Overburden and/or spoil material will be utilized for initial grading. The soil will be scarified, lime and/or fertilizer applied, and a seed mixture will be planted in accordance with specifications found in Appendix C.

### ***C. Reclamation Schedule***

Concurrent reclamation will occur as site conditions and market conditions allow.

The proposed reclamation for the current term is identified by the current mine plan map.

Reclamation will be completed within two (2) years after termination of mining operations.

***D. Map***

Attached is the Reclamation Plan and Cross Sections.

## ***E. References***

“New York State Standards and Specifications for Erosion and Sediment Control”  
prepared by New York State Department of Environmental Conservation,  
Division of Water dated November 2016.

APPENDIX A  
USGS Location Map

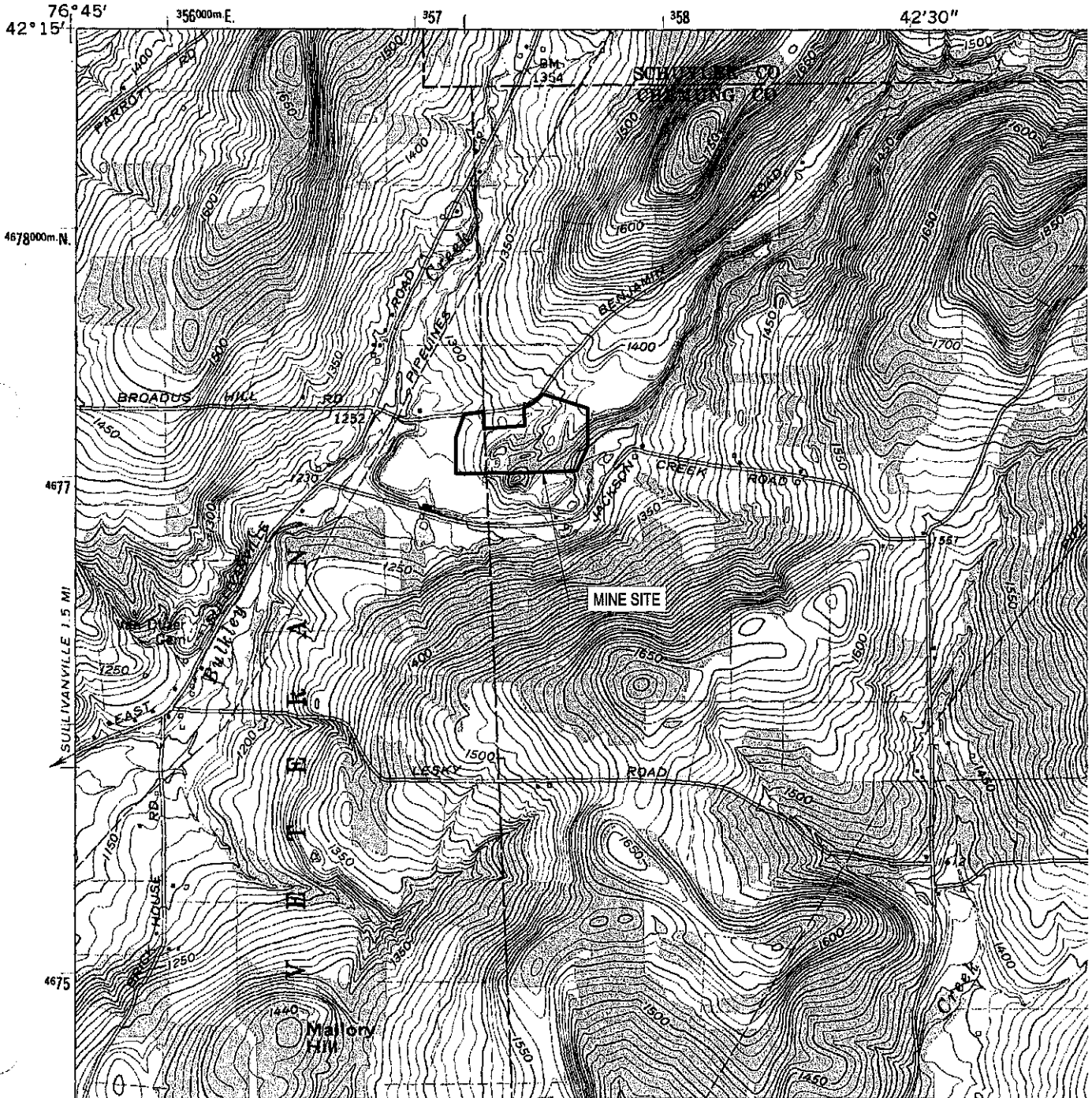
# Erin Quadrangle

Project Location: up & over from bottom right corner  
 1" up & 13.9" over



UNITED STATES  
 DEPARTMENT OF THE INTERIOR  
 GEOLOGICAL SURVEY

4668 (4 SE  
 FOUR FALLS)



Date: 02/25/22  
 Rev No: 1  
 Sheet No:  
**1** of 1

PROJECT: **Mitsifer Mine**  
 Auslin's Excavating & Paving, Inc.  
 Town of Erin & Town of Veteran, Chemung County, New York

TITLE: **USGS Location Map**  
 Erin NY

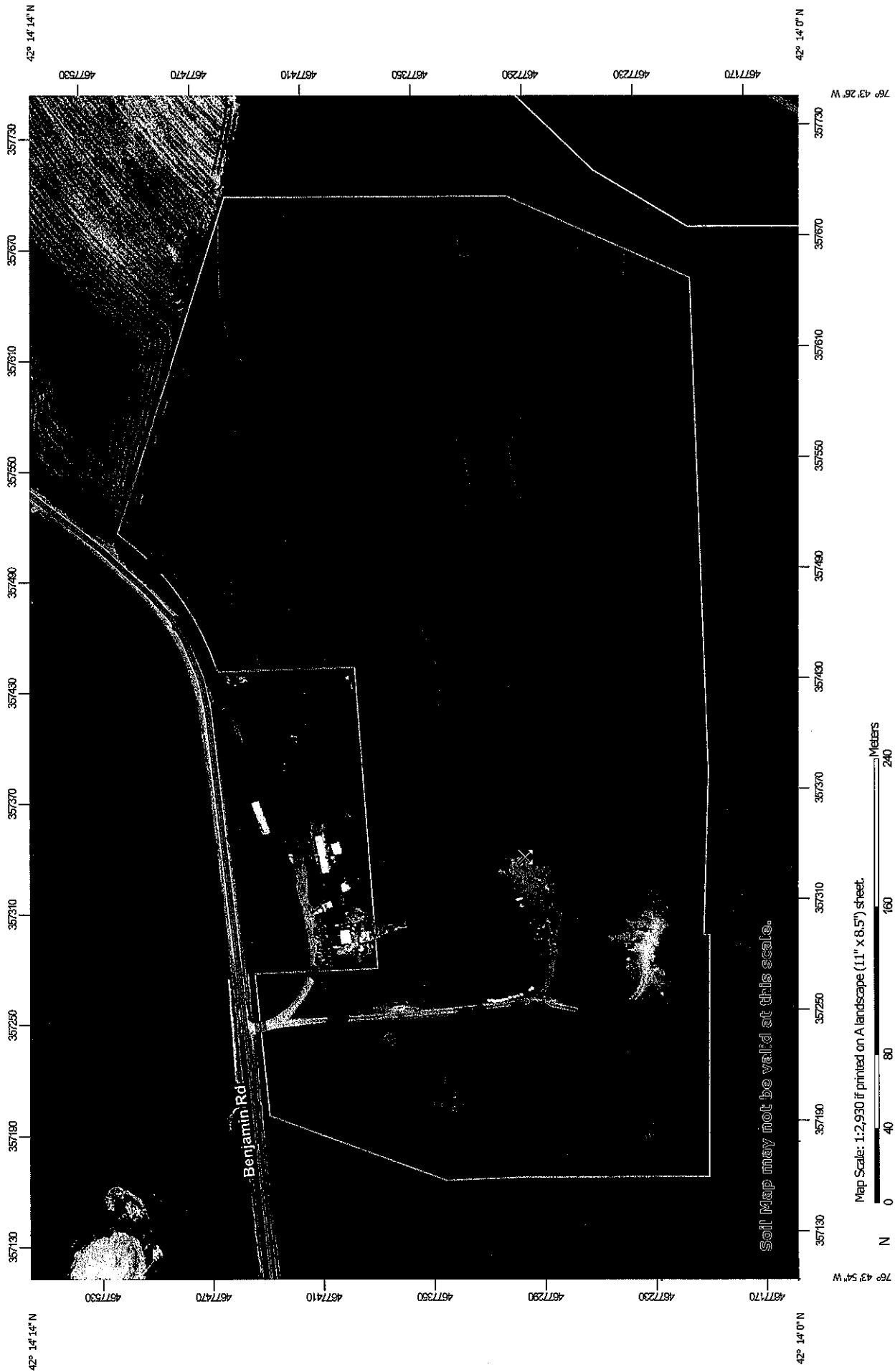
**TRACT ENGINEERING, PLLC**  
 120 Ridge Avenue  
 State College, PA 16803  
 814 272 0301  
 www.TractLLC.com

PROJECT NO.: 21.1027  
 DRAWING NO.: Mitsifer  
 DRAWN BY: lbg  
 11/01/21  
 CHKD BY: TSS  
 03/01/22

REV	DATE	BY	APP/MENT	DEC COMMENTS
1	03/01/22	lbg		03/15/22

**APPENDIX B**  
**Soils Map & Information**

Soil Map—Chemung County, New York  
(Mitsfield, wine)



Soil Map may not be valid at this scale.

Map Scale: 1:2,930 if printed on A landscape (11" x 8.5") sheet.

Map projection: Web Mercator Corner coordinates: WGS84 Edge tics: UTM Zone 18N WGS84



Natural Resources  
Conservation Service

Web Soil Survey  
National Cooperative Soil Survey

## MAP LEGEND

- Area of Interest (AOI)
  - Area of Interest (AOI)
- Soils
- Soil Map Unit Polygons
- Soil Map Unit Lines
- Soil Map Unit Points
- Special Point Features
  - Blowout
  - Borrow Pit
  - Clay Spot
  - Closed Depression
  - Gravel Pit
  - Gravelly Spot
  - Landfill
  - Lava Flow
  - Marsh or swamp
  - Mine or Quarry
  - Miscellaneous Water
  - Perennial Water
  - Rock Outcrop
  - Saline Spot
  - Sandy Spot
  - Severely Eroded Spot
  - Sinkhole
  - Slide or Slip
  - Sodic Spot
- Water Features
  - Streams and Canals
- Transportation
  - Rails
  - Interstate Highways
  - US Routes
  - Major Roads
  - Local Roads
- Background
  - Aerial Photography
- Spoil Area
- Stony Spot
- Very Stony Spot
- Wet Spot
- Other
- Special Line Features

## MAP INFORMATION

The soil surveys that comprise your AOI were mapped at 1:20,000.

**Warning:** Soil Map may not be valid at this scale. Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service  
Web Soil Survey URL:  
Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Chemung County, New York  
Survey Area Data: Version 19, Aug 29, 2021

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Apr 1, 2020—Oct 1, 2020

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

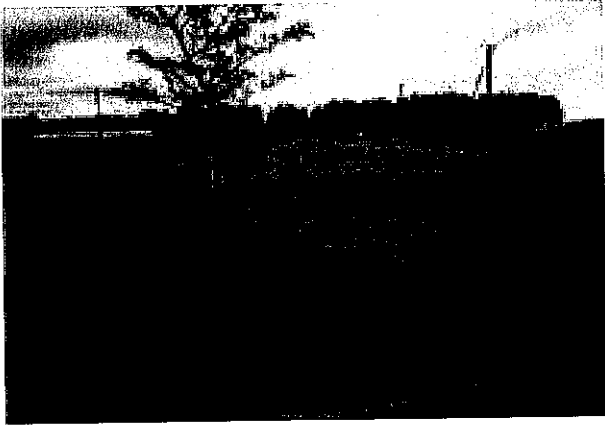
## Map Unit Legend

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
MdB	Mardin channery silt loam, 2 to 8 percent slopes	2.2	7.0%
MdC	Mardin channery silt loam, 8 to 15 percent slopes	0.1	0.4%
VaB	Valois gravelly loam, 2 to 8 percent slopes	2.3	7.4%
VaC	Valois gravelly loam, 8 to 15 percent slopes	18.4	59.0%
VaD	Valois gravelly loam, 15 to 25 percent slopes	2.7	8.7%
VaE	Valois gravelly loam, 25 to 40 percent slopes	2.3	7.4%
VoB	Volusia channery silt loam, 2 to 8 percent slopes	3.1	10.0%
<b>Totals for Area of Interest</b>		<b>31.2</b>	<b>100.0%</b>

## APPENDIX C Erosion & Sediment Control

	PAGE
Mulching	4.39
Surface Roughening	4.56
Temporary Construction Area Seeding	4.58
Topsoiling	4.59
Vegetating Sand and Gravel Borrow Areas	4.68

# STANDARD AND SPECIFICATIONS FOR MULCHING



## Definition and Scope

Applying coarse plant residue or chips, or other suitable materials, to cover the soil surface to provide initial erosion control while a seeding or shrub planting is establishing. Mulch will conserve moisture and modify the surface soil temperature and reduce fluctuation of both. Mulch will prevent soil surface crusting and aid in weed control. Mulch can also be used alone for temporary stabilization in non-growing months. Use of stone as a mulch could be more permanent and should not be limited to non-growing months.

## Conditions Where Practice Applies

On soils subject to erosion and on new seedings and shrub plantings. Mulch is useful on soils with low infiltration rates by retarding runoff.

## Criteria

Site preparation prior to mulching requires the installation of necessary erosion control or water management practices and drainage systems.

Slope, grade and smooth the site to fit needs of selected mulch products.

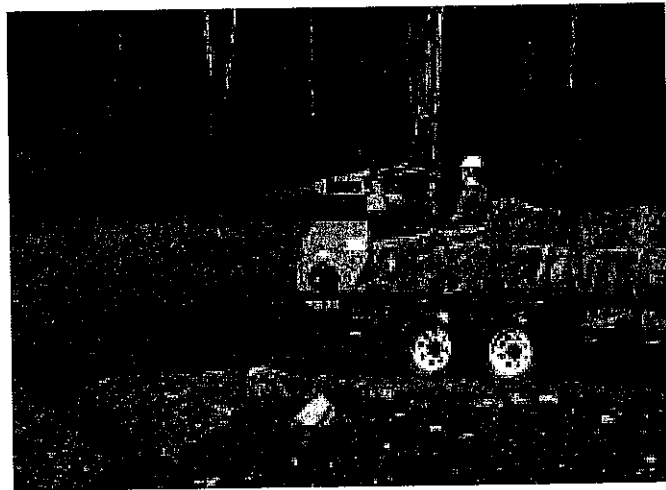
Remove all undesirable stones and other debris to meet the needs of the anticipated land use and maintenance required.

Apply mulch after soil amendments and planting is accomplished or simultaneously if hydroseeding is used.

Select appropriate mulch material and application rate or material needs. Hay mulch shall not be used in wetlands or in areas of permanent seeding. Clean straw mulch is preferred alternative in wetland application. Determine local availability.

Select appropriate mulch anchoring material.

NOTE: The best combination for grass/legume establishment is straw (cereal grain) mulch applied at 2 ton/acre (90 lbs./1000sq.ft.) and anchored with wood fiber mulch (hydromulch) at 500 – 750 lbs./acre (11 – 17 lbs./1000 sq. ft.). The wood fiber mulch must be applied through a hydroseeder immediately after mulching.



**Table 4.2**  
**Guide to Mulch Materials, Rates, and Uses**

Mulch Material	Quality Standards	per 1000 Sq. Ft.	per Acre	Depth of Application	Remarks
Wood chips or shavings	Air-dried. Free of objectionable coarse material	500-900 lbs.	10-20 tons	2-7"	Used primarily around shrub and tree plantings and recreation trails to inhibit weed competition. Resistant to wind blowing. Decomposes slowly.
Wood fiber cellulose (partly digested wood fibers)	Made from natural wood usually with green dye and dispersing agent	50 lbs.	2,000 lbs.	—	Apply with hydromulcher. No tie down required. Less erosion control provided than 2 tons of hay or straw.
Gravel, Crushed Stone or Slag	Washed; Size 2B or 3A—1 1/2"	9 cu. yds.	405 cu. yds.	3"	Excellent mulch for short slopes and around plants and ornaments. Use 2B where subject to traffic. (Approximately 2,000 lbs./cu. yd.). Frequently used over filter fabric for better weed control.
Hay or Straw	Air-dried; free of undesirable seeds & coarse materials	90-100 lbs. 2-3 bales	2 tons (100-120 bales)	cover about 90% surface	Use small grain straw where mulch is maintained for more than three months. Subject to wind blowing unless anchored. Most commonly used mulching material. Provides the best micro-environment for germinating seeds.
Jute twisted yarn	Undyed, unbleached plain weave. Warp 78 ends/yd., Weft 41 ends/yd. 60-90 lbs./roll	48" x 50 yds. or 48" x 75 yds.	—	—	Use without additional mulch. Tie down as per manufacturers specifications. Good for center line of concentrated water flow.
Excelsior wood fiber mats	Interlocking web of excelsior fibers with photodegradable plastic netting	4' x 112.5' or 8' x 112.5'	—	—	Use without additional mulch. Excellent for seeding establishment. Anchor as per manufacturers specifications. Approximately 72 lbs./roll for excelsior with plastic on both sides. Use two sided plastic for centerline of waterways.
Straw or coconut fiber, or combination	Photodegradable plastic net on one or two sides	Most are 6.5 ft. x 3.5 ft.	81 rolls	—	Designed to tolerate higher velocity water flow, centerlines of waterways, 60 sq. yds. per roll.

**Table 4.3**  
**Mulch Anchoring Guide**

Anchoring Method or Material	Kind of Mulch to be Anchored	How to Apply
1. Peg and Twine	Hay or straw	After mulching, divide areas into blocks approximately 1 sq. yd. in size. Drive 4-6 pegs per block to within 2" to 3" of soil surface. Secure mulch to surface by stretching twine between pegs in criss-cross pattern on each block. Secure twine around each peg with 2 or more tight turns. Drive pegs flush with soil. Driving stakes into ground tightens the twine.
2. Mulch netting	Hay or straw	Staple the light-weight paper, jute, wood fiber, or plastic nettings to soil surface according to manufacturer's recommendations. Should be biodegradable. Most products are not suitable for foot traffic.
3. Wood cellulose fiber	Hay or straw	Apply with hydroseeder immediately after mulching. Use 500 lbs. wood fiber per acre. Some products contain an adhesive material ("tackifier"), possibly advantageous.
4. Mulch anchoring tool	Hay or straw	Apply mulch and pull a mulch anchoring tool (blunt, straight discs) over mulch as near to the contour as possible. Mulch material should be "tucked" into soil surface about 3".
5. Tackifier	Hay or straw	Mix and apply polymeric and gum tackifiers according to manufacturer's instructions. Avoid application during rain. A 24-hour curing period and a soil temperature higher than 45 <sup>o</sup> Fahrenheit are required.

# STANDARD AND SPECIFICATIONS FOR SURFACE ROUGHENING



## Definition & Scope

Roughening a bare soil surface whether through creating horizontal grooves across a slope, stair-stepping, or tracking with construction equipment to aid the establishment of vegetative cover from seed, to reduce runoff velocity and increase infiltration, and to reduce erosion and provide for trapping of sediment.

## Conditions Where Practice Applies

All construction slopes require surface roughening to facilitate stabilization with vegetation, particularly slopes steeper than 3:1.

## Design Criteria

There are many different methods to achieve a roughened soil surface on a slope. No specific design criteria is required. However, the selection of the appropriate method depends on the type of slope. Methods include tracking, grooving, and stair-stepping. Steepness, mowing requirements, and/or a cut or fill slope operation are all factors considered in choosing a roughening method.

## Construction Specifications

### 1. Cut Slope, No mowing.

- A. Stair-step grade or groove cut slopes with a gradient steeper than 3:1 (Figure 4.18).
- B. Use stair-step grading on any erodible material soft enough to be ripped with a bulldozer. Slopes of soft rock with some soil are particularly suited to stair-step grading.

- C. Make the vertical cut distance less than the horizontal distance, and slightly slope the horizontal position of the "step" to the vertical wall.
- D. Do not make vertical cuts more than 2 feet in soft materials or 3 feet in rocky materials.

Grooving uses machinery to create a series of ridges and depressions that run perpendicular to the slope following the contour. Groove using any appropriate implement that can be safely operated on the slope, such as disks, tillers, spring harrows, or the teeth of a front-end loader bucket. Do not make the grooves less than 3 inches deep or more than 15 inches apart.

### 2. Fill Slope, No mowing

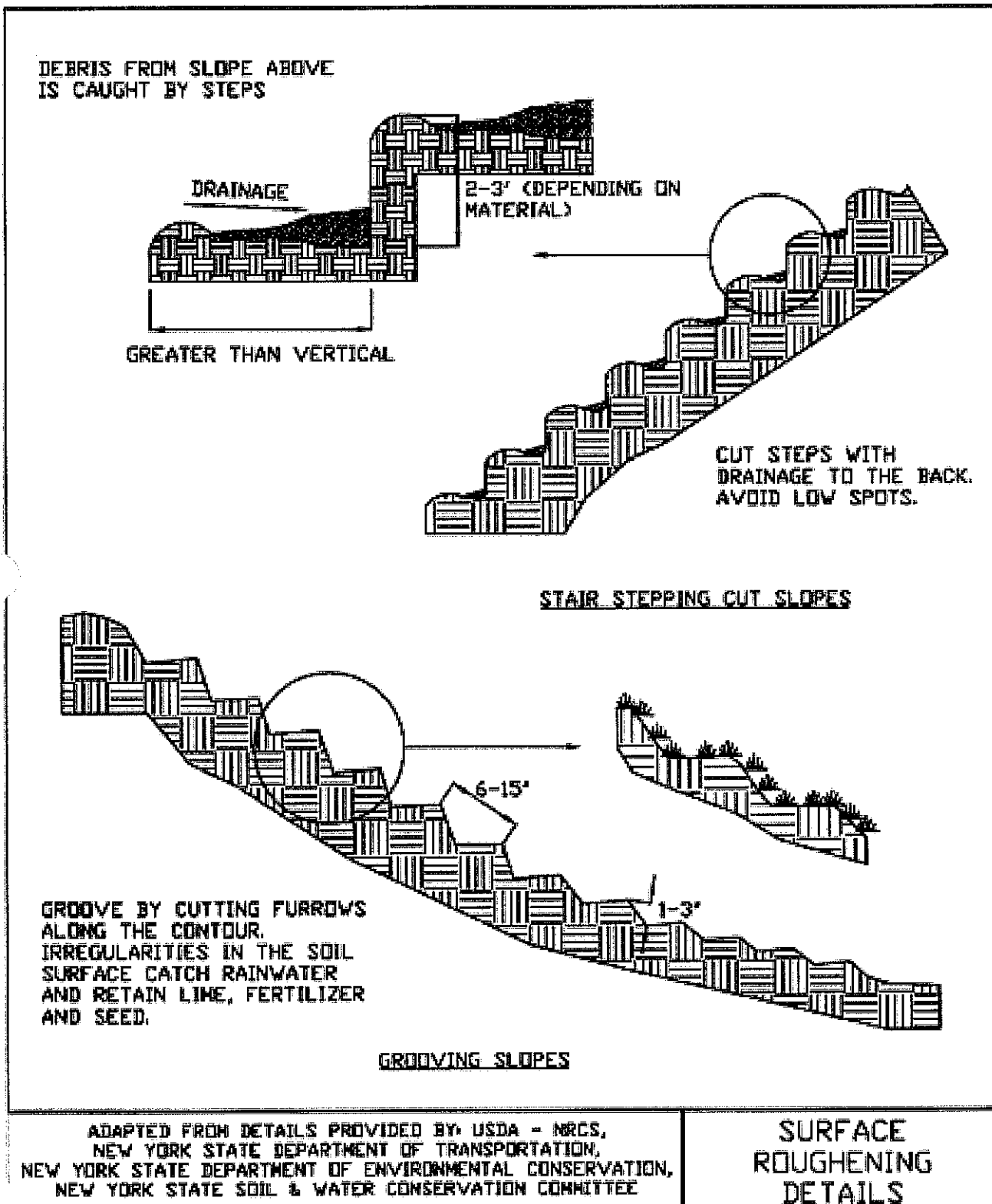
- A. Place fill to create slopes with a gradient no steeper than 2:1 in lifts 9 inches or less and properly compacted. Ensure the face of the slope consists of loose, uncompacted fill 4 to 6 inches deep. Use grooving as described above to roughen the slope, if necessary.
- B. Do not back blade or scrape the final slope face.

### 3. Cuts/Fills, Mowed Maintenance

- A. Make mowed slopes no steeper than 3:1.
- B. Roughen these areas to shallow grooves by normal tilling, disking, harrowing, or use of cultipacker-seeder. Make the final pass of such tillage equipment on the contour.
- C. Make grooves at least 1 inch deep and a maximum of 10 inches apart.
- D. Excessive roughness is undesirable where mowing is planned.

Tracking should be used primarily in sandy soils to avoid undue compaction of the soil surface. Tracking is generally not as effective as the other roughening methods described. (It has been used as a method to track down mulch.) Operate tracked machinery up and down the slope to leave horizontal depressions in the soil. Do not back-blade during the final grading operation.

**Figure 4.18**  
**Surface Roughening**



# STANDARD AND SPECIFICATIONS FOR TEMPORARY CONSTRUCTION AREA SEEDING



## Definition & Scope

Providing temporary erosion control protection to disturbed areas and/or localized critical areas for an interim period by covering all bare ground that exists as a result of construction activities or a natural event. Critical areas may include but are not limited to steep excavated cut or fill slopes and any disturbed, denuded natural slopes subject to erosion.

## Conditions Where Practice Applies

Temporary seedings may be necessary on construction sites to protect an area, or section, where final grading is complete, when preparing for winter work shutdown, or to provide cover when permanent seedings are likely to fail due to mid-summer heat and drought. The intent is to provide temporary protective cover during temporary shutdown of construction and/or while waiting for optimal planting time.

## Criteria

Water management practices must be installed as appropriate for site conditions. The area must be rough graded and slopes physically stable. Large debris and rocks are usually removed. Seedbed must be seeded within 24 hours of disturbance or scarification of the soil surface will be necessary prior to seeding.

Fertilizer or lime are not typically used for temporary seedings.

IF: Spring or summer or early fall, then seed the area with ryegrass (annual or perennial) at 30 lbs. per acre (Approximately 0.7 lb./1000 sq. ft. or use 1 lb./1000 sq. ft.).

IF: Late fall or early winter, then seed Certified 'Aroostook' winter rye (cereal rye) at 100 lbs. per acre (2.5 lbs./1000 sq. ft.).

Any seeding method may be used that will provide uniform application of seed to the area and result in relatively good soil to seed contact.

Mulch the area with hay or straw at 2 tons/acre (approx. 90 lbs./1000 sq. ft. or 2 bales). Quality of hay or straw mulch allowable will be determined based on long term use and visual concerns. Mulch anchoring will be required where wind or areas of concentrated water are of concern. Wood fiber hydromulch or other sprayable products approved for erosion control (nylon web or mesh) may be used if applied according to manufacturers' specification. Caution is advised when using nylon or other synthetic products. They may be difficult to remove prior to final seeding and can be a hazard to young wildlife species.

# STANDARD AND SPECIFICATIONS FOR TOPSOILING



## **Definition & Scope**

Spreading a specified quality and quantity of topsoil materials on graded or constructed subsoil areas to provide acceptable plant cover growing conditions, thereby reducing erosion; to reduce irrigation water needs; and to reduce the need for nitrogen fertilizer application.

## **Conditions Where Practice Applies**

Topsoil is applied to subsoils that are droughty (low available moisture for plants), stony, slowly permeable, salty or extremely acid. It is also used to backfill around shrub and tree transplants. This standard does not apply to wetland soils.

## **Design Criteria**

1. Preserve existing topsoil in place where possible, thereby reducing the need for added topsoil.
2. Conserve by stockpiling topsoil and friable fine textured subsoils that must be stripped from the excavated site and applied after final grading where vegetation will be established. Topsoil stockpiles must be stabilized. Stockpile surfaces can be stabilized by vegetation, geotextile or plastic covers. This can be aided by orientating the stockpile lengthwise into prevailing winds.
3. Refer to USDA Natural Resource Conservation Service soil surveys or soil interpretation record sheets for further soil texture information for selecting appropriate design topsoil depths.

## **Site Preparation**

1. As needed, install erosion and sediment control practices such as diversions, channels, sediment traps, and stabilizing measures, or maintain if already installed.
2. Complete rough grading and final grade, allowing for depth of topsoil to be added.
3. Scarify all compact, slowly permeable, medium and fine textured subsoil areas. Scarify at approximately right angles to the slope direction in soil areas that are steeper than 5 percent. Areas that have been overly compacted shall be decompacted in accordance with the Soil Restoration Standard.
4. Remove refuse, woody plant parts, stones over 3 inches in diameter, and other litter.

## **Topsoil Materials**

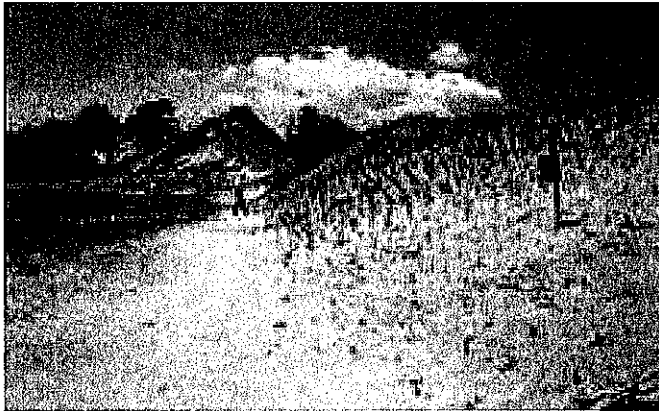
1. Topsoil shall have at least 6 percent by weight of fine textured stable organic material, and no greater than 20 percent. Muck soil shall not be considered topsoil.
2. Topsoil shall have not less than 20 percent fine textured material (passing the NO. 200 sieve) and not more than 15 percent clay.
3. Topsoil treated with soil sterilants or herbicides shall be so identified to the purchaser.
4. Topsoil shall be relatively free of stones over 1 1/2 inches in diameter, trash, noxious weeds such as nut sedge and quackgrass, and will have less than 10 percent gravel.
5. Topsoil containing soluble salts greater than 500 parts per million shall not be used.
6. Topsoil may be manufactured as a mixture of a mineral component and organic material such as compost.

## **Application and Grading**

1. Topsoil shall be distributed to a uniform depth over the area. It shall not be placed when it is partly frozen, muddy, or on frozen slopes or over ice, snow, or standing water puddles.
2. Topsoil placed and graded on slopes steeper than 5 percent shall be promptly fertilized, seeded, mulched, and stabilized by "tracking" with suitable equipment.
3. Apply topsoil in the amounts shown in Table 4.7 below:

<b>Table 4.7 - Topsoil Application Depth</b>		
<b>Site Conditions</b>	<b>Intended Use</b>	<b>Minimum Topsoil Depth</b>
1. Deep sand or loamy sand	Mowed lawn	6 in.
	Tall legumes, unmowed	2 in.
	Tall grass, unmowed	1 in.
2. Deep sandy loam	Mowed lawn	5 in.
	Tall legumes, unmowed	2 in.
	Tall grass, unmowed	none
3. Six inches or more: silt loam, clay loam, loam, or silt	Mowed lawn	4 in.
	Tall legumes, unmowed	1 in.
	Tall grass, unmowed	1 in.

# STANDARD AND SPECIFICATIONS FOR VEGETATING SAND AND GRAVEL BORROW AREAS



## Definition & Scope

Permanently vegetating inactive borrow areas with sustainable herbaceous perennial plants in order to stabilize the soil, thus preventing wind and water erosion; creating a more aesthetically pleasing view; and enhancing the wildlife habitat for greater diversity.

## Condition Where Practice Applies

Sand and gravel borrow areas which have had EITHER the top portion of the soil profile replaced as 'topsoil' or overburden with greater than 15 percent fines included, OR the sand and gravel mined condition remains without 'topsoil' being replaced resulting in sand and gravel with less than 15 percent fines.

## Design Criteria

1. Depending upon the type of unconsolidated material being mined, side slopes shall be graded in accordance with the New York State Mined Land Reclamation Law. Minimum requirements are: for fine sand, silt, clay the slope shall not exceed 2 horizontal to 1 vertical (26°); for coarse sand and gravel the slope shall not exceed 1.5 horizontal to 1 vertical (33°)
2. Rocks and other debris shall be removed from the site or buried during grading if allowed.
3. Surface soil layer shall be sampled from 0-6" in depth. Combine about 15 core samples to represent the site soil conditions. Analyze to determine pH, P and K.
4. Obtain a larger (5-10 lbs.) soil sample to represent the surface soil texture. Analyze for percent fines (particles less than .074 mm or 200 mesh sieve).
5. Apply soil amendments as indicated by soil chemical test. The surface to be seeded shall be limed to a pH of

6.0 using agricultural ground limestone. Fertilize to achieve a moderate level of available phosphorus ( $P_2O_5$ ) and potassium ( $K_2O$ ). If the soil must be fertilized before results of a soil test can be obtained to determine fertilizer needs, apply 50 pounds per acre of nitrogen. Incorporation will be accomplished following the seeding.

6. Select the appropriate seed mix based on percent fines and time of planting.
  - A. **IF 15 percent fines or less:** use the warm season grass mix. If fall planting is necessary, use a temporary cover to allow planting of the warm season grasses in early spring. Two (2) bushels of oats per acre is suggested as this will winter kill and not be competitive when the permanent seeding is made. Another option is small grain straw at two (2) tons per acre. Do not use old hay.
  - B. Warm Season Grass Table:
  - C. **IF greater than 15 percent fines:** use a grass/legume mixture, or the warm season grass mix.

Species	Variety	Certified Seed PLS*/Acre (lbs.)
Switchgrass	Blackwell, Shelter Pathfinder, or Trailblazer	2
Coastal panicgrass	Atlantic	2
Big bluestem	Niagara	4
Little bluestem	Aldous or Camper	4
Sand bluestem	Goldstrike	2
Sand lovegrass	Nebraska 27 or Bend	2
Total mix (PLS/acre)		16 lbs.
*Pure Live Seed (PLS) = (% germination x %purity)/100		
Pounds to be seeded = (100 x lbs. of 100% PLS required)/% PLS of commercial seed being used.		

D. Grass/Legume Table:

Species	Variety	Pure Live Seed Per Acre (lbs.)
Creeping red fescue	Common	10
Smooth Bromegrass	Common	2
Perennial ryegrass	Pennfine/Linn	5
Red clover*	Empire plus Pardee	8**
* legume in seed mixture needs to be inoculated. ** 4 lbs. of each is best. 8 lbs. of either one is good.		

OR

Species	Variety	Pure Live Seed per Acre (lbs.)
Flatpea*	Lathco	10.0
Perennial pea*	Lancer	2.0
American vetch*	Common	10.0
Hard fescue	Common	10.0
Total Mix (lbs./acre)		32.0
* legume in seed mixture needs to be inoculated.		

difficult due to the lightweight and fluffy seed characteristics of some species.

E. Incorporate the soil amendments and seed.

i. "Tracking" an area is using a bulldozer having cleats at least 1 inch in depth. Operation of the dozer shall be perpendicular to the contour and such that the entire area is covered by the tracks.

OR

ii. Pulling a cultipacker over the entire site with the tines up or no deeper than 1 inch. This option only works if soil moisture is near field capacity.

8. Mulching is essential for immediate erosion control and uniform establishment of cool season grasses and legumes on sands and gravels. Use a heavier rate for the grass/legume seedings of 4000 lbs./ac. Use only small grain straw. Mulching of warm season grasses may not be necessary when runoff and sediment delivery is not an issue. If erosion control is necessary for warm season grass sites, mulch with 3000 lbs./ac. of small grain straw (not grass hay). On sites where mulch can be avoided, warm season grasses will respond favorably.
9. Anchor the mulch by using the bulldozer tracking technique. This may be done simultaneously with seed incorporation. Optional anchoring techniques and materials are available in the Mulching Standard.
10. Site protection is necessary to avoid wheel and tire damage.

7. Planting instructions:

- A. Planting dates are very critical for warm season grasses. Very early spring (March/April) is best. The success rate decreases notably by the end of May. Fall seedings are not recommended. Grass/legume mixes may be reliably planted from early spring through June 15. Avoid June 16 through August 15. After August 15, seed anytime until ground freezes.
- B. A temporary cover of 2 bushels of oats may be seeded between August 15 and September 15 (oats will winter kill). This works well preparing for early spring seedings.
- C. Inoculate legume seed immediately prior to actual seeding. Use 4 times the standard agricultural rates.
- D. The seed mix must be uniformly broadcast. A hydroseeder works well or spread by hand if necessary. The use of spinner type seeders is