


THIS IS A TWO-SIDED DOCUMENT

 <p>NEW YORK STATE OF OPPORTUNITY.</p> <p>Adirondack Park Agency</p> <p>P.O. Box 99, 1133 NYS Route 86 Ray Brook, New York 12977 Tel: (518) 891-4050 www.apa.ny.gov</p>	<p>DRAFT APA Permit 2022-0037</p>
<p>In the Matter of the Application of</p> <p>CARVER SAND & GRAVEL, LLC Permittee</p> <p>for a permit pursuant to § 809 of the Adirondack Park Agency Act</p>	<p>Date Issued: XXXX</p> <p>To the County Clerk: Please index this permit in the grantor index under the following names: 1. Carver Sand & Gravel, Inc.</p>

SUMMARY AND AUTHORIZATION

This permit authorizes the continued operation and expansion of a commercial sand and gravel extraction and a mineral extraction in an area classified Resource Management on the Adirondack Park Land Use and Development Plan Map in the Town of Ephratah, Fulton County.

This authorization shall expire unless recorded in the Fulton County Clerk's Office within 60 days of issuance of a signed and notarized permit. The signed and notarized permit shall be recorded in the names of all persons listed above and in the names of all owners of record of any portion of the project site on the recordation date. The Agency will consider the project in existence when the permit has been recorded.

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

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

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

PROJECT SITE

The 321.25±-acre project site is located on NYS Routes 29 and 10 in the Town of Ephratah, Fulton County, in an area classified Resource Management on the Adirondack Park Land Use and Development Plan Map. The site consists of three tax map parcels as follows:

- Tax Map Section 130, Block 8, Parcel 72 and Parcel 8.1, as described in a deed from Kenneth Wilder, Jr. as Executor of the Last Will and Testament of Donald Emeron Baker to Carver Sand & Gravel, LLC, dated June 4, 2007, and recorded June 4, 2007 in the Fulton County Clerk's Office at Book 1073, Page 221 (Parcels 72 and 8.1); and
- Tax Map Section 130, Block 1, Parcel 8.2, as described in a deed from Timothy Battisti, Administrator of the Estate of Betty Battisti to Carver Sand & Gravel LLC, dated October 23, 2020, and recorded November 5, 2020 in the Fulton County Clerk's Office under Instrument Number 2020-63924 (Parcel 8.2).

The project site is improved by an existing mine and mine related structures as authorized in Permits 2008-0246, 0246A, 0246B, and 0246C. Parcel 8.2 contains a single family dwelling and associated on-site wastewater treatment system.

Existing access to the project site is along a private mine access road from NYS Route 29/Route 10.

PROJECT DESCRIPTION

The project as conditionally approved herein involves the continued operation of an existing commercial sand and gravel extraction and mineral extraction, as well as expansion of mine operations on Parcels 72 and 8.1 and expansion of mine related activities onto a recently acquired adjoining lot (Parcel 8.2).

The mine will increase Monday through Friday trucking and loadout hours from the current hours of 7am to 5pm to new hours of 6am to 6pm, with no change to Saturday trucking and loadout hours of 8am to 2pm. The mine will increase blasting from twice a month, not to exceed 18 blasts a year with a seasonal restriction, to up to three times per month, not to exceed 30 blasts a year with no seasonal restriction. The mine will increase the possible number of daily truck trips from the current maximum of 75 trips per day and up to 100 trips per day for 10 days a year, to a maximum of 200 trips per day with an average of no more than 100 trips per day for any year. Maintenance of equipment and vehicles will continue to occur between the hours of 6am to 9pm Monday through Saturday.

On Parcel 8.2, additional stormwater retention basins and a vegetated earthen berm planted with evergreen trees will be installed for visual and noise mitigation. A portion of Parcel 8.2 will be used for equipment storage and material stockpiling. The existing single family dwelling will remain and continue to be used as a dwelling.

The area to be affected during the term authorized by this permit is 100.5± acres. The life of mine authorized by this permit will be 166.7± acres. No changes are proposed to

the hours for excavation, grading, stockpiling, crushing, other mining and sand and gravel extraction activities, and other reclamation activities (7am to 5pm Monday through Friday and 8am to 2pm on Saturdays).

The project is shown on the following maps, plans, and reports:

- “Mine Plan Map Carver Sand & Gravel, LLC,” prepared by Ingalls & Associates, LLP, dated September 23, 2021, and last revised September 20, 2023 (Site Plan).
- “Reclamation Plan Carver Sand & Gravel, LLC,” prepared by Ingalls & Associates, LLP, dated September 24, 2021, and last revised December 28, 2022 (Reclamation Plan).
- A 69-page report titled “Stormwater Summary,” prepared by Ingalls & Associates, LLP, and dated May 4, 2022 (Stormwater Plan).

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

AGENCY JURISDICTION

Pursuant to Section 809(2)(a) of the Adirondack Park Agency Act, a permit is required from the Adirondack Park Agency prior to the establishment of or expansion by more than 25% of any commercial sand and gravel extraction or mineral extraction on Resource Management lands in the Adirondack Park.

Condition 6 of Permit 2008-0246C requires “Any change to the location, dimensions, or other aspect of the mineral extraction or commercial sand and gravel extraction shall require a new or amended permit or prior written Agency authorization.”

This permit also amends Conditions 7, 8, 9, 10, 11, 16, and 17 of Permit 2008-0246C.

CONDITIONS

THE PROJECT IS APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. The project shall not be undertaken until this permit has been recorded in the Fulton County Clerk’s Office.
2. This permit is binding on the permittee, all present and future owners or lessees of the project site, and all persons undertaking all or a portion of the project, for as long as the commercial sand and gravel extraction and/or mineral extraction continue on the site. Copies of this permit and Site Plan, Reclamation Plan, and Stormwater Plan shall be furnished by the permittee to all subsequent owners or lessees of the project site prior to sale or lease, and by the permittee and/or any subsequent owner or lessee to all persons undertaking any development activities authorized herein.

3. In addition to complying with all terms and conditions of this permit, all future activities on the project site shall be undertaken in compliance with the requirements of New York State's Adirondack Park Agency Act, Freshwater Wetlands Act, and the Adirondack Park Agency's implementing regulations [9 NYCRR §§ 570-588].
4. This permit amends and supersedes Permit 2008-0246C. The terms and conditions of Permit 2008-0246C shall no longer apply.
5. All deeds conveying all or a portion of the lands subject to this permit shall contain references to this permit as follows: "The lands conveyed are subject to Adirondack Park Agency Permit 2022-0037, issued **XXXX**, the conditions of which are binding upon the heirs, successors and assigns of the grantors and all subsequent grantees."

Development

Construction Location and Size

6. This permit authorizes the continued operation of the commercial sand and gravel extraction and mineral extraction in the location shown and as depicted on the Site Plan. Any change to the location, dimensions, or other aspect of the commercial sand and gravel extraction or mineral extraction shall require prior written authorization.
7. By July 1, 2024, the **vegetated earthen** berm shall be constructed as shown and as depicted on the Site Plan. Any change the location, dimensions, or other aspect of the berm shall require prior written authorization.

Outdoor Lighting

8. Any new free-standing or building-mounted outdoor lights associated with the commercial sand and gravel extraction or mineral extraction on the project site shall employ full cut-off fixtures that are fully shielded to direct light downward and not into the sky, NYS Routes 29 and 10, or adjoining property.

Signage

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

Tree Cutting/Vegetation Removal

10. Outside of the limits of clearing shown on the Site Plan, no trees, shrubs, or other woody stemmed vegetation may be cut, culled, trimmed, pruned or otherwise removed or disturbed on the project site without prior written Agency authorization, except for the removal of dead or diseased vegetation, rotten or damaged trees, or any other vegetation that presents a safety or health hazard.

Plantings

11. All trees depicted on the Site Plan shall be planted no later than the first spring or fall planting season after final grading related to construction of the stormwater practices and earthen berm on the project site. Trees that do not survive shall be replaced annually until established in a healthy growing condition.

Wetlands

12. The undertaking of any activity involving wetlands shall require a new or amended permit.

Project Operations

Excavation

13. Excavation, grading, stockpiling, crushing, other mining and sand and gravel extraction activities, and other reclamation activities shall only occur between 7am and 5pm Monday through Friday and 8am and 2pm Saturdays. There shall be no sand and gravel extraction or mineral extraction activities on Sundays or on New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, or Christmas Day.

Maintenance

14. Maintenance activities shall only occur between 6am and 9pm, Monday through Saturday. There shall be no maintenance activities on Sundays or on New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, or Christmas Day.

Blasting

15. Blasting shall only occur between 11am and 3pm, Monday through Friday. No blasting shall occur on Sundays or on New Year's Day, Memorial Day, July 4th, Labor Day, or Thanksgiving Day, or Christmas Day. Upon prior written Agency approval, blasting may take place on Saturdays for safety reasons or when climatological conditions prevented blasting during the week.
16. There shall be no more than three blasts during any month, and no more than 30 blasts per year.

Trucking

17. Trucking activities shall only occur between 6am and 6pm, Monday through Friday and 8am to 2pm Saturdays. There shall be no trucking activities on Sundays or on New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, or Christmas Day.
18. There shall be no more than 200 loaded truck trips from the project site on any day. There shall be no more than an average of 100 truck trips a day during any year. A year shall be considered the period of January 1st to December 31st for

each year of the permit term. The average shall be calculated using all trucking during the Monday through Saturday workdays for this period.

Noise

19. All mobile equipment operated primarily on-site shall be equipped with properly functioning radar activated backup alarms.

Permit Term

20. This permit shall expire, and all authorized activities shall cease on the project site five years after the date the permit is recorded in the County Clerk's Office unless a request for a renewed permit term is received by the Agency at least one month prior to that date.

Reclamation

21. Reclamation shall be an on-going process whereby areas no longer needed for extraction purposes shall be promptly and successfully reclaimed according to the Reclamation Plan Map.

Reports

22. An annual report shall be provided to the Agency by January 31st encompassing the preceding year of the permit term. This report shall include the number of daily truck trips and a report of the number of blasts undertaken during the preceding year. All notifications and reporting to the NYS Department of Environmental Conservation shall also be submitted to the Agency, including, but not limited to, notification of crushing operations, well water data, or any applications for permit renewals, modifications, or transfers.

Infrastructure

Stormwater Management/Erosion Control

23. The project shall be undertaken in compliance with the Stormwater Pollution Prevention Plan.
24. An undisturbed buffer of at least 100 feet shall be maintained between the extraction and streams.

CONCLUSIONS OF LAW

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

- a. will be consistent with the land use and development plan;
- b. will be compatible with the character description and purposes, policies, and objectives of the Resource Management land use area;
- c. will be consistent with the overall intensity guidelines for the Resource Management land use area;
- d. will comply with the shoreline restrictions of § 806 of the Adirondack Park Agency Act; and
- e. will not have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources of the Park or upon the ability of the public to provide supporting facilities and services made necessary by the project.

PERMIT issued this day
of , 2023.

ADIRONDACK PARK AGENCY

BY: _____
David J. Plante, AICP CEP
Deputy Director, Regulatory Programs

STATE OF NEW YORK
COUNTY OF ESSEX

On the day of in the year 2023, before me, the undersigned, a Notary Public in and for said State, personally appeared David J. Plante, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their capacity, and that by their signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public