

TOWN OF ROCHESTER

50 Scenic Drive • P.O. Box 65 • Accord, NY 12404
Area Code 845

Town Clerk 626-7384
Supervisor 626-3043
Highway Dept 626-7221
Assessor 626-0920
Transfer Station 626-5273



Code Enforcement 626-2433
Planning Board 626-2434
Zoning Board 626-2434
Court House 626-2522
Youth Commission 626-2115

FAX

Date: 10/31/08

To: John Petronella, Environmental Analyst, Division of Environmental Permits Region 3
Fax No: 255-4659

Re: LEAD AGENCY DETERMINATION REQUEST
DEC Application # 3-5144-00239/00001
Mombaccus Excavating, Inc.

Mr. Petronella,

Please find attached letter dated 10/24/08 from the Town of Rochester Planning Board regarding the Lead Agency Determination Request received by our office from the DEC on September 29, 2008.

We thank you again for extending the comment period until today for the Board to gather together and compose a response.

If you have any questions, please call.

Thanks,
Becky Paddock Stange
Secretary, PB torpbzba@hyc.ny.com
845-626-2434

TOTAL NUMBER OF PAGES INCLUDING COVER SHEET: 4

Note: If all pages are not received, please telephone (845) 626-2434

Confidentiality Notice

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October 24, 2008

John W. Petronella
NYSDEC Region 3 Division of Environmental Permits
21 South Putt Corners Road
New Paltz, NY 12561

Re: LEAD AGENCY DETERMINATION REQUEST
DEC Application # 3-5144-00239/00001
Mombaccus Excavating, Inc.

Dear Mr. Petronella;

The Town of Rochester Planning Board (TORPB) has received your letter dated September 19, 2008 regarding Lead Agency determination status for the above application. The TORPB would like to thank the DEC for granting our request of extension to allow the discussion of this application at our October 21, 2008 monthly meeting. We offer these comments to comply with your request, and expect to have additional comments upon conducting a more detailed review of the application.

The TORPB would like it noted that your letter was our first notification of this application despite information stated on Page 8 in the accompanying Environmental Assessment Form (EAF) as having been submitted to the TORPB in November 2006 for Special Use Permit review. Neither our Planning Office nor Code Enforcement Office has any record of such an application. As such, our review has been limited at this time in order to meet the reply deadline.

We find fault with some of the information in the EAF as provided. We will detail these faults below in our comments. We further note, in correspondence provided by the DEC, this application has been deemed incomplete by the DEC and maintain Lead Agency status should not be determined on an application deemed incomplete and, in fact, specifically missing 5 out of 6 items as identified by the DEC.

Determination

The Town of Rochester Planning Board respectfully requests to be declared Lead Agency for the review of this application. While the TORPB respects the authority of the NYSDEC to be Lead Agency under the Mined Land Reclamation Law, we believe the anticipated environmental impacts of this application to be primarily of local significance rather than regional. We believe, with the assistance of our Town Engineer/Planner consulting firm (Clark Patterson Lee), the TORPB has the wherewithal to conduct a thorough environmental review of the impacts of this application.

Should our request for Lead Agency be denied, we would urge the DEC to require a Full EIS in order to completely address all concerns related to this application. We also request that the TORPB be copied on any and all information submitted to the DEC.

Jurisdiction

As is stated in the EAF, this project would require a Special Use Permit being granted by the TORPB. However, we do find fault with information submitted in the EAF. On Page 9 of the EAF the zoning classification of the parcel is stated as "R-1" (Residential). Upon review of our town zoning map, we have determined the parcel and surrounding properties to be zoned "A" (Residential). Extractive Operations and Soil Mining are allowed uses in the "A" zone with the granting of a Special Use Permit.

Issues of Concern

Area of Disturbance

We request it be noted that we believe the area proposed (9.5 acres) is specifically chosen to keep from mandatory triggering of Type 1 action (617.4b6i; 6 NYCRR Part 617 New York State Department of Environmental Conservation Rules and Regulations). It should be further noted that with all the impacts of a commercial mine site, section 617.7c1 stipulates that any TWO impacts can trigger Type 1 review. We request this be classified a Type 1 review.

Traffic

The TORPB disagrees with the negative response as indicated on Page 10 of the EAF relating to generation of traffic above present levels. The proposed roads are inadequate for heavy truck traffic. We contend the addition of 30-40 round trip tractor-trailer dump truck loads of material per day would cause significant impact. The TORPB maintains a sufficient traffic study must be conducted to include width and composition of roads in question (to include maintenance cost projections) as well as safety aspects due to school bus stops and businesses along the intended route.

This issue is significant due to the proposal of the mined material being transported to the Mombaccus Excavating site on Rochester Center Road for processing. Amanda Drive is a private gravel road which empties onto Rogue Harbor Road. Rogue Harbor Road is a very narrow road which services the residents of several subdivisions. The majority of these homes lie in the neighboring Town of Wawarsing as this road continues into that town (transitioning from paved to gravel in the process). Of particular concern of the proposed truck route is where Rogue Harbor Road crosses the stream near the Cherrytown Road intersection. There is no shoulder at this location. The road narrows to the extent that when meeting a school bus at this point it is virtually impossible for the two vehicles to pass.

Continuing onto Cherrytown Road, the trucks would be passing Camp Rav-Tov (a seasonal children's camp), Streamside Estates (a manufactured housing park), the Terwilliger-Smith property (listed on the National Register of Historic Places), and the Pine Grove Resort Ranch (a major tourist attraction). Camp Rav-Tov attendees frequently walk in large groups along Cherrytown Road. Pine Grove Resort Ranch is particularly problematic. Cherrytown Road bisects the Ranch property and guests must cross Cherrytown Road frequently to access horseback riding facilities and other activities. This crossing has limited line of sight due to its location on a turn.

Noise

The TORPB maintains tests must be conducted to determine a "true ambient" dBA level for the site receptors (homes) and the boundary lines of receptors. We note the DEC recommendation of 6 dBA over ambient level.

Dust

In accordance with SEQRA and section 140-20c5 of the Town of Rochester Zoning Code a sufficient dust study and subsequent dust suppression regime should be prepared as part of SEQRA review.

Town of Rochester Zoning Code 140-20(C)

This section is applicable town wide for all land uses. Subsections 1, 2, 3 and 5, are applicable. As per subsection 1: *No offensive or objectionable vibration or glare shall be noticeable at or beyond the property line*, a seismic study should be required to ascertain ambient vibration levels off-site at each and every receptor's property line and at receptors (homes); this establishes baseline data for blasting impacts to be measured against.

Economic Impact

An evaluation of the economic impact on the valuation of surrounding properties should be undertaken.

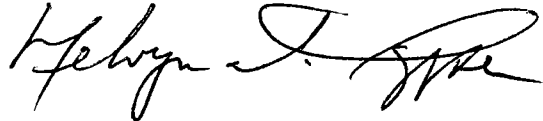
Mombaccus Excavating Inc. (MLR #30578): Rochester Center Rd.

The narrative indicates that material will be shipped to this site for processing. We believe the Special Use permit for this site should be reviewed to determine if this increase in material will cause any impacts.

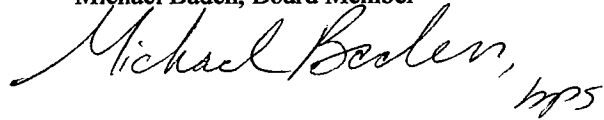
Thank you for your consideration and we look forward to your comments.

Very truly yours,
T/ ROCHESTER PLANNING BOARD

Melvyn I. Tapper, Chairman



Michael Baden, Board Member



Copy:

Timothy Moot, Clark Patterson Lee
Mary Lou Christiana, Esq., T/ Rochester Attorney
Carl Chipman, T/ Rochester Supervisor

MB: bps

PBZBA

From: John Petronella [jwpetron@gw.dec.state.ny.us]
Sent: Tuesday, October 28, 2008 9:05 AM
To: mitapper@aol.com; 'Tim Moot'; PBZBA
Subject: RE: T/o Rochester - Mombaccus Mine

Becky,

The comments should be received by this office on October 31. You may fax the comments to me on the 31st as long as a hard copy will follow.

John

John W. Petronella
Environmental Analyst
Division of Environmental Permits
Region 3
21 South Putt Corners Road
New Paltz, NY 12561-1620
(845)-256-3050 phone
(845)-255-4659 fax

>>> "PBZBA" <torpbzba@hvc.rr.com> 10/28/2008 8:52 AM >>>

John,
The Town of Rochester PB wanted to clarify the October 31, 2008 SEQRA response cut off-- Did the letter need to be post marked by October 31, 2008 or received by DEC by October 31, 2008?

We are currently circulating our draft response to our members getting feedback and are hoping to have a final letter go out soon, but we didn't want to miss the cut off.

Thanks,
Becky Paddock Stange,
T/ Rochester PB Secretary

-----Original Message-----

From: John Petronella [mailto:jwpetron@gw.dec.state.ny.us]
Sent: Tuesday, October 07, 2008 8:03 AM
To: Tim Moot
Cc: PBZBA
Subject: Re: T/o Rochester - Mombaccus Mine

Tim,

DEC can extend the deadline of the comment period until after the planning board meeting on October 21, 2008. I will get an official correspondence out within a few days.

Regards,

John Petronella

John W. Petronella
Environmental Analyst
Division of Environmental Permits
Region 3
21 South Putt Corners Road
New Paltz, NY 12561-1620
(845)-256-3050 phone
(845)-255-4659 fax

>>> "Tim Moot" <TMoot@ClarkPatterson.com> 10/3/2008 2:35 PM >>>

Hello Mr. Petronella,

I am writing this note as a follow up to our phone conversation earlier today regarding the Lead Agency Coordination Request Letter - DEC Application #3-5144-00239/00001, dated September 19, 2008 that was sent to the Town of Rochester. As discussed, Clark Patterson Lee is currently the Planner for the Town of Rochester Planning Board.

It is my understanding that the letter from NYSDEC dated September 19, 2008 was received by the Planning Board on September 29th, which was after the September monthly public meeting held on Sept. 16th. The 30 day response time stipulated in the letter would expire on Oct 19th. The next public planning board meeting is to be held on Oct 21, 2008.

We respectfully request that the 30 day response time be extended so that any potential issues of concern can be discussed publically at the next meeting and subsequent ample time is available in order to prepare a response letter. Please advise if an extension is possible.

Thank You,

Timothy J. Moot, C.P.G.

Associate

Clark Patterson Lee

Design Professionals

(800) 274-9000 ext. 2116

P Please consider the environment before printing this email.

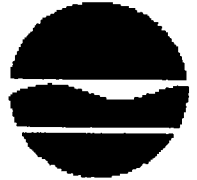
New York State Department of Environmental Conservation

Division of Environmental Permits, Region 3

21 South Putt Corners Road, New Paltz, New York 12561-1620

Phone: (845) 256-3054 FAX: (845) 255-4659

Website: www.dec.ny.gov

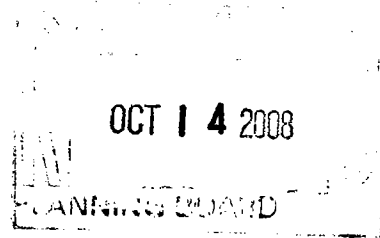


Alexander B. Grannis
Commissioner

October 10, 2008

Carl Chipman, Town of Rochester Supervisor
50 Scenic Road
PO Box 65
Accord, NY 12404

Mel Tapper, Town of Rochester Planning Board Chairperson
PO Box 65
15 GLF Road
Accord, NY 12404



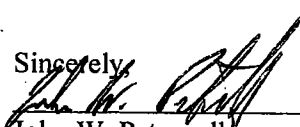
Re: **LEAD AGENCY COMMENT EXTENSION**
DEC Application # 3-5144-00239/00001
Mombaccus Excavating, Inc

Dear Mr. Chipman and Mr. Tapper:

The Region 3 Office of the New York State Department of Environmental Conservation (DEC) has received the electronic mail (e-mail) dated October 3, 2008 from Mr. Timothy Moot of Clark Patterson Lee requesting an extension of the October 19, 2008 Lead Agency circulation/comment deadline (30 day comment period) in regard to the above referenced activity. According to Mr. Moot, the purpose of this extension is to allow for discussion at the October 21, 2008 Planning Board meeting. Pursuant to this request, the comment deadline is hereby extended until October 31, 2008. If no response is received by this date, we will assume you have no interest in being Lead Agency and the DEC will serve as the Lead Agency.

Please feel free to contact me at (845)-256-3050 if you have any questions or need any additional information.

Sincerely,



John W. Petronella

Division of Environmental Permits
Region 3

cc: H. Duda/E. Adamczyk, DEC R3
J. Orza, Griggs-Lang Consulting Geologists, Inc.

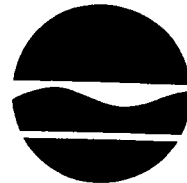
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Phone: (845) 256-3054 • FAX: (845) 255-4659

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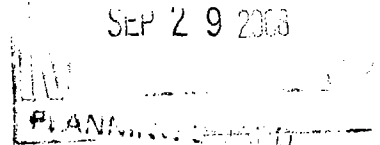


Alexander B. Grannis
Commissioner

September 19, 2008

Carl Chipman, Town of Rochester Supervisor
50 Scenic Road
PO Box 65
Accord, NY 12404

Mel Tapper, Town of Rochester Planning Board Chairperson
PO Box 65
15 GLF Road
Accord, NY 12404



Re: **LEAD AGENCY COORDINATION REQUEST**
DEC Application # 3-5144-00239/00001
Mombaccus Excavating, Inc

Dear Mr. Chipman and Mr. Tapper:

The Region 3 Office of the New York State Department of Environmental Conservation (DEC) has received an application for a Mined Land Reclamation permit in the Town of Rochester, Ulster County. According to the Environmental Assessment Form (EAF), the applicant requires a Special Use Permit approval from the Town Planning Board. The applicant proposes to create a nine and ½ (9.5) acre consolidated sandstone mine. The proposed mine is located .5 miles northwest of the Rogue Manor Road and Cherrytown Road intersection in the Town of Rochester, Ulster County. One full set of the application materials has been sent to the attention of the Supervisor. If additional copies are required, please contact the undersigned.

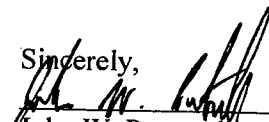
The purpose of this request is to determine Under Article 8 (State Environmental Quality Review: SEQR) of the Environmental Conservation Law (ECL) and 6 NYCRR part 617 the following:

1. Your jurisdiction in the action describes in the enclosed permit applications;
2. Your interest in acting as Lead Agency; and
3. Issues of concern which you believe should be evaluated.

The Lead Agency must determine the need for an environmental impact statement (EIS) on this project. In accordance with our policy regarding mining applications, DEC intends to serve as Lead Agency for this project. Please provide your response to the above items **within 30 days** of the date of this letter. If no response is received, we will assume you have no interest in being Lead Agency and the DEC will serve as the Lead Agency.

Please feel free to contact me at (845)-256-3050 if you have any questions or need any additional information.

Sincerely,


John W. Petronella

Division of Environmental Permits
Region 3

Enc: Permit Application package (Supervisor Chipman)
cc: H. Duda/E. Adamczyk, DEC R3 (letter only)
J. Orza, Griggs-Lang Consulting Geologists, Inc.

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Youth Commission 626-2115

October 3, 2008

Tim Moot, C.P.G
Clark Patterson Lee
900 Corporate Boulevard
Newburgh, NY 12550

Re: Mombaccus Excavating, DEC Application, Blue
Stone Mine off of Amanda Drive

Tim,

Per your request of this date, please find enclosed a report and site plans for Mombaccus Excavating for a proposed Blue Stone Mine off of Amanda Drive.

If you have any questions, please call.

Thanks,
T/ Rochester

Becky Paddock Stange
Secretary, PB

Enclosures
Bps

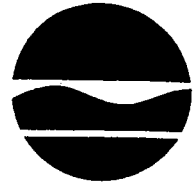
New York State Department of Environmental Conservation

Division of Environmental Permits, Region 3

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Website: www.dec.ny.gov

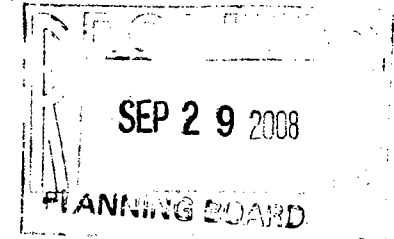


Alexander B. Grannis
Commissioner

September 19, 2008

Carl Chipman, Town of Rochester Supervisor
50 Scenic Road
PO Box 65
Accord, NY 12404

Mel Tapper, Town of Rochester Planning Board Chairperson
PO Box 65
15 GLF Road
Accord, NY 12404



Re: **LEAD AGENCY COORDINATION REQUEST**
DEC Application # 3-5144-00239/00001
Mombaccus Excavating, Inc

Dear Mr. Chipman and Mr. Tapper:

The Region 3 Office of the New York State Department of Environmental Conservation (DEC) has received an application for a Mined Land Reclamation permit in the Town of Rochester, Ulster County. According to the Environmental Assessment Form (EAF), the applicant requires a Special Use Permit approval from the Town Planning Board. The applicant proposes to create a nine and ½ (9.5) acre consolidated sandstone mine. The proposed mine is located .5 miles northwest of the Rogue Manor Road and Cherrytown Road intersection in the Town of Rochester, Ulster County. One full set of the application materials has been sent to the attention of the Supervisor. If additional copies are required, please contact the undersigned.

The purpose of this request is to determine Under Article 8 (State Environmental Quality Review: SEQR) of the Environmental Conservation Law (ECL) and 6 NYCRR part 617 the following:

1. Your jurisdiction in the action describes in the enclosed permit applications;
2. Your interest in acting as Lead Agency; and
3. Issues of concern which you believe should be evaluated.

The Lead Agency must determine the need for an environmental impact statement (EIS) on this project. In accordance with our policy regarding mining applications, DEC intends to serve as Lead Agency for this project. Please provide your response to the above items **within 30 days** of the date of this letter. If no response is received, we will assume you have no interest in being Lead Agency and the DEC will serve as the Lead Agency.

Please feel free to contact me at (845)-256-3050 if you have any questions or need any additional information.

Sincerely,



John W. Petronella

Division of Environmental Permits
Region 3

Enc: Permit Application package (Supervisor Chipman)
cc: H. Duda/E. Adamczyk, DEC R3 (letter only)
J. Orza, Griggs-Lang Consulting Geologists, Inc.

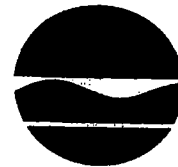
New York State Department of Environmental Conservation

Division of Environmental Permits, Region 3

21 South Putt Corners Road, New Paltz, New York 12561-1620

Phone: (845) 256-3054 • FAX: (845) 255-3042

Website: www.dec.state.ny.us



Denise M. Sheehan
Commissioner

January 8, 2007

KEITH KORTRIGHT
MOMBACCUS EXCAVATING INC
710 CHERRYTOWN ROAD
KERHONKSON NY 12446

RE: **Project:** New Sandstone Mine
Permit Type: Mined Land Reclamation
DEC Application No.: DEC #3-5144-00239/1
Town of Rochester, Ulster County

NOTICE OF INCOMPLETE APPLICATION

Dear Mr. Kortright:

The Department has reviewed the application referenced above. The application has been deemed to be incomplete for the following reasons:

1. **Narrative/EAF:**

Blasting: The submitted Environmental Assessment Form (EAF) indicates that blasting will occur at the site, however, there is no mention of blasting in the narrative. If blasting is proposed for this site, please provide a narrative that will describe the blasting operation, the impacts on neighboring homes and indicate that all blasting shall be conducted in accordance with federal guidelines as set forth by the US Bureau of Mines.

Reclamation: The EAF form indicates that final reclamation of the site will be construction of a single family residence, however, the final reclamation plans provided on the reclamation maps and in the narrative indicate that the site will be reclaimed as gently sloping grassland. Please clarify what the final reclamation objective will be. The EAF and the narrative must reflect one another and indicate the same final reclamation objectives. Unless construction will be commensurate with the mining operation, please remove all references to home construction from the narrative (please refer to Section 422.3 of 6NYCRR Subchapter D).

The narrative indicates that material removed from the site will be shipped to and processed at Mombaccus Excavating, Inc. (MLR #30578). As such, the permittee will be required to modify the Mined Land Use Plan for this site to indicate the importation of off-site material.

2. **Reclamation:**

The narrative should state that six inches of suitable topsoil will be stockpiled and placed onsite during final reclamation. Also, the revegetation schedule indicates only 32 lbs/acre of seeding mixture will be used during final reclamation. Although it is recognized that the NYS Revegetation Procedures Manual for Surface Mining Reclamation suggest only 32 lbs/acre be used during final reclamation, it is highly recommended that 50 lbs/acre be used during final reclamation to achieve vegetative results that meet the standards for reclamation as set forth by the Department. Please increase the seeding mixture to 50 lbs/acre and also indicate that six inches of topsoil will be placed onsite during final reclamation.

3. **Noise study:**

A noise study has been conducted onsite, however, it is not immediately clear on how the distance attenuation (dba) was calculated. Please provide the Department with a formula on how these numbers were calculated.

4. **Mining/reclamation/cross sections:**

The scale on the existing Mining and Reclamation Maps and also Typical Cross Section Maps is too large (1:200). Please provide the Department with detailed mining and reclamation maps at a scale that does not exceed 1:100. Also, Typical Cross Sections must show a detailed plan of the benches that are to be excavated.

The distance to Receptor 6 is stated as being 2,900 feet. However, the measured distance and also the distance stated in the Noise Study is 3,950 feet. Please correct the mining map to reflect the actual distance.

5. **Traffic Analysis:**

According to the narrative, approximately 30-40 round-trip truck loads of material will be brought to Mombaccus Excavating, Inc., some distance away on Rochester Center Road for processing. Please prepare a traffic analysis assessing truck traffic impacts.

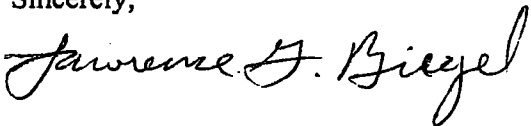
6. **Miscellaneous**

The submitted letter from the New York Natural Heritage Program indicates a threatened species (Timber Rattlesnake) has been documented within 1.5 miles of the project site. Project information is being referred to regional endangered species staff, thus additional information may be required.

The various plans contained in the application indicate the names of adjoining landowners. Please also provide mailing addresses.

Please provide three (3) copies of a response. If there are any questions, I can be reached at (845) 256-3041.

Sincerely,



Lawrence G. Biegel
Environmental Analyst I
Region 3

LGB/bmb

cc: E. Adamczyk
J. Orza, Griggs-Lang Consulting Geologists

New York State Department of Environmental Conservation

Division of Environmental Permits, Region 3

21 South Putt Corners Road, New Paltz, New York 12561-1620

Phone: (845) 256-3054 • FAX: (845) 255-4659

Website: www.dec.ny.gov



Alexander B. Grannis
Commissioner

September 22, 2008

John M. Orza
Griggs-Lang Consulting Geologists, Inc
8 Brunswick Road
Troy, New York 12189

Re: Mombaccus Excavating, Inc
Amanda Drive Bluestone Quarry
Town of Rochester, Ulster County
Mined Land Reclamation Permit
DEC Application ID #: 3-5144-00239/00001

2nd Notice of Incomplete Application

Dear Mr. Orza:

The New York State Department of Environmental Conservation (DEC) has reviewed the materials you submitted for the above referenced Mined Land Reclamation Permit application on behalf of the site owner. This information was provided in response to the NYSDEC January 8, 2007 Notice of Incomplete Application (copy enclosed). According to the information provided, the applicant proposes to create a nine and ½ (9.5) acre consolidated sandstone mine. The proposed mine site is located .5 miles northwest of the Rogue Manor Road and Cherrytown Road intersection in the Town of Rochester, Ulster County.

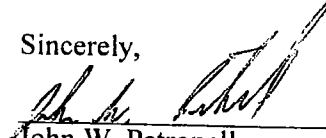
DEC staff has reviewed the information provided, including the Threatened and Endangered Species Site Review conducted by North County Ecological Services (dated July 24, 2007). At this time the Department has determined that the proposed mining operations will not have a significant impact on Timber Rattlesnakes and does not require any additional information. However, the application remains incomplete. Please address the following:

1. According to your March 17, 2008 correspondence, it was indicated that only item # 6 of the January 8, 2007 NOIA was addressed and that all remaining items (items #1 through #5) will follow under separate cover. To date, DEC has not received responses to these items. Please provide.
2. Please provide a Storm Water Pollution Prevention Plan (SWPPP) (3 copies) in compliance with the General Permit for Industrial Activities. This will need to be approved by DEC staff prior to issuance of the Mined Land Reclamation Permit.
3. **State Environmental Quality Review (SEQR)**
DEC has circulated application materials to the Town of Rochester Planning Board and the Town Supervisor with our intent to serve as Lead Agency under SEQR. Additional information may be required from these agencies. Pursuant to Uniform Procedures Regulations 6 NYCRR Part 621.3(a)(7)(ii), an application is not complete until a negative declaration or conditional negative declaration has been filed pursuant to article 8 of the ECL.

Re: Mombaccus Excavating, Inc
Amanda Drive Bluestone Quarry
Town of Rochester, Ulster County
Mined Land Reclamation Permit
DEC Application ID #: 3-5144-00239/00001

The application will remain incomplete until these items are addressed. If you have any additional comments or questions, please feel free to contact me at (845) 256-3050.

Sincerely,



John W. Petronella
Environmental Analyst
Division of Environmental Permits
Region 3

enc: NYSDEC January 8, 2007 Notice of Incomplete Application

cc: H. Duda/E. Adamczyk DEC R 3
C. Chipamn, T. Rochester Supervisor
M. Tapper, Chair T. Rochester Planning Board
Mombaccus Excavating, Inc.