

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

NOTICE OF LEGISLATIVE PUBLIC HEARING AND
ISSUES CONFERENCE

Applicant: Red Wing Properties, Inc., P.O. Box 408, Stormville, NY 12582-0408

Project Site: Archer Mine, Turkey Hill Road (County Route 56) Odak Farm Road, Milan, NY

Application Number: 3-1336-00049/00001

Project: Applicant has applied for a permit to allow for the mining of sand and gravel from 69± acres on a total site of 192 ± acres. Mining and concurrent reclamation (initially as grassland) would be done in 7 phases of 10-12 acre increments. No material processing or weekend operations would take place. Weekday operations will be limited to 7:00 a.m. to 4:00 p.m. The project is located north of Turkey Hill Road, west of the intersection with Odak Farm Road, Town of Milan, Dutchess County.

Staff of the Department of Environmental Conservation (DEC Staff), acting as lead agency pursuant to the State Environmental Quality Review Act (SEQRA), reviewed the application materials and public comments (including those received at the May 10, 2007 public hearing). Based on this review, DEC Staff determined that the proposed project meets permit issuance standards and prepared a draft permit.

Permits: The project would require a DEC mined land reclamation permit issued pursuant to Environmental Conservation Law article 23, title 27.

SEQRA Status: The Department of Environmental Conservation is lead agency and issued a positive declaration on May 30, 2003. In response, a Draft Environmental Impact Statement (DEIS) was submitted on June 21, 2006 and revised on December 8, 2006. By notice dated March 27, 2007, the Department of Environmental Conservation, as lead agency, accepted the DEIS and held a public hearing (on May 10, 2007) to accept comments on the DEIS.

Legislative Hearing: All persons, organizations, corporations or government agencies that may be affected by the project are invited to comment on the application. For this purpose, a legislative hearing to receive unsworn statements will be held on August 14, 2007 at 7:00 p.m. in the Milan Town Hall located at 20 Wilcox Circle (north of Route 199).

It is not necessary to file in advance to speak at this hearing. In lieu of oral comments, written statements may also be submitted either by mail or at the hearing itself. Mailed written statements must be received by the assigned Administrative Law Judge (ALJ), address given below, on or before August 14, 2007. Written statements will be considered equally with oral comments made at the legislative hearing.

This location is reasonably accessible to persons with a mobility impairment. Pursuant to the State Administrative Procedure Act (SAPA), interpreter services shall be made available to hearing impaired persons, at no charge, upon written request to the ALJ named below at least five business days prior to the hearing.

Issues Conference: A pre-adjudicatory hearing issues conference will be held at the Milan Town Hall located at 20 Wilcox Circle (north of Route 199) beginning at 10:00 a.m. on August 15, 2007 and continuing the next day, if necessary. The purpose of the issues conference is to define, narrow, and resolve, if possible, the issues that are proposed for adjudication. Issues must be both substantive and significant in accordance with 6 NYCRR 624.4(c). It is important that any persons requesting party status appear or be represented at the issues conference in order that all proposed issues may be fully discussed.

Party Status: Party status to participate in the adjudicatory hearing will be accorded only to those persons who file a written petition requesting party status. The petition must include the facts intended for presentation pursuant to 6 NYCRR 624.4(c) and 624.5(b). Any petition must fully identify the proposed party together with

the name(s) of the person(s) who will act as the proposed party's representative(s), the proposed party's environmental interest in the proceeding, any interest relating to the statutes administered by the Department relevant to the project, whether the request is for full party status or amicus status, and the precise grounds for opposing or supporting the project. Mere opposition to the project is not a sufficient basis to be granted party status. Please see 6 NYCRR 624.4 and 624.5 for further information on party status and identification of issues.

If seeking full party status, the petitioner must propose a substantive and significant issue or demonstrate that it can make a meaningful contribution to the record regarding a substantive and significant issue raised by another party. The petition must identify all statutory and regulatory requirements the project may not meet, and explain why. If a petitioner intends to rely upon expert testimony, the petition must also include an offer of proof that specifies the witness(es), the nature of the arguments and other documentary evidence that the petitioner intends to present at the hearing, and the basis for the assertions as to the existence of proposed adjudicable issues.

All filings requesting party or amicus status must be received on or before the close of business on August 6, 2007 at the Office of Hearings and Mediation Services, New York State Department of Environmental Conservation, 625 Broadway, First Floor, Albany NY 12233-1550, attn: P. Nicholas Garlick, Administrative Law Judge. Electronic filings or telefaxed submissions will NOT be accepted. Copies of the filing are to be sent at the same time and in the same manner to: Steven Goverman, Esq., Assistant Regional Attorney, NYS DEC Region 3 Office, 21 South Putt Corners Road, New Paltz, NY 12561, (845) 256-3041; and Kevin M. Bernstein, Esq., Bond, Schoeneck & King, PLLC, One Lincoln Center, Syracuse, NY 13202-1355.

Document Availability: All filed documents, the application, draft permit, DEIS, and other papers are available for inspection during normal business hours at:

NYS DEC Region 3 Office
21 South Putt Corners Road
New Paltz, NY 12561 (845) 256-3041

Town of Milan Town Hall
20 Wilcox Circle
Milan, NY 12571 (845) 758-5133

Red Hook Public Library
37 South Broadway
Red Hook, NY 12571

Office of Hearings and Mediation Services
P. Nicholas Garlick
Administrative Law Judge
625 Broadway (first floor)
Albany, NY 12233-1550 518-402-9003.

A copy of 6 NYCRR part 624 may be obtained from the Office of Hearings and Mediation Services, or from the Department's website at www.dec.ny.gov/regs/4483.html.

Statutory and Regulatory Provisions: The applications are processed and this proceeding is conducted according to the Environmental Conservation Law (ECL) article 1 (General Provisions); article 3, title 3 (General Functions); article 8 (State Environmental Quality Review, SEQR); article 23 (Mineral Resources); and also title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York (6 NYCRR) part 617 (SEQR); part 621 (Uniform Procedures); part 624 (Permit Hearings); and part 420 (Mineral Resources).

James T. McClymonds
Chief Administrative Law Judge

July 18, 2007
Albany, NY