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**VIA HAND DELIVERY &
PRIORITY MAIL**

Village of Fort Edward Zoning Board of Appeals
ATTN: Nasrene Haj, Chairperson
118 Broadway
P.O. Box 345
Fort Edward, New York 12828



Re: Appeal of December 15, 2025, Zoning Determination by Village of Fort Edward Department of Code Enforcement

Dear Chairperson Haj:

We represent Environmental Soil Management of New York, LLC, doing business as ESMI, a Clean Earth Company (“ESMI” or “Clean Earth”), the owner and operator of the non-hazardous soil recycling facility located at 304 Towpath Lane in the Village of Fort Edward, New York (the “Property” or “Facility”). We submit this appeal of the Village of Fort Edward (the “Village”) Department of Code Enforcement’s Zoning Determination, dated December 15, 2025 (the “Zoning Determination”)¹, pursuant to Section 350-7-6 of the Code of the Village of Fort Edward (the “Code”). For the reasons set forth below, the Zoning Determination must be reversed.

I. Factual and Procedural Background.

As relevant here, on or about August 19, 1991, the predecessors to ESMI, DA Collins Construction Company, Inc. (“DA Collins”), applied to the Village of Fort Edward Planning Board (the “Planning Board”), pursuant to Section 110-10(A)(3) of the Code in effect at the time, for a determination that its proposed industrial use of the Property was compliant under the Code (the “Application”). A true and correct copy of the Application is attached hereto as **Exhibit “B”**. Specifically, DA Collins requested approval to “construct and operate on an approximately 7 acre tract a soil recycling plant.” See Exh. B, ¶ 4.2. While the Application mentioned petroleum-contaminated soil (“PCS”) as a type of material to be processed at the Property, the Application was in no way limited to approval for PCS only.

In furtherance of the Planning Board’s consideration of the Application, a public hearing was scheduled for September 11, 1991. On August 31, 1991, DA Collins published a notice in a local newspaper providing notice of the September 11, 1991, public hearing regarding the proposed construction and operation of a “Soil Recycling Facility” at the Property. A true and correct copy of an excerpt from the August 31, 1991, newspaper publication is attached hereto as

¹ A true and correct copy of the Zoning Determination is attached hereto as **Exhibit “A”**.

Exhibit “C”. We understand that following the September 11, 1991, the Planning Board approved the Application and authorized construction and operation of a “soil recycling facility” at the Property. However, as conceded in the Zoning Determination, “the Village’s file does not include any actual minutes or written approval by the Planning Board” relative to the Application. *See* Exh. A, p. 2. Despite the absence of a written document, subsequent communications and consistent conduct by the Village over almost thirty-five (35) years of the Facility’s operation confirm that the Application was granted and the proposed soil recycling facility was approved without limitation.

For example, on June 12, 1995, the Village attorney admitted in correspondence with the New York State Department of Environmental Conservation (“DEC”) regarding “a solid waste management facility to treat non-hazardous contaminated soil” at the Property that the Mayor of the Village understood the Planning Board “approved this project two to three years” prior. True and correct copies of this correspondence are attached hereto as **Exhibit “D”**². Thereafter, throughout the course of the Facility’s thirty-five (35) years of operation, representatives of ESMI and its predecessors interacted with members of the Village Board of Trustees and other Village officials on various matters related to the Facility, including discussions concerning existing operations, proposed expansions, and future projects. At no point did any Village official indicate that the Facility’s processing of other non-hazardous contaminated soils was unauthorized or that additional zoning approvals were required. The Village’s longstanding awareness of and indifference towards the Facility’s operations is further evidence that the original 1991 zoning approval was understood by all parties to authorize the processing of non-hazardous contaminated soils generally, without limitation to any particular material.

In addition to the foregoing, the Village was notified numerous times throughout the past thirty (30) years of changes in the processes and materials handled at the Property and never objected. A summary of a few of these instances is set forth below:

1. September 26, 1996, letter from DEC to the Village relative to a solid waste management permit authorizing a research, development, and demonstration (“RD&D”) project to demonstrate the beneficial use of paper mill by-product as a soil amendment in enhancing treated soil from the Facility”³.
2. March 24, 2000, letter from DEC to the Village relative to an air state facility permit modification authorizing importation and treatment of soils contaminated with a variety of other hydrocarbons derived from petroleum oil, animal oil, and vegetable oil⁴.

² Under federal and New York law, a solid waste is classified as “hazardous” only if it either (1) exhibits one of four characteristics (ignitability, corrosivity, reactivity, or toxicity) or (2) is specifically listed as hazardous by the U.S. Environmental Protection Agency (“EPA”) or DEC. *See* 40 CFR §§ 261.3, 261.21–261.24, 261.31–261.33; 6 NYCRR §§ 371.1(d), 371.3, 371.4; ECL § 27-0901(3). Waste that does not exhibit any hazardous characteristic and is not listed as a hazardous waste is, by definition, “non-hazardous” and is regulated under 6 NYCRR Part 360 (New York’s solid waste management regulations) rather than the hazardous waste regime.

³ A true and correct copy of the September 26, 1996, letter is attached hereto as **Exhibit “E”**.

⁴ A true and correct copy of the March 24, 2000, letter is attached hereto as **Exhibit “F”**.

3. July 22, 2004, Notice of Determination of Non-Significance from DEC to the Village relative to a solid waste management permit modification authorizing the acceptance and treatment of dredged soils at the Facility⁵.
4. April 19, 2018, letter from DEC to the Village relative to a solid waste management permit authorizing a RD&D project for the importation of up to 10,000 tons of biosolids, consisting of municipal wastewater treatment plant sludge and paper mill sludge, to be processed at the Facility⁶.
5. June 5, 2018, letter and email from DEC to the Village relative to an air state facility permit modification authorizing the importation and treatment of biosolids at the Facility⁷.
6. June 5, 2018, letter from DEC to the Village relative to a solid waste management permit authorizing a RD&D project for the importation and treatment of biosolids at the Facility⁸.
7. March 12, 2019, letter from DEC to the Village relative to a renewal of a solid waste management permit authorizing a RD&D project for the importation and treatment of biosolids at the Facility⁹.
8. September 10, 2021, letter from DEC to the Village relative to a solid waste management permit authorizing a RD&D project for the importation and treatment of PFAS-contaminated soils at the Facility¹⁰.

In fact, between 1991 and 2025, approximately fifty (50) DEC environmental permit applications were submitted in connection with the Property. For each permit application, DEC published an electronic notice bulletin (“ENB”) to provide notice of the application and briefly describe the proposed activities. Attached hereto as **Exhibit “M”** are samples of ENB notices relative to the Property that notified the Village that, among other things, (1) the Facility “*primarily* decontaminate[s] soils which have been contaminated by gasoline and oil spills” (emphasis added); (2) “ESMI treats nonhazardous hydrocarbon contaminated soil using a thermal desorption process”; and (3) ESMI “processes contaminated soils that contain non-hazardous levels of contaminants” and sought “authorization to accept certain dredged soils for processing” at the Facility.

⁵ A true and correct copy of the July 22, 2004, Notice is attached hereto as **Exhibit “G”**.

⁶ A true and correct copy of the April 19, 2018, letter is attached hereto as **Exhibit “H”**.

⁷ True and correct copies of the June 5, 2018, letter and email are attached hereto as **Exhibit “I”**.

⁸ A true and correct copy of the June 5, 2018, letter is attached hereto as **Exhibit “J”**.

⁹ A true and correct copy of the March 12, 2019, letter is attached hereto as **Exhibit “K”**.

¹⁰ A true and correct copy of the September 10, 2021, letter is attached hereto as **Exhibit “L”**.

The Village also received notice of DEC permit activity through publication in local newspapers such as the Post Star. Attached hereto as **Exhibit “N”** are samples of Post Star publications relative to the Property that notified the Village that, among other things, (1) the Facility was approved to accept and process “paper mill sludge; dredged soils not related to upland remediation sites; and other inert, predominantly non-combustible, non-volatile solids”; (2) the Facility was actively processing “PCB contaminated material”; and (3) the Facility would begin importing “up to 10,000 tons of biosolids; consisting of municipal wastewater treatment plant sludge and paper mill sludge.” Additionally, the Property was prominently featured in Post Star newspaper articles discussing proposed dredging of PCB-contaminated materials at the Facility, which referenced public meetings where the planned PCB dewatering at the Facility were discussed. True and correct copies of these Post Star newspaper articles are attached hereto as **Exhibit “O”**.

From 1991 until 2025, the Village never took issue with or objected to any of the activities performed or materials handled at the Property. With full knowledge of those activities, including the Facility’s decades-long treatment of various types of non-hazardous contaminated soils, never once did the Village indicate that the foregoing violated the Property’s zoning approval. The Village’s abrupt about-face – per the Zoning Determination – did not occur until local and out-of-state environmental activist groups began lobbying Village officials to enact a moratorium directed at ESMI, which the Village ultimately abandoned. Now, through the Zoning Determination, the Village is attempting to do what it conceded it could not do legislatively by retroactively limiting ESMI’s initial zoning approval without any factual or legal basis. *See* Exh. A.

II. Grounds for Appeal.

In sum, the grounds for this appeal, discussed in more detail below, are as follows:

1. The Code does not vest the Village code enforcement officer (“CEO”) with authority to interpret a zoning determination issued by the Planning Board or to unilaterally and retroactively limit or re-construe the scope of an existing zoning approval;
2. Affirmative documentary evidence establishes that the Village approved the Property for a “Soil Recycling Facility” without restriction;
3. The relevant documentary evidence supports the conclusion that the Planning Board’s initial zoning approval was not limited to handling PCS only;
4. The Village’s conduct for more than thirty (30) years belies the now-asserted restriction to handling PCS only;
5. No site plan or other Village Code provision (then or now) supports any such process-related restriction; and
6. The Zoning Determination is illegally infirm for the additional reasons that it amounts to (1) politically motivated discriminatory enforcement and (2) improper regulation of business operations (as opposed to land use).

More specifically, the Zoning Determination was issued without any authority from the Code and acknowledges that the Village's files do not contain any actual minutes or written approval from the Planning Board relative to the Application. Despite this absence of authority or documentary support, the Zoning Determination nonetheless concludes that the Facility was approved solely for the processing of "petroleum contaminated soil," and "[a]ny modifications, including any past and unapproved modifications, to the use of the facility require approval from the Village Planning Board (now Zoning Board of Appeals) and are not permitted until such approvals are obtained." See Exh. A, p. 3. However, this conclusion is belied by affirmative documentary evidence (i.e., that the approval was for use as a "soil recycling facility" of non-hazardous contaminated soils), which conclusion is borne out by over thirty (30) years of conduct, during which the Village never once objected to the materials processed at the Facility. In the end, the Zoning Determination is based on nothing more than inference and conjecture, motivated by political pressure from environmental groups to target ESMI. There is no rational basis to support the Zoning Determination, and any attempt by the Village to selectively enforce the Code against ESMI to regulate the conduct of ESMI's business cannot stand.

A. The Code Does Not Vest the CEO with Authority to Interpret or Retroactively Limit a Zoning Approval Issued by the Planning Board.

As a threshold matter, the Zoning Determination must be reversed because the CEO lacks authority under the Code to issue it. The Code carefully delineates the powers and duties of the CEO, which do not include the authority to interpret or re-construe a prior Planning Board determination, or to unilaterally limit the scope of an existing zoning approval.

Section 350-11-3 of the Code defines the duties of the CEO. Those duties are enumerated and specific: approving and/or denying land use and development permits; scaling and interpreting zone boundaries on the Land Use District Map; approving and/or denying certificates of occupancy; referring appropriate matters to the Zoning Board of Appeals (the "ZBA"); revoking permits where there is false, misleading, or insufficient information or where the applicant has varied from the terms of the application; investigating violations and issuing stop-work orders; and reporting to the Village Board. See Code § 350-11-3(B)(1)-(8). Notably, while § 350-11-3(A) designates the CEO as the "Zoning Administrator for purposes of interpretation of and enforcement of this chapter," this language authorizes the Code Enforcement Officer to interpret and enforce the provisions of the zoning *chapter itself* (i.e., the text of the Code) not to interpret, re-construe, or retroactively limit the scope of a prior zoning determination or approval issued by another body (here, the Planning Board). There is a critical distinction between interpreting what the Code *requires* and interpreting what another municipal body *approved*. The Zoning Determination does not merely interpret or apply a Code provision; it purports to construe the meaning and scope of a thirty-four (34)-year-old Planning Board determination, an action for which the Code provides the CEO no authority whatsoever.

Nowhere in the CEO's enumerated duties is there any power to review, interpret, or make determinations about the scope of a prior approval issued by the Planning Board. The CEO may approve or deny *new* permit applications and revoke permits under specifically defined circumstances (i.e., false or misleading information, or variance from application terms), but neither of these powers authorizes the CEO to revisit a decades-old Planning Board approval and

unilaterally declare its scope. The Zoning Determination is not an approval or denial of a pending application, nor is it a revocation for cause under § 350-11-3(B)(5) or (6). It is, instead, an interpretive ruling on the meaning and scope of a prior Planning Board determination, which is a function the Code simply does not assign to the CEO.

The Code's allocation of interpretive authority confirms this conclusion. Section 350-11-4(B) vests the ZBA – not the CEO – with the power to issue interpretive rulings. The Code establishes a clear division of authority: the CEO performs ministerial and enforcement functions, while questions of interpretation are reserved to the ZBA. By issuing the Zoning Determination (which is, at its core, an interpretive ruling on the scope of a prior Planning Board approval), the CEO exercised and usurped interpretive powers that belong exclusively to the ZBA. An action taken *ultra vires*, or beyond the scope of the officer's delegated authority, is void *ab initio* and must be reversed. See e.g., *Moser v. Tawil*, 2013 NY Slip Op 52039[U], *3 (Sup. Ct., Orange Cnty., 2013) (actions taken by a municipal official without statutory authorization are a nullity); *Matter of Coastal Communication Serv., Inc. v. New York City Dept. of Info. Tech. & Telecom*, 2006 NY Slip Op 51313[U], *5 (Sup. Ct., New York Cnty., 2006) (a governmental body's jurisdiction is derived by statute and, therefore, determinations made without statutory authority or in excess of statutory authority are void); *People v. Thompson*, 157 Misc.2d 233, 236 (Westbury Village Ct., 1993) (holding that village employees may not extend their authority *ipso facto* or exceed the authority conferred upon them by statute).

This conclusion is further reinforced by the nature of the Zoning Determination itself. The CEO did not identify a specific Code provision that ESMI is violating; rather, the Zoning Determination turns entirely on the CEO's interpretation of what the Planning Board approved in 1991 based on the CEO's review of the Village's files that the CEO acknowledges are incomplete and missing critical documentation. If any interpretive determination were to be made regarding the scope of the original 1991 zoning approval, the CEO is simply not the statutorily empowered official to make that determination. The CEO's attempt to unilaterally exercise authority that was not granted to him is without legal basis and, accordingly, renders the Zoning Determination void on this threshold basis alone.

B. The Contemporaneous Documentary Records Establish That the Original Zoning Approval for the Property Was for a "Soil Recycling Facility" Without Limitation.

The Zoning Determination erroneously concludes that the Facility was approved only for PCS processing based on selective language from the Application. A comprehensive review of all contemporaneous documents, however, reveals that the Planning Board approved the Property for non-hazardous soil recycling under the Code without material-specific restrictions. When the documentary record is considered as a whole, the evidence confirms that the Zoning Determination is arbitrary and capricious.

Beginning with the Application itself, the caption was styled "In the Matter of the Application of ENERGY PARK ASSOCIATES, for approval of Industrial Uses pursuant to Section 110-10.A.(3) of the Zoning Ordinance of the Village of Fort Edward." See Ex. B. The Application sought a determination that the proposed projects were "permitted industrial uses

under the Zoning Ordinance” – not a narrowly tailored approval for processing or handling one specific type of contaminated soil. Section 110-10(A)(3) of the Code in effect in 1991 governed industrial uses generally, and the Planning Board’s approval was rendered under that general authority. The Zoning Determination’s attempt to read material-specific limitations into this general industrial use approval finds no support in the text of the Application or the Code provision under which it was submitted.

Turning next to the public hearing notice published on August 31, 1991, the proposed use of the Property was identified simply as “Soil Recycling Facility” – not “petroleum soil recycling facility,” “PCS facility,” or any other material-specific designation. *See* Exh. C. The public notice, which evidences the scope of the Planning Board’s September 11, 1991, public hearing, confirms that the Planning Board was considering approval of a non-hazardous soil recycling facility without material or process limitations.

Perhaps most significant are the Village’s own contemporaneous statements that corroborate what was noticed in the August 31, 1991, newspaper publication and ultimately approved at the September 11, 1991, public hearing. On June 12, 1995, the attorney for the Village wrote to DEC regarding “a solid waste management facility to treat non-hazardous contaminated soil” at the Property and admitted that the Mayor of the Village understood the Planning Board had “approved this project two to three years” prior. *See* Exh. D. This statement – made decades before any controversy with ESMI’s business activities or zoning for the Property arose – that the zoning approval for the Property was for processing non-hazardous contaminated soil generally directly refutes the Zoning Determination and undermines its conclusions.

C. The Village Cannot Retroactively Impose Restrictions That Were Not Initially Authorized or Imposed as a Condition of Zoning Approval.

Even setting aside the substantial documentary evidence that the Planning Board’s original approval for the Property was for a non-hazardous soil recycling facility, the Zoning Determination fails as a matter of law for a more fundamental reason: the restrictions the Village seeks to enforce now simply do not exist. The Zoning Determination itself acknowledges the critical gap in the Village’s records. As the Village concedes, “the Village’s file does not include any actual minutes or written approval by the Planning Board as required by Section 100-1.A.3 of the Village of Fort Edward Zoning Ordinance.” *See* Exh. A, p. 2. Where the Village has failed to maintain records of the original approval (records that the Code requires the Village to maintain) it cannot now impose restrictions retroactively based on political pressure and abject speculation about what conditions may have been attached to an approval. (This is particularly so, given that the Village’s conduct for more than thirty (30) years thereafter plainly evidences the Village’s understanding that the zoning approval for the Property did not restrict Facility operations solely to PCS. *See infra; see also* Point II.D, *infra*.)

The Zoning Determination reaches its result through flawed reasoning, in that it conflates descriptive language in the Application with the ultimate approval granted by the Planning Board. That is, the Application described one type of material DA Collins proposed to handle at the Property in 1991 (with descriptive language); the Application did not, however, by its terms, expressly limit the project exclusively to PCS. And, in any event, the Application does not, and

cannot, establish the terms or conditions of any approval ultimately granted by the Planning Board for the proposed land use. The Planning Board could have approved the Application as submitted, approved it with modifications, approved it with conditions, or denied it entirely. Without documentation of what was actually approved or what, if anything, process-related was restricted, the Village cannot retroactively create conditions decades later, wholly inconsistent with its prior actions for thirty (30) years, to pander to political pressure from environmental groups. *See, e.g., VA Rt. 6 LLC v. Town of Wawayanda Planning Bd.*, 2025 WL 2960482 (Sup. Ct., Orange Cnty., 2025) (reversing denial of special permit in light of planning boards' prior precedent; finding the denial improperly based on generalized community opposition and heightened community concerns; citing *853-855 McLean, LLC v. City of Yonkers*, 237 A.D.3d 1189, 1189 (2d Dep't 2025)); *see also Cunney v. Board of Trustees of Vil. of Grand View NY*, 660 F.3d 612 (2d Cir. 2011) (local land use regulation is impermissibly vague where it does not provide notice of how to comply). There is simply no evidence that the Planning Board restricted Facility treatment operations to PCS; therefore, the Zoning Determination is pure speculation and cannot be sustained.

In addition, the Zoning Determination's reasoning is internally inconsistent. First, in concluding that the Planning Board granted some approval for the Facility, the Zoning Determination acknowledges giving ESMI "the benefit of the doubt since the facility was constructed." *See* Exh. A, p. 2. Yet, the Zoning Determination does not extend that same benefit to the scope of operations approved for the Property, instead construing the Application narrowly against ESMI to accomplish the Village's political agenda. This contradictory approach cannot be justified. If it is reasonable to conclude that the Application was approved despite the absence of approval documentation, it is equally reasonable – and far more consistent with the documentary records and over thirty (30) years of conduct – to conclude that the zoning approval was for a non-hazardous soil recycling facility without material or process limitations. The Village cannot have it both ways and concede that a zoning approval exists while simultaneously claiming authority to define and truncate that approval's scope through retroactive, restrictive interpretation of application materials alone.

Additionally, the Zoning Determination summarily assumes other undocumented approvals were given, while simultaneously denying the lawfulness/authorization of activities predating those approvals. Specifically, the Zoning Determination opines "it is reasonable to conclude that approvals were granted [for physical expansions of structures] in 2004, even though no such approvals appear in the Village's files." Notably, prior to the physical alterations (which actually were permitted by the DEC in 2006), the Facility had been authorized by the DEC to process several other non-hazardous waste streams, among them, coal tar soil treatment (1996), RD&D to demonstrate beneficial use of papermill by-product as soil amendment (1996), allowing PCB soils for stack testing (1997), and adding dredge materials to the waste stream (2004). As to these modifications, the Village had notice (actual and/or constructive) and never objected or directed that additional process was necessary under the Code. Accordingly, if it is reasonable to conclude (without documentation) that the Planning Board approved the 2006 structure expansions, it is equally reasonable to conclude that the Planning Board believed that its site plan approval in 1991 authorized the processing of non-hazardous soils generally, given the absence of any Village objection. There is simply no rational basis to "reasonably conclude" that the physical

alterations were approved, but the process-related matters were not authorized under the existing zoning approval.

D. The Village Has Had Actual Knowledge of the Facility’s Operations for Over Thirty Years and Never Objected, Thus Demonstrating the Village’s Understanding that the Zoning Approval is Not Restricted to Processing One Type of Material.

Even assuming *arguendo* that the original approval was limited to PCS – a proposition unsupported by the relevant documents and communications – the Village has been on actual notice for over thirty (30) years that the Facility has processed a broader range of materials.

The record of the Village’s knowledge is extensive and irrefutable. As outlined in Section I, above, DEC sent correspondence directly to the Village on numerous occasions notifying it of permit applications and approvals for handling and processing various types of contaminated soils. In September 1996, DEC notified the Village of an RD&D project involving paper mill by-products. In March 2000, DEC notified the Village that the Facility would begin treating a variety of other hydrocarbons derived from petroleum oil, animal oil, and vegetable oil. In July 2004, DEC sent a Notice of Determination of Non-Significance to the Village with respect to the lack of environmental impacts associated with the Facility’s processing of dredged soils. In 2018 and 2019, DEC sent multiple letters and emails regarding permits for biosolids processing, including municipal wastewater treatment plant sludge and paper mill sludge. In September 2021, DEC notified the Village of a permit for non-hazardous levels of PFAS-contaminated soils. At no point did the Village object or suggest that these activities required additional zoning approval.

The scope of notice extends far beyond these specific notifications. Between 1991 and 2025, approximately fifty (50) DEC environmental permit applications were submitted in connection with the Property. Each application was accompanied by an ENB issued by DEC providing public notice of the proposed activities. These notices described the Facility in terms that explicitly contemplated processing additional materials, stating that the Facility “*primarily* decontaminate[s] soils which have been contaminated by gasoline and oil spills” and “processes contaminated soils that contain non-hazardous levels of contaminants.” *See* Exh. M. The word “*primarily*” necessarily implies that other materials were also being processed. The Village was on notice of each of these fifty (50) applications and never raised a zoning objection. Furthermore, the Village was routinely informed of Facility operations through Post Star newspaper publications and articles. *See* Exhs. N & O.

Significantly, the Village’s knowledge was not merely constructive; it was actual. Throughout the past three (3) decades, representatives of ESMI and its predecessors have engaged directly with members of the Village Board of Trustees and other Village officials concerning the Facility’s operations, proposed expansions, and regulatory matters. These interactions provided the Village with firsthand knowledge of the nature and scope of the Facility’s activities, including the processing of other types of non-hazardous contaminated soils. At no point did the Village object or suggest that such operations required additional zoning approval. This direct engagement demonstrates actual knowledge of the breadth of operations at the Property and the Village’s tacit approval of the same – namely, the Village’s understanding that operations treating non-hazardous

contaminated soils were authorized under the 1991 zoning approval. The Village cannot now claim ignorance of operations; nor can it reverse course in conclusory fashion, employing revisionist history, to retroactively invalidate ESMI's authorization to operate the Facility. *See, e.g., Charles A. Field Delivery Serv. Inc.*, 66 N.Y.2d 516 (1985); *Nicolai v. McLaughlin*, 163 A.D.3d 572 (2d Dep't 2018) (both opining that a decision of an agency that neither adheres to prior precedent nor indicates a reason for reaching a different result on essentially the same facts is arbitrary and capricious).

E. The Zoning Determination is Pretextual and Discriminatory.

From 1991 until 2025, a span of thirty-four (34) years, the Village never once took issue with any activities performed at the Property. The Facility operated openly, under comprehensive DEC oversight, with approximately fifty (50) permit applications processed during that period. The Village received direct correspondence from DEC, met with ESMI representatives on numerous occasions, and observed the Facility and operations in plain view. Yet no zoning concerns were ever raised.

What changed in 2025 was not the Facility's operations but the political environment. Certain environmental activist groups began pressuring Village officials regarding ESMI's pending PFAS RD&D permit application. The Village's initial response was legislative: it proposed a moratorium on handling PFAS-contaminated materials¹¹. That approach was ultimately abandoned because, as the Village conceded, it did not have the technical expertise to do so legally. Having failed to accomplish its goal through legislation, the Village pivoted to enforcement, issuing the Zoning Determination to achieve administratively what it could not accomplish legislatively.

However, this approach is impermissible and unlawful. Zoning enforcement must be applied consistently and in good faith, not selectively deployed to accomplish policy objectives that cannot be achieved through proper legislative channels. The Equal Protection Clause prohibits governmental action that singles out a particular party for disparate treatment without a rational basis. *See Village of Willowbrook v. Olech*, 528 U.S. 562 (2000). The Village's attempt to retroactively restrict ESMI's operations after decades of consent and approval to accomplish what it conceded it could not do legislatively constitutes arbitrary and capricious governmental action that cannot withstand scrutiny. *Cf., Watrous v. Borner*, 2013 WL 3818591, at *7-*9 (D. Conn. 2013) (conduct that exceeds the authority vested in the governmental body and tainted with fundamental procedural irregularity may support a substantive due process violation; citing, *inter*

¹¹ Notably, PFAS-contaminated soils are not classified as "hazardous waste" under either federal or New York law. Under the Resource Conservation and Recovery Act ("RCRA"), PFAS are not listed as hazardous wastes in 40 CFR Part 261, nor do they exhibit any of the four hazardous waste characteristics (ignitability, corrosivity, reactivity, or toxicity) as measured by the Toxicity Characteristic Leaching Procedure "TCLP". While the EPA proposed in February 2024 to list nine PFAS compounds as "hazardous constituents" under RCRA Appendix VIII, that rule has not been finalized, and even if finalized, a "hazardous constituent" designation would not subject PFAS-containing materials to RCRA's cradle-to-grave hazardous waste management controls. *See* 89 Fed. Reg. 8608 (Feb. 8, 2024). Similarly, while New York has designated PFOA and PFOS as "hazardous substances" for purposes of spill reporting under 6 NYCRR Part 597, this designation does not render PFAS-contaminated soils "hazardous waste" under 6 NYCRR Part 371, therefore deeming them "non-hazardous" under federal and New York law.

alia, Cine SKB Inc. v. Town of Henrietta, 507 F.3d 778 (2d Cir. 2007), and *Brady v. Town of Colchester*, 863 F.2d 205 (2d Cir. 1988)).

Upon information and belief, the Village has not required other industrial facilities to obtain additional zoning approvals when modifying their processes or the materials they handle, so long as the fundamental character of the industrial use remains unchanged. ESMI operates a non-hazardous soil processing and remediation facility using thermal desorption technology. This is the same fundamental use for which the Facility was originally approved in 1991, with specific waste stream components being comprehensively reviewed and subjected to the permitting authority of the DEC. Requiring ESMI alone to obtain new local approvals, when similarly situated facilities have not been subjected to the same requirements, constitutes discriminatory enforcement that violates both the letter and spirit of constitutional Equal Protection principles. *See, e.g., 33 Seminary LLC v. City of Binghamton*, 2012 WL 12888394, *15-*18 (N.D.N.Y. 2012) (discussing “class of one” equal protection claims).

F. Processing Different Contaminants Is a Business Operation and Does Not Constitute a Change of Use Requiring Additional Zoning Approval

Furthermore, processing non-hazardous contaminants constitutes a business operation (which is not the proper subject of land use regulation) and does not constitute a change of use requiring new zoning approval. *See Sunrise Check Cashing*, 20 N.Y.3d 484 (2013) (zoning regulates land use, not the owner or operation of the enterprise located on the land).

The Facility has always been and remains a non-hazardous soil processing and remediation facility using thermal desorption technology. The fundamental character of the industrial use has never changed. The materials processed at the Facility have always been and remain non-hazardous contaminated soils subject to DEC’s solid waste management permitting authority under Part 360. What has evolved is the specific materials being processed, as technology advanced and market demands shifted. The same thermal desorption equipment that processes PCS can and has safely processed biosolids, dredge spoils, and PFAS-contaminated materials. The material arrives at the same entrance, the soil enters the same treatment system, and the remediated material exits the same Facility. From a land use perspective, nothing changes regardless of what contaminant is being remediated.

The processing of other materials using the same thermal desorption technology previously used for PCS is, therefore, not a change in the nature of the use. It is, at most, a variation in the scope of an existing soil remediation operation/process. Such operational variations within a permitted use category do not require new zoning approval, particularly where, as here, comprehensive state environmental oversight through DEC ensures protection of public health and safety. The Village’s zoning authority does not extend to micromanaging which contaminants a permitted soil remediation facility may process; that function is served by DEC’s extensive permit regime, which has governed the Facility’s operations since its inception and with which the Village has been satisfied for over thirty (30) years.

Tellingly, the Code contains no express standards, requirements, or restrictions regarding soil treatment processes or equipment. The current version of the Code allows for the permitting of research and development facilities generally, and this is accomplished through site plan review (*see Code, Table 1*), via typical site plan criteria respecting site layout, design, setbacks, and similar site-based physical features. *See generally*, Code, Article IX. Applying these criteria and requirements, the land use being reviewed/approved is a soil recycling Facility. Nothing in the Village Code, however, purports to regulate the specifics of that Facility's operations – including waste stream material to be processed by the Facility. Those determinations, and the requirements pertaining to the same, properly fall within the purview of State regulators. Consequently, on this ground as well, the Zoning Determination is insupportable.

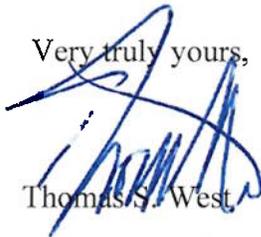
Lastly, the Village's attempt to distinguish "petroleum contaminated soil" from other non-hazardous materials processed at the Facility ignores the chemical makeup of the contaminants processed at the Facility. Under New York's Petroleum Bulk Storage regulations, the "petroleum" definition includes "crude oil and any fraction thereof" – a definition that encompasses virtually all hydrocarbon-based contaminants. *See* 6 NYCRR § 613-1.3(ba). Moreover, DEC's own guidance recognizes that contaminants found in coal tar are the same as those found in petroleum products, specifically the BTEX compounds (benzene, toluene, ethylbenzene, xylene) commonly associated with gasoline contamination. The same polycyclic aromatic hydrocarbons ("PAHs") present in coal tar are present in diesel fuel, asphalt, and other petroleum products. From a chemical and regulatory standpoint, there is no material distinction between processing soil contaminated with gasoline and processing soil contaminated with coal tar or other hydrocarbon-based materials.

At the end of the day, the question of which contaminants can safely be processed at the Facility is a business operations issue that requires the technical expertise of the DEC. The Zoning Determination improperly substitutes the CEO's lay judgment (and the political agenda of Facility opponents) for the DEC's expert regulatory oversight and authority and does so without any justification in the Code or otherwise. The Zoning Determination, therefore, cannot be sustained.

III. CONCLUSION.

The Zoning Determination must be reversed for all of the reasons explained above. ESMI respectfully requests that the ZBA: (1) reverse the Zoning Determination in its entirety; (2) find that the CEO exceeded his authority under the Code by issuing an interpretive ruling on the scope of the Planning Board's prior zoning approval; (3) find that the Property was originally approved for a non-hazardous soil recycling facility without restriction to PCS; (4) find that ESMI's current operations at the Property are lawful, conforming uses that do not require additional Village approvals; (5) find that the Village's decades-long knowledge and consent to the operations at the Facility bar enforcement of any alleged use restrictions; (6) in the alternative, find that any changes to materials processed or handled at the Facility do not constitute changes of use requiring additional approvals under the Code; and (7) grant such other and further relief as the ZBA deems just and proper.

Please be advised that this response and any subsequent communications or actions by or on behalf of ESMI are made with full reservation of rights and remedies. Nothing contained herein shall be construed as an admission of any assertions, a waiver of any rights or defenses, or an acknowledgment of any liability. ESMI expressly reserves all claims, defenses, rights, and remedies available under the New York State and Federal Constitutions and applicable law.

Very truly yours,

Thomas S. West

Enclosures

CC: Environmental Soil Management of New York, LLC
304 Towpath Lane
Fort Edward, New York 12828

Beth A. Magee
Deputy Regional Permit Administrator
NYSDEC Division of Environmental Permits
232 Golf Course Road
Warrensburg, New York 12885

Aaron A. Love, Esq.
Regional Attorney
NYSDEC Office of General Counsel, Region 5
1115 State Route 86, PO Box 296
Ray Brook, New York 12977

EXHIBIT A

[Zoning Determination]



DEPARTMENT OF CODE ENFORCEMENT

118 Broadway, P.O. Box 345, Fort Edward, N.Y. 12828
Phone (518) 502-4146 Fax (518) 684-2242
code@villageoffortedward.com

December 15, 2025

Ben Bramlage [by email to ben.bramlage01@gmail.com]

Rob Martin, Clean Earth
304 Towpath Lane
Fort Edward, New York 12828

Re: Clean Earth/ESMI Facility, 304 Towpath Lane, Fort Edward, New York

Dear Mr. Bramlage and Mr. Martin:

This letter is in response to Mr. Bramlage's letter to me dated August 22, 2025, a copy of which is attached to this determination. Since receipt of that letter, I have researched the Village's files relative to the history of the Clean Earth facility at 304 Towpath Road in the Village. In addition, since Mr. Bramlage's letter necessarily involves the property owner, I have offered Mr. Martin and Clean Earth/ESMI opportunities to respond to Mr. Bramlage's August 22, 2025 letter before I rendered any findings or determinations. Clean Earth has not responded except to request copies of information from the Village, which I believe has been provided.

Mr. Bramlage alleges that the Clean Earth/ESMI permits for Clean Earth/ESMI facility have been modified numerous times since the Village's Planning Board issued approvals in the early 1990s. He further alleges that such modifications are outside the scope of prior approvals issued by the Village of Fort Edward pursuant to the Village's Zoning Ordinance.

Based on my review of the Village's files on this matter and Mr. Bramlage's August 22, 2025 letter, I find the following:

In August of 1991, it appears that then "Energy Park Associates" partners Robert Barber, William Nikas, Thomas Longe and DA Collins Construction Company, Inc. applied for a petroleum soil recycling facility from the Village of Fort Edward Planning Board and NYS DEC. Approvals were sought from the Village Planning Board pursuant to section 110-10.A.(3) of the Village Zoning Ordinance in effect at that time. Section 100-1.A.3 of the Village of Fort Edward Zoning Ordinance in effect until the adoption of the Village's Zoning Law in 2016, provided as follows: "In Zone I, no building shall be erected, altered, extended, constructed or reconstructed which is intended, designed or arranged to be used in whole or in part except for one (1) or more of the following purposes, and also no land shall be used except for one (1) or more of the following purposes: (3) Any industrial use which the Planning Board may find to be not injurious to property or

to the uses herein specified, but no such industrial use shall be permitted by the Planning Board until after an application has been filed specifying the proposed use in full and a public hearing shall have been held, after reasonable notice shall have been given to all adjoining holders of real estate, and a decision thereon shall have been made in writing."

The application materials filed in 1991 were for the following specific use, and no others: a *"plant to accept soil which has been contaminated with fuel oil/petroleum and process said soil to strip the petroleum from the soil, leaving a sterile and clean recycled soil."* A drawing of the facility is attached to application materials and is dated July 8, 1991. This would have satisfied the "specifying the proposed use in full" requirements of Section 100-1.A.3 of the Village of Fort Edward Zoning Ordinance.

Significant information is contained in the Village's file including information relative to New York State Environmental Quality Review Act (SEQRA) reviews with the NYS Department of Environmental Conservation. All of this information points to the requests for approval of a facility for recycling petroleum fuel contaminated soils. In addition, the Village's Planning Board appears to have retained the engineering firm of Clough Harbour & Associates for review of estimated air emissions and noise from the proposed facility.

While the Village's file does not include any actual minutes or written approval by the Planning Board as required by Section 100-1.A.3 of the Village of Fort Edward Zoning Ordinance, the Village's file does include a June 12, 1995 letter from Village attorney Joseph Oswald to the NYS DEC concerning the project, it appears, then owned by a "National Soils, Inc." where Mr. Oswald notes *"Mayor Ryan has indicated to me that to the best of his knowledge the Planning Board of the Village of Fort Edward may have approved this project two or three years ago."* In response, DEC in a letter dated June 28, 1995 noted *"A permit to construct and operate a solid waste management facility to treat non-hazardous contaminated soil was issued to National Soils, Inc. on June 1, 1995."* In response, Mr. Robert Manz of DA Collins Construction Co., Inc. noted in a July 27, 1995 letter *"Although the project has been very slow in developing, it has not changed in scope."*

In 2004, ESMI applied for, and it appears obtained, approvals for the extension of existing storage building to create an additional 12,000 square feet of floor area, construction of garage/shop of 2,400 square feet, and construction of a 2 story office building of 2,400 square feet.

Based on the relevant information that I have, at some point around 1992-1993, I believe the Village Planning Board approved the proposed use as a *"plant to accept soil which has been contaminated with fuel oil/petroleum and process said soil to strip the petroleum from the soil, leaving a sterile and clean recycled soil"* which is what the applicant applied for around 1991, and what was required under Section 100-1.A.3 of the Village of Fort Edward Zoning Ordinance. It appears based on the information in the Village's file that the plans and layout for the facility are per the drawing dated July 8, 1991. While I do not find any actual minutes of approvals, given the property owner the benefit of the doubt since the facility was constructed, I believe it is reasonable to conclude that this is the use and facility that was approved by the Village Planning Board at that time and under the existing Village Zoning Ordinance at that time.

In 2004, physical expansions of the structures were applied for and obtain as noted above. Again, while I do not find approvals in the file, I believe it is reasonable to conclude that approvals were granted given the improvements on the property under that prior Village Zoning Ordinance.

I find no other approvals. Based on the information that I have, it appears that the only use applied for or permitted by the Village Planning is, using the applicant's own words, a "*plant to accept soil which has been contaminated with fuel oil/petroleum and process said soil to strip the petroleum from the soil, leaving a sterile and clean recycled soil*".

Any other uses or modifications to uses would have required similar approvals that the applicant sought in 1991 pursuant to Section 100-1.A.3 of the Village of Fort Edward Zoning Ordinance. Since I cannot find any evidence of any request for any modifications of the use of the property, I find it reasonable to conclude that no such modifications were approved by the Village.

Any modifications, including any past and unapproved modifications, to the use of the facility require approval from the Village Planning Board (now Zoning Board of Appeals) and are not permitted until such approvals are obtained. I do not have sufficient facts before me to determine the level or number of approvals necessary, and upon submission of information as to the uses and modifications to uses apparently made over the years, an appropriate determination can be rendered at that time. Until any applicable approvals under Village Zoning Ordinance/Zoning Law are obtained, no uses other than, "*a plant to accept soil which has been contaminated with fuel oil/petroleum and process said soil to strip the petroleum from the soil, leaving a sterile and clean recycled soil*" may be conducted at the facility at 304 Towpath Road in the Village.

Please note that the above constitutes my determination reviewing the Zoning Ordinance applicable during the above times as well as the Village's current Zoning Law. Anyone aggrieved by this determination may appeal this determination to the Village's Zoning Board of Appeals in accordance with the Village Law and the Village of Fort Edward Zoning Law, within 60 days of the date of filing of this determination, which is being filed the same date as this determination.

Village of Fort Edward



Dave Armando, Code Enforcement Officer

Cc: Board of Trustees, Village of Fort Edward
NYS Department of Environmental Conservation

August 22, 2025

Village of Fort Edward Mayor Matt Traver

Village of Fort Edward Code Enforcement Officer Dave Armando

Mayor Traver and CEO Amando,

As you know, I have been closely following the pending application by ESMI/Clean Earth/Enviri with NYSDEC to test the processing of PFAS contaminated soil at their Towpath Lane facility. As part of my research, I have reviewed numerous documents received from both NYSDEC and from the Village of Fort Edward through FOIL.

I have not been able to locate a Village of Fort Edward land use permit or equivalent. However, the records that I have obtained indicate that the proposed and approved facility by and for ESMI's predecessors, D.A. Collins and others, was for the processing of petroleum contaminated soil (PCS) only. Discussion with attorney Bill Nikas, who represented parties involved in the original application, confirms his same understanding of what was proposed and approved. The associated SEQRA process was for PCS processing only as well. I have found no record of ESMI/Clean Earth/Enviri having ever applied to the Village or having ever been approved by the Village for engaging in any operations other than PCS processing at the Fort Edward facility.

ESMI/Clean Earth/Enviri's permits with NYSDEC appear to have been modified and or research permits/registrations/BUDs issued no fewer than 18 times between 1996 and 2024 for processing of materials other than PCS. These materials have included dredge spoils, PCBs, coal tars, biosolids, paper mill sludge and PFAS at a minimum. While some of these additional materials contain hydrocarbon based contaminants, none are PCS. It is particularly significant in that that many biosolids and paper mill sludges contain high levels of PFAS compounds and are a major source of PFAS contamination in other parts of the United States and globally.

Clean Earth is actively advertising within the solid waste industry that the Fort Edward facility is permitted to process "soil, stone, dredge, mine tailings, paper mill sludge, and much more" although records do indicate that paper sludge has not been processed in Fort Edward since 2017 or 2018. The 2018 PFAS thermal desorption PFAS test (the "Pinney soils" project) that the current proposal is based on and the 2024 PFAS stabilization test have no relation to PCS processing at all other than 2 of the 3 using thermal desorption and all 3 taking place in Fort Edward.

Enviri has made it clear both online and during investor calls that PFAS processing is a significant component of their business plan moving forward. Fort Edward is one of only 3 thermal desorption facilities owned by Enviri, the other 2 being in New Hampshire and Pennsylvania. The permits for these types of facilities are considered "legacy permits" as they have typically been in place for many years with new permits being difficult to impossible to obtain due to regulatory structure and cost. ESMI/Clean Earth/Enviri has been less transparent about their long term plans for PFAS processing in Fort Edward, however it is only logical from a business standpoint to pursue PFAS processing here based on legacy permitting and PFAS contaminated media becoming more readily available as other contaminated media such as PCS, coal tars and PCBs have become less available.

Please consider this document to be a formal complaint that the Fort Edward ESMI/Clean Earth/Enviri facility has been and continues to operate outside of the scope of any land use permitting or equivalent that I have been able to locate, in violation of Village Code of Ordinances Section 350-1-3, subdivision A. (3) at a minimum. Additionally, the proposed PFAS testing is also beyond the scope of any apparent land use permitting obtained for the facility. Both the currently proposed PFAS testing and the past changes in materials being processed in Fort Edward have/had the potential to trigger additional SEQRA review as well. Finally, with New York being a home rule state, I believe that both the Village and Town of Fort Edward have the authority to review the appropriateness of operations of ESMI/Clean Earth/Enviri's Towpath Lane facility prior to any NYSDEC permits being issued for changes in operation.

For questions, comments or additional concerns, I can be reached at ben.bramlage01@gmail.com or 518-390-0788.

Respectfully,

William B. "Ben" Bramlage

EXHIBIT B

[Application]

**BEFORE THE
VILLAGE OF FORT EDWARD PLANNING BOARD**

In the Matter of the Application of)
ENERGY PARK ASSOCIATES., for approval)
of Industrial Uses pursuant to Section)
110-10.A.(3) of the Zoning Ordinance of)
the Village of Fort Edward)

TO THE PLANNING BOARD OF THE VILLAGE OF FORT EDWARD:

Applicant, ENERGY PARK ASSOCIATES, as and for its Application in the above-captioned proceeding respectfully state as follows:

1. This Application is made pursuant to the provisions of Section 110-10.A.(3) of the Code of the Village of Fort Edward (also known as the "Zoning Ordinance") which require a determination of the Planning Board that the Applicant's proposed projects are permitted industrial uses under the Zoning Ordinance.

2. This Application sets forth the reasons why the Planning Board should find and determine that the proposed uses are consistent with the purposes of the Zoning Ordinance and should be deemed permitted uses within the "Zone I" (Industrial Zone) within which the affected property is located.

3. ENERGY PARK ASSOCIATES is a New York Partnership whose partners are Robert R. Barber, William L. Nikas and Thomas F. Longe. The principal business address of the partnership is 116 Oak Street, Hudson Falls, New York, 12839.

4. The projects proposed by the Applicant would be located adjacent to and in the vicinity of Tow Path Road in the Village of Fort Edward. A description of each aspect of the proposed projects is as follows:

4.1 The Kamyk Project: Applicant proposes to construct and operate a pulp/paper recycling plant in a new 60,000 square foot building on a 5 acre site using the latest Kamyk technology. The approximate cost of the plant and equipment is \$35,000,000.00. The proposed plant is expected to create 50 to 75 new jobs for area residents. Due to the extreme depth to bedrock experienced in the EnergyPark lands, between the railroad and Tow Path Road, the Applicant also requests a recommendation from the Planning Board to the Village Board to change the zoning of the property behind the FMHA subsidized housing project on McIntire Street from residential to industrial. This area is bounded by the Old Champlain Canal and other EnergyPark industrial uses, as well as a sand pit and the old closed municipal landfill. A suitable buffer of trees would be permanently maintained around the housing project.

4.2 Soil Recycling Plant: D.A. Collins Construction Company, Inc. proposes to purchase lands in EnergyPark between the Tow Path Road and the railroad to construct and operate on an approximately 7 acre tract a soil recycling plant. The approximate cost of the plant and equipment will be \$4,000,000.00. Said plant would accept soil which has been contaminated with fuel oil/petroleum and process said soil to strip the petroleum from

the soil, leaving a sterile and clean recycled soil. The plant is expected to create 20 new jobs for area residents.

4.3 Water, Highway and Electric/Steam Infrastructure:

The Kamyrr project and the soil recycling plant will require large volumes of water, a dedicated highway for truck traffic, approximately 6 to 8 megawatts of electricity, and large volumes of high pressure steam. These infrastructure needs are being addressed on a joint basis by the Kamyrr project, the soil recycling project, and EnergyPark Associates in order to justify the costs of such expensive infrastructure. Water intake needs and treated water discharge needs are being addressed by the Applicant's proposal to construct a dual pipeline along the dedicated highway routes hereinafter described to the Hudson River. A pump station would be constructed on the shore of the Hudson River on lands adjoining the railroad and owned by Lawrence Havens of Broadway, Fort Edward, New York. Truck traffic would be addressed by the Applicant's proposal to construct a dedicated highway from EnergyPark along lands of the Village of Fort Edward to Canal Street and Broadway. Electricity and steam requirements would be met by the Applicant's proposal to install a turbine or engine/power station which would utilize either woodchips or number 2 oil as the fuel. In this regard, Niagara Mohawk has advised the Applicant that it is at least three years away from installing the necessary electric and gas lines in this area to serve EnergyPark.

5. The Applicant respectfully submits the proposed uses and projects described above will not be injurious to property, or present nuisance conditions, or be otherwise inconsistent with the health, safety and welfare of the community in general. All operations will take place entirely in closed buildings which are screened from any neighboring properties by substantial tree growth and green space.

6. The environmental compatibility of the projects and their lack of significant adverse environmental impacts is discussed in the Environmental Assessment Forms (EAFs") which are appended to this Application as Exhibit "A". As required by the State Environmental Quality Review Act ("SEQR") the EAFs would support a finding of the Planning Board that the projects are SEQR "Unlisted actions" which will not have a significant adverse environmental impact. These factors will similarly support the requested written decision following the required public hearing, pursuant to the Zoning Ordinance, that the proposed uses will not be "injurious" to property and will thus be consistent with the permitted uses allowed in industrial zones under the Zoning Ordinance.

WHEREFORE, the Applicant respectfully requests that:

- (a) This Application be promptly set down for the public hearing required by Section 110-10.A.(3) of

the Zoning Ordinance on reasonable notice to the adjoining landowners;

- (b) Following the public hearing, the Planning Board review and endorse the proposed SEQR finding that the projects will not have a significant adverse environmental impact ("negative declaration"), and
- (c) Following the public hearing and issuance of the SEQR "negative declaration", the Planning Board render its written decision pursuant to Section 100-10 of the Zoning Ordinance that the proposed industrial uses are compatible and permitted under Section 100-10.A.(3) of the Zoning Ordinance.

Respectfully submitted,

ENERGYPARK ASSOCIATES
ROBERT R. BARBER
WILLIAM L. NIKAS
THOMAS F. LONGE
116 Oak Street
Hudson Falls, New York
(518)-747-4169

PROJECT I.D. NUMBER

State Environmental Quality Review
SHORT ENVIRONMENTAL ASSESSMENT FORM
For UNLISTED ACTIONS Only

PART I - PROJECT INFORMATION (To be completed by Applicant or Project sponsor)

1. APPLICANT SPONSOR ENERGY PARK ASSOCIATES, KAYR, and D.A. COLLINS CONSTRUCTION COMPANY, INC.		2. PROJECT NAME KAYR PAPER RECYCLING PROJECT and SOIL RECYCLING PROJECT	
3. PROJECT LOCATION: VILLAGE OF FORT EDWARD		WASHINGTON	
Municipality		County	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) Fort Edward EnergyPark, adjacent to Tow Path Road and Old Canal in the Village of Fort Edward, Washington County, New York			
5. IS PROPOSED ACTION: <input checked="" type="checkbox"/> New <input type="checkbox"/> Expansion <input type="checkbox"/> Modification/alteration			
6. DESCRIBE PROJECT BRIEFLY: The proposed action is approval of industrial uses under the Fort Edward Village Zoning Ordinance for Applicants' proposed paper recycling plant and soil recycling plant, together with infrastructure consisting of water intake, water discharge, dedicated highway, and power generating plant fueled by woodchips or number 2 fuel oil.			
7. AMOUNT OF LAND AFFECTED: Initially <u>12</u> acres Ultimately <u>12</u> acres			
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If No, describe briefly: Soil recycling project does comply with existing zoning code. Kayr paper recycling project would be located in a residential zone which is proposed to be changed to industrial zone.			
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input checked="" type="checkbox"/> Residential <input checked="" type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open space <input type="checkbox"/> Other Describe: The project site for soil recycling is currently vacant and adjoins two current industrial uses (plastics and paper recycling). The Kayr site is currently vacant and is located next to a closed landfill, a sand pit, and a federally subsidized housing project.			
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, list agency(s) and permit/approval: Both projects require approval from New York State Department of Environmental Conservation, Department of Transportation and the Army Corps of Engineers for the water line and power station; soil recycling project will require a DEC minor air permit and beneficial use permit.			
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, list agency name and permit/approval			
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input type="checkbox"/> No N/A			
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE			
Applicant/sponsor name: ENERGY PARK ASSOCIATES		Date: 8/19/91	
Signature: <i>William L. Hibon</i>		Partner	

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment

ENVIRONMENTAL ASSESSMENT (To be completed by Agency)

A. DOES ACTION EXCEED ANY TYPE THRESHOLD IN 6 NYCRR, PART 617.12? Yes No *If yes, coordinate the review process and use the FULL EAF.*

B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.67 Yes No *If No, a negative declaration may be superseded by another involved agency.*

C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible)

C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic patterns, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly: Minor permitted air emissions, some solid waste generation from recycling operations (30-40 TPD waste water treatment paper sludge), truck traffic, onsite treatment and discharge of processed waste water to Hudson River pursuant to SPEDES Permit.

C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly: Section of Old Champlain Canal will be aesthetically enhanced.

C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly: No. Site has been previously investigated by New York State DEC for rare and endangered species during siting studies for area PCB Encapsulation Project.

C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly: No. Site is industrially zoned and Village has supported the development of EnergyPark as planned industrial park. However, the adjoining residential 15 acres proposed for the Kampy project would require a re-zoning to industrial use.

C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly. No.

C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly. No.

C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly. Minor increase in use of electricity, natural gas or petroleum for process.

D. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS? Yes No *If Yes, explain briefly*

PART III--DETERMINATION OF SIGNIFICANCE (To be completed by Agency)

INSTRUCTIONS: For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed.

- Check this box if you have identified one or more potentially large or significant adverse impacts which MAY occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.
- 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 AND provide on attachments as necessary, the reasons supporting this determination:

FORT EDWARD PLANNING BOARD

Name of Lead Agency

LOREN A. SULLIVAN

CHAIRMAN

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)

Date

EXHIBIT C

**[August 31, 1991 Newspaper
Publication Excerpt]**

Warren County Department of Social Services
Municipal Center Annex
Lake George, New York 12845
Pub: Aug. 31, 1991

**VILLAGE OF FORT EDWARD
PUBLIC HEARING**

Take notice, that the village of Fort Edward Planning Board will hold a public hearing on Wednesday, September 11, 1991 at 7:00 p.m. in the Municipal Center to consider the following projects proposed by the owners of Energy Park, located east of McIntyre Street in the Village of Fort Edward:

- 1 - Soil Recycling Facility
- 2 - Pulp & Paper Recycling Facility
- 3 - Power Facility using wood chips and number

INSIDE

**Classified /D1,D3-D12
Comics /D2**

D

Legal Notices

fuel oil
 4 - Water line construction in area
 5 - Dedicated Highway leading to Energy Park
 All interested persons shall be given an opportunity to be heard.
 Loren Sullivan,
 Chairman - Planning Board
 Pub: Aug. 31, 1991

EXHIBIT D

**[Village of Fort Edward
Correspondence to DEC]**

Telephone
(518) 747 - 5557
FAX (518) 747 - 5664

Law Offices of
JOSEPH H. OSWALD
Attorney and Counsellor at Law

Old Coila Road
Cambridge, N.Y. 12816

P.O. Box 328, 123 Broadway
Fort Edward, New York 12828

Please Reply to
Fort Edward Office

June 12, 1995

Hon. Thomas W. Hall
Deputy Regional Permit Administrator
New York State Department
of Environmental Conservation
Division of Regulatory Services
P.O. Box 220
Warrensburg, New York 12885-0220

RE: DEC PERMIT NUMBER
5-5330-00038/00001-1
NATIONAL SOILS INC.
VILLAGE OF FORT EDWARD
WASHINGTON COUNTY

Our file name: Village of
Fort Edward - National Soils
Inc. Permit

Our file number: V3318

Dear Mr. Hall:

Please be advised that I am the Village Attorney for the Village of Fort Edward. On June 9, 1995 I had a meeting with the Mayor of the Village of Fort Edward who expressed his concern relative to the future of this project.

Mayor Ryan has indicated to me that to the best of his knowledge the Planning Board of the Village of Fort Edward may have approved this project two to three years ago. Since that point in time the principals involved in this particular project may have changed. Also, the Village of Fort Edward is concerned as to the means of ingress and egress of this particular facility.

I shall appreciate your office notifying me as to the names of the principals involved in this project and also as to whether or not a representative of your office would be

New York State Department of Environmental Conservation
Regulatory Services
Hudson St. Ext., P.O. Box 220
Warrensburg, NY 12885-0220



(518) 623-3671
(518) 623-3603 FAX

Michael D. Zagala
Commissioner

June 28, 1995

123
Joseph H. Oswald, Attorney
P.O. Box 328
125 Broadway
Fort Edward, New York 12828

Re: National Soils, Inc.
DEC #5-5330-00038/00001-1
Fort Edward (T), Washington (Co.)

Dear Mr. Oswald:

This letter is in response to your letter of June 12, 1995 and our telephone conversation of June 20, 1995. A permit to construct and operate a solid waste management facility to treat non-hazardous contaminated soil was issued to National Soils, Inc. on June 1, 1995. This permit was issued after three and one half years of review and environmental impact analysis.

The issue of truck traffic entering and exiting the facility was addressed and it was determined that at peak operating times 5 to 6 trucks per hour would be entering the facility. An analysis of the fugitive emissions from this volume of additional truck traffic indicated that there would be a minimal impact along the truck route from Route 4 to the site within Energy Park. Should the Village of Fort Edward wish to designate specific truck routes to and from Energy Park they should discuss the issue with National Soils, Inc. representative Robert Manz. Mr. Manz can be reached at (518) 664-9855.

A meeting between Department representatives, National Soils, Inc. and the Village of Fort Edward to discuss this matter does not seem to be necessary at this time.

Should you have any questions regarding this facility please feel free to call me at (518) 623-3671.

Sincerely,

Walter L. Haynes
Walter L. Haynes
Environmental Analyst 1

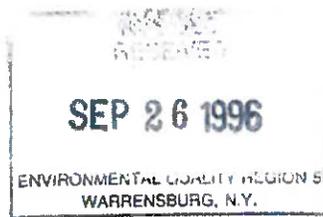
WLH/jd

EXHIBIT E

**[September 26, 1996
Letter from DEC to the
Village of Fort Edward]**

New York State Department of Environmental Conservation
Compliance Services
Hudson St. Ext., P.O. Box 220
Warrensburg, NY 12885-0220

(518) 623-3671
(518) 623-3603 FAX



September 26, 1996



Michael D. Zagata
Commissioner

Barbara Hemken
Encore Paper Company, Inc.
1 River Street
South Glens Falls, New York 12803

Re: DEC Permit #5-5330-00038/00015-1
Encore Paper/ESMI Research Project
Fort Edward (V), Washington (Co.)

Dear Ms. Hemken:

Enclosed is your permit to construct and operate a Research, Development, Demonstration and Solid Waste Management Facility in the Village of Fort Edward in accordance with approved plans. Please take careful note of the conditions listed in the permit.

Should you have any questions concerning this matter, please contact Gus Carayiannis, Environmental Engineer at the Warrensburg office.

Thomas W. Hall

Deputy Regional
Permit Administrator

JCP/TWH/jd

Enclosure

cc: G. Carayiannis
G. Stahler
W. Colden
B. Fear (DOH)
Town of Fort Edward
Village of Fort Edward
M. Millspaugh (Spectra Engineering)
R. Manz
Jeff Davis, Encore (by FAX)
ECO S. Rawson
DCS File

DEC PERMIT NUMBER 5-5330-00038/00015-1
FACILITY/PROGRAM NUMBER(S) 58Z01



PERMIT
Under the Environmental Conservation Law (ECL)

EFFECTIVE DATE <i>September 26, 1996</i>
EXPIRATION DATE SEPTEMBER 25, 1997

TYPE OF PERMIT (Check All Applicable Boxes)

New
 Renewal
 Modification
 Permit to Construct
 Permit to Operate

- | | | |
|---|--|--|
| <input type="checkbox"/> Article 15, Title 5:
Protection of Water | <input type="checkbox"/> Article 17, Titles 7, 8:
SPDES | <input type="checkbox"/> Article 27, Title 9; 6NYCRR 373:
Hazardous Waste Management |
| <input type="checkbox"/> Article 15, Title 15:
Water Supply | <input type="checkbox"/> Article 19:
Air Pollution Control | <input type="checkbox"/> Article 34:
Coastal Erosion Management |
| <input type="checkbox"/> Article 15, Title 15:
Water Transport | <input type="checkbox"/> Article 23, Title 27:
Mined Land Reclamation | <input type="checkbox"/> Article 36:
Floodplain Management |
| <input type="checkbox"/> Article 15, Title 15:
Long Island Wells | <input type="checkbox"/> Article 24:
Freshwater Wetlands | <input type="checkbox"/> Articles 1, 3, 17, 19, 27, 37;
6NYCRR 380: Radiation Control |
| <input type="checkbox"/> Article 15, Title 27:
Wild, Scenic and Recreational
Rivers | <input type="checkbox"/> Article 25:
Tidal Wetlands | <input type="checkbox"/> Other: _____ |
| <input type="checkbox"/> 6NYCRR 608:
Water Quality Certification | <input checked="" type="checkbox"/> Article 27, Title 7; 6NYCRR 360:
Solid Waste Management | |

PERMIT ISSUED TO Encore Paper Company, Inc.		TELEPHONE NUMBER (518) 793-5684
ADDRESS OF PERMITTEE 1 River Street, So. Glens Falls, New York 12803		
CONTACT PERSON FOR PERMITTED WORK Barbara Hemken		TELEPHONE NUMBER (518) 793-5684
NAME AND ADDRESS OF PROJECT/FACILITY Encore Paper/ESMI Research Project		
LOCATION OF PROJECT/FACILITY Energy Park, 304 Towpath Road, Fort Edward, NY 12828		
COUNTY Washington	TOWN/CITY/VILLAGE Fort Edward	WATERCOURSE/WETLAND NO. _____
NYTM COORDINATES E: 615.6 N: 4 791.4		
DESCRIPTION OF AUTHORIZED ACTIVITY Research, Development and Demonstration project designed to demonstrate the beneficial use of paper mill by-product as a soil amendment in enhancing treated soil from the ESMI soil treatment facility in accordance with 6 NYCRR Part 360 and the attached special conditions.		

By acceptance of this permit, the permittee agrees that the permit is contingent upon strict compliance with the ECL, all applicable regulations, the General Conditions specified (See Reverse Side) and any Special Conditions included as part of this permit.

Deputy Regional PERMIT ADMINISTRATOR Thomas W. Hall	ADDRESS NYSDEC, P.O. Box 220, Warrensburg, NY 12885
AUTHORIZED SIGNATURE <i>Thomas W. Hall</i>	DATE 9/26/96
Page 1 of <u>3</u>	

GENERAL CONDITIONS

Inspections

1. The permitted site or facility, including relevant records, is subject to inspection at reasonable hours and intervals by an authorized representative of the Department of Environmental Conservation (the Department) to determine whether the permittee is complying with this permit and the ECL. Such representative may order the work suspended pursuant to ECL 71-0301 and SAPA 401(3). A copy of this permit, including all referenced maps, drawings and special conditions, must be available for inspection by the Department at all times at the project site. Failure to produce a copy of the permit upon request by a Department representative is a violation of this permit.

Permit Changes and Renewals

2. The Department reserves the right to modify, suspend or revoke this permit when:
 - a) the scope of the permitted activity is exceeded or a violation of any condition of the permit or provisions of the ECL and pertinent regulations is found;
 - b) the permit was obtained by misrepresentation or failure to disclose relevant facts;
 - c) new material information is discovered; or
 - d) environmental conditions, relevant technology, or applicable law or regulation have materially changed since the permit was issued.
3. The permittee must submit a separate written application to the Department for renewal, modification or transfer of this permit. Such application must include any forms, fees or supplemental information the Department requires. Any renewal, modification or transfer granted by the Department must be in writing.
4. The permittee must submit a renewal application at least:
 - a) 180 days before expiration of permits for State Pollutant Discharge Elimination System (SPDES), Hazardous Waste Management Facilities (HWMF), major Air Pollution Control (APC) and Solid Waste Management Facilities (SWMF); and
 - b) 30 days before expiration of all other permit types.
5. Unless expressly provided for by the Department, issuance of this permit does not modify, supersede or rescind any order or determination previously issued by the Department or any of the terms, conditions or requirements contained in such order or determination.

Other Legal Obligations of Permittee

6. The permittee has accepted expressly, by the execution of the application, the full legal responsibility for all damages, direct or indirect, of whatever nature and by whomever suffered, arising out of the project described in this permit and has agreed to indemnify and save harmless the State from suits, actions, damages and costs of every name and description resulting from this project.
7. This permit does not convey to the permittee any right to trespass upon the lands or interfere with the riparian rights of others in order to perform the permitted work nor does it authorize the impairment of any rights, title, or interest in real or personal property held or vested in a person not a party to the permit.
8. The permittee is responsible for obtaining any other permits, approvals, lands, easements and rights-of-way that may be required for this project.



SPECIAL CONDITIONS

FOR ARTICLE 27 (**Title 7; 6 NYCRR 360: Solid Waste Management**)

1. SUBMITTALS

Unless otherwise specified, all submissions required by this permit shall be made in duplicate to the Region 5 Office of the Department of Environmental Conservation (P.O. Box 220, Warrensburg, NY 12885), to the attention of the Solid & Hazardous Materials Office.

2. PERMIT DOCUMENTS

All construction and operation shall be in strict conformance with the provisions of this permit, 6 NYCRR Part 360 (effective October 9, 1993) and the permit application documents prepared by Spectra Engineering P.C. (dated August 1, 1996) as amended by submittals dated September 11 and 18, 1996.

3. RESTRICTIONS

- a. The permittee must only deliver sufficient paper mill by-product to the project as is necessary to conduct the research as detailed in the application documents referenced in condition No. 2.
- b. Paper mill by-product must be incorporated into the soil blend within one week of being delivered to the site.
- c. The commissioner, without affording the permittee a prior opportunity for a hearing, may order an immediate termination of all operations at the facility at any time the commissioner determines that termination is necessary to protect human health and the environment, provided the permittee is provided an opportunity for a hearing on the termination issue no later than ten days after the issuance of the order and a decision is rendered no more than 29 days after the close of the hearing record.

DEC PERMIT NUMBER

5-5330-00038/00015-1

TW Hall

FACILITY ID NUMBER

58Z01

PROGRAM NUMBER

Page 3 of 3

EXHIBIT F

**[March 24, 2000 Letter
from DEC to the
Village of Fort Edward]**

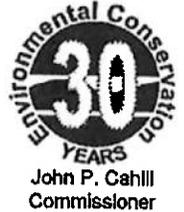
New York State Department of Environmental Conservation

Division of Environmental Permits, Region 5

232 Hudson Street – P. O. Box 220, Warrensburg, New York 12885-0220

Phone: (518) 623-3671 • FAX: (518) 623-3603

Website: www.dec.state.ny.us



March 24, 2000

Phil Theriault
Environmental Soil Management of NY LLC
304 Towpath Road
Fort Edward, New York 12828

Re: Proposed Project Modification/Request to Accept
and Treat Additional Soil Contaminants
DEC Project # 5-5330-00038/00019
Fort Edward (T), Washington (Co.)

Dear Mr. Theriault:

Enclosed is a copy of a draft Air Pollution Control permit prepared by Department staff in accordance with Article 19 of Environmental Conservation Law. The draft permit was prepared in response to ESMT's request to modify operations at the Fort Edward facility by accepting and treating soils contaminated by hydrocarbons other than petroleum and coal tar.

Please review the draft permit and provide me with your written comments, if any, by April 14, 2000.

Should you have any questions, please contact either Steve Barlow or me.

Sincerely,

A handwritten signature in black ink, appearing to read 'T. W. Hall'.

Thomas W. Hall
Deputy Regional Permit Administrator

TWH/psb
enclosure
cc: S. Barlow
File



New York State Department of Environmental Conservation
Notice of Complete Application



Date SEPTEMBER 20, 1999
Applicant ENVIRONMENTAL SOIL MANAGEMENT OF NY LLC
304 TOWPATH RD
FORT EDWARD NY 12828-1754
Application ID 5-5330-00038/00021
Permit(s) Applied 1 • ARTICLE 19: AIR STATE FACILITY PERMIT
Project is located in FORT EDWARD in WASHINGTON COUNTY.

Project Description

The Department has drafted an Air Pollution Control permit pursuant to Article 19 of Environmental Conservation Law and made a tentative determination to issue a permit for existing and new air emissions at the applicant's soil treatment facility. Since 1995, the facility has processed soils contaminated with petroleum and coal tar. The facility is now proposing to process soils contaminated with a variety of other hydrocarbons derived from petroleum oil, animal oil and vegetable oil. The treatment process entails heating contaminated soils in a rotary kiln to temperatures between 350 and 1000 degrees Fahrenheit. Hydrocarbon contaminants are volatilized and subsequently destroyed in an oxidizer, resulting in better than 99% destruction efficiency. After exiting the oxidizer, the air stream is cooled and then passed through a baghouse to remove fine particles. Facility emissions are limited to 99 tons per year (TPY) sulfur dioxide and 9.98 TPY hydrogen chloride in order to avoid being subject to Title V permitting requirements. All other contaminants have 'potentials to emit' below Title V threshold values. The sulfur content of fuel oil burned at the facility is limited to a maximum of 0.5%, by weight, to ensure compliance with the 99 TPY sulfur dioxide emission limit. The draft permit is available for review at the Department's Warrensburg office. A notice pertaining to the solid waste management aspects of this project was published in the March 22, 2000 issue of the ENB.

State Environmental Quality Review (SEQR) Determination

SEQR - 3A Project is an Unlisted Action and will not have a significant impact on the environment. A Negative Declaration is on file. A coordinated review was performed.

SEQR Lead Agency NYS Department of Environmental Conservation

State Historic Preservation Act (SHPA) Determination

SHPA - 1 Cultural resource lists and map have been checked. No registered, eligible or inventoried archaeological sites or historic structures were identified at the project location. No further review in accordance with SHPA is required.

Availability For Public Comment

Comments on this project must be submitted in writing to the Contact Person no later than 04/28/00.

Contact Person

THOMAS W HALL, NYSDEC
P.O.BOX 220
WARRENSBURG NY 12885-0220
☎ (518) 623-3671

CC list for Notice of Complete Application

Chief Executive Office
PHILIP THERIAULT
304 TOWPATH RD
FORT EDWARD NY 12828-1754
MAYOR, VILLAGE OF FORT EDWARD

New York State Department of Environmental Conservation
Notice of Complete Application



Date SEPTEMBER 20, 1999
Applicant ENVIRONMENTAL SOIL MANAGEMENT OF NY LLC
304 TOWPATH RD
FORT EDWARD NY 12828-1754
Application ID 5-5330-00038/00021
Permit(s) Applied 1 • ARTICLE 19: AIR STATE FACILITY PERMIT
Project is located in FORT EDWARD in WASHINGTON COUNTY.

Project Description

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State Environmental Quality Review (SEQR) Determination

SEQR - 3A Project is an Unlisted Action and will not have a significant impact on the environment. A Negative Declaration is on file. A coordinated review was performed.

SEQR Lead Agency NYS Department of Environmental Conservation

State Historic Preservation Act (SHPA) Determination

SHPA - 1 Cultural resource lists and map have been checked. No registered, eligible or inventoried archaeological sites or historic structures were identified at the project location. No further review in accordance with SHPA is required.

Availability For Public Comment

Comments on this project must be submitted in writing to the Contact Person no later than 04/28/00.

Contact Person

THOMAS W HALL, NYSDEC
P.O.BOX 220
WARRENSBURG NY 12885-0220
☎ (518) 623-3671

CC list for Notice of Complete Application

Chief Executive Office

PHILIP THERIAULT

304 TOWPATH RD

FORT EDWARD NY 12828-1754

✓ MAYOR, VILLAGE OF FORT EDWARD

CC list for Notice of Complete Application

✓ Chief Executive Office
PHILIP THERIAULT
304 TOWPATH RD
FORT EDWARD NY 12828-1754
MAYOR, VILLAGE OF FORT EDWARD

EXHIBIT G

**[July 22, 2004, Notice of
Determination of Non-Significance
from DEC to the Village of Fort
Edward]**

617.21
Appendix F
State Environmental Quality Review
NEGATIVE DECLARATION
Notice of Determination of Non-Significance

Project Number 5-5330-00038/00019

Date July 22, 2004

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

As Lead Agency, the NYS Department of Environmental Conservation (NYS DEC) has determined that the proposed action described below will not have a significant effect on the environment and a Draft Impact Statement will not be prepared.

Name of Action: ESMI of New York - request to modify the facility's Part 360 Solid Waste Management permit.

SEQR Status: Type 1
Unlisted

Conditioned Negative Declaration: Yes
 No

Description of Action: ESMI of New York (ESMI) is requesting authorization to accept and treat certain dredged soils, in addition to the contaminated soils currently approved for treatment.

Location: 304 Towpath Road, Fort Edward (V), Washington County

Reasons Supporting This Determination:

See Attachment

For Further Information:

Contact Person: Thomas W. Hall

Address: NYS DEC, Region 5, 220 Hudson Street, Warrensburg, NY
12885

Telephone Number: 518 623-1281

cc:

Commissioner, Department of Environmental Conservation, ~~50 Wolf Road~~, Albany, New York
12233-0001

NYS DEC Region 5 Warrensburg Office, attn. Walter L. Haynes

Mayor, Village of Fort Edward

Supervisor, Town of Fort Edward

Supervisor, Town of Kingsbury

ESMI of New York, attn. Peter Hansen

ATTACHMENT

ESMI currently holds Solid Waste Management (SWM) and Air Pollution Control (APC) permits from the NYS DEC ("DEC" or "Department"). Collectively, the permits authorize operation of a low temperature thermal desorption facility that treats soils contaminated with a variety of volatile and semi-volatile organic compounds. ESMI's existing SWM permit specifically prohibits the facility from accepting soils that originate from dredging sites, i.e. from "in-water" excavation sites. ESMI is now requesting DEC authorization to accept dredged soils when such soils are associated with an environmental remediation project. This request is prompted by ESMI's interest in offering customers treatment services for all soils from a qualifying remediation project, regardless of whether the soils originate from an upland site or an aquatic site. In order to authorize ESMI's request, the SWM permit requires modification. Specifically, the prohibition involving dredged soils would have to be removed or modified. (NYS DEC has determined that ESMI's request does not require modification of the facility's APC permit.) As a result of the Department's discretionary decision-making responsibility, SEQRA is applicable. The basis for this Negative Declaration is as follows:

Identification of Relevant Areas of Environmental Concern:

- There may be a concern that treatment of dredged soils will diminish the performance of the facility's pollution control equipment and/or impair the Department's ability to ensure compliance with the terms of the permits and applicable laws and rules.
- There may be a concern that DEC's approval, if granted, would enable ESMI to accept soils with higher levels of PCB contamination than are allowed under the facility's current permits.
- ESMI's request to thermally treat certain dredged soils may create concern among the local public that the facility is positioning itself to accept and treat PCB-contaminated soils that originate from the Hudson River Reclamation Project, an EPA-directed project that will remove several million cubic yards of PCB-contaminated soils from the Hudson River. This perception is likely enhanced by the fact that ESMI's parent company, the D.A. Collins Company, owns land adjacent to ESMI and has publicly expressed interest in participating in the de-watering phase of the EPA project (see Glens Falls Post Star article dated May 12, 2004).

Environmental Analysis:

- Staff has reviewed the performance history of the facility and determined that operations - including pre-acceptance protocols, soils handling requirements and air emissions - are in compliance with the permits as well as applicable laws and rules. Staff has further determined that treatment of dredged soils meeting all pre-acceptance criteria will have no measurable effect on treatment performance, particularly since ESMI will require that all incoming soils are "...greater than 75% solids with no free liquids" and that all pre-acceptance analytical testing is "...conducted prior to mixing or drying the dredged soils". (Note: any mixing or drying of dredged soils would occur off-site and would occur prior to acceptance of the soils at the ESMI facility.) These additional pre-acceptance criteria would be incorporated into any SWM permit that authorizes the proposed modification. In addition, the permit requires thorough and complete record-keeping with respect to pre-acceptance sampling, storage, treatment, post-treatment sampling and reuse. These records, as well as the facility's equipment, operation and performance are subject to compliance inspections by NYS DEC staff.

- No change to the existing 1 ppm PCB pre-acceptance threshold is being requested by ESMI or proposed by DEC. In addition, the facility's existing pre-acceptance criteria will not be modified and, therefore, will continue to require that only non-hazardous, non-TSCA (Toxic Substances Control Act) soils are accepted for treatment. Finally, the modification would not result in an increase in either the facility's permitted throughput or permitted emission limits.
- EPA's Record of Decision (ROD) for the Hudson River Reclamation Project (Reclamation Project) requires that all treatment (not de-watering) of soils dredged from the Hudson River must occur outside the Hudson River watershed. Since ESMI's facility is located in the Hudson River watershed, the ROD effectively precludes use of the facility to treat soils from the Reclamation Project.

Furthermore, ESMI is requesting authorization to accept only dredged soils that are incidental to and/or associated with remediation projects that are principally upland of waterways and waterbodies. If the proposed modification is approved, NYS DEC would reiterate this limitation as a condition of the SWM permit. As with the ROD, such a condition would preclude ESMI from accepting soils from the Reclamation Project.

In addition, special condition #7 of the current SWM permit prohibits ESMI from accepting "...contaminated soil containing more than 1 part per million (ppm) of PCBs". If DEC were to approve ESMI's modification request, this same condition/prohibition would remain in the modified SWM permit. Since the Reclamation Project is designed to remove PCB "hotspots" and since these "hotspots" typically involve soils contaminated with PCBs at levels greater than 1 ppm, it is unlikely that any dredged soils from the Reclamation Project could be treated at the Fort Edward facility - even if the preceding two limitations were eliminated.

Finally, even if the regulatory controls described above were not in effect, the ESMI facility lacks the capacity to serve as a treatment facility for the large volume of dredged soil that will originate from the Reclamation Project.

Conclusion:

Dredged soils are not inherently more contaminated than soils that originate from upland remediation sites. At the ESMI facility, dredged soil poses no unique challenges in terms of its storage, treatment and/or reuse. Treatment of dredged soils, as proposed, will not cause either an increase in air emissions or a change in air emissions. Conditions of the permit, coupled with routine inspections, will continue to ensure that the facility's environmental management systems are effective and that the facility's environmental performance is acceptable. Based on the foregoing evaluation, NYS DEC concludes that thermal treatment of certain dredged soils (i.e. soils that "pass" all pre-acceptance testing requirements) at ESMI's Fort Edward facility will not cause significant environmental impact or degrade the quality of the local environment.

EXHIBIT H

**[April 19, 2018 Letter from DEC to
the Village of Fort Edward Relative
to a Solid Waste Management
Permit Authorizing RD&D]**

New York State Department of Environmental Conservation
Division of Environmental Permits
NYSDEC Region 5 Warrensburg Sub-Office
232 Golf Course Rd
Warrensburg, NY 12885
(518) 623-1281



April 19, 2018

ENVIRONMENTAL SOIL MANAGEMENT OF NY LLC
304 TOWPATH LN
FORT EDWARD, NY 12828-1754

Re: DEC ID # 5-5330-00038/00024
ENVIRONMENTAL SOIL MANAGEMENT OF N Y

Dear Applicant :

Please be advised that your application for a DEC permit(s) is complete and a technical review has commenced. Notice and the opportunity for public comment is required for this application. Enclosed is a Notice of Complete Application for your project. Please have the Notice published in the newspaper identified below once during the week of 04/23/2018 on any day Monday through Friday.

GLENS FALLS POST STAR
LAWRENCE & COOPER STS
GLENS FALLS, NY 12801

On the Notice of Complete Application, that information presented between the horizontal lines, on the enclosed page(s) should be published. Do not print this letter or the information contained below the second horizontal line. Please request the newspaper publisher to provide you with a Proof of Publication for the Notice. Upon receipt of the Proof of Publication promptly forward it to this office. You must provide the Proof of Publication before a final decision can be rendered on your application. You are responsible for paying the cost of publishing the Notice in the newspaper.

Notification of this complete application is also being provided by this Department in the NYSDEC Environmental Notice Bulletin.

This notification does not signify approval of your application for permit. Additional information may be requested from you at a future date, if deemed necessary to reach a decision on your application. Your project is classified major under the Uniform Procedures Act. Accordingly, a decision is due within 90 days of the date of this notice unless a public hearing is held, which may extend this time frame. If a public hearing is necessary, you will be notified.

If you have any questions please contact me at the above address or phone number above.

Sincerely,

Beth A. Magee
BETH A MAGEE, CPESC
Division of Environmental Permits

THIS IS NOT A PERMIT



**New York State Department of Environmental Conservation
Notice of Complete Application**

Date: 04/19/2018

Applicant: ENVIRONMENTAL SOIL MANAGEMENT OF NY LLC
304 TOWPATH LN
FORT EDWARD, NY 12828-1754

Facility: ENVIRONMENTAL SOIL MANAGEMENT OF N Y
304 TOWPATH RD
FORT EDWARD, NY 12828

Application ID: 5-5330-00038/00024

Permits(s) Applied for: 1 - Article 27 Title 7 Solid Waste Management

Project is located: in FORT EDWARD in WASHINGTON COUNTY

Project Description:

The applicant has requested a one-year Research, Development and Demonstration Solid Waste permit to allow the importation of up to 10,000 tons of biosolids; consisting of municipal wastewater treatment plant sludge and paper mill sludge; to their permitted thermal desorption facility located on Towpath Lane in Fort Edward. The biosolids will be mixed with the heat treated soils to increase the organic content and nutrient value of the soil. Treated soil will be stockpiled on-site for later reuse.

Availability of Application Documents:

Filed application documents, and Department draft permits where applicable, are available for inspection during normal business hours at the address of the contact person. To ensure timely service at the time of inspection, it is recommended that an appointment be made with the contact person.

State Environmental Quality Review (SEQR) Determination

Project is not subject to SEQR because it is a Type II action.

SEQR Lead Agency None Designated

State Historic Preservation Act (SHPA) Determination

The proposed activity is not subject to review in accordance with SHPA. The application type is exempt and/or the project involves the continuation of an existing operational activity.

DEC Commissioner Policy 29, Environmental Justice and Permitting (CP-29)

It has been determined that the proposed action is not subject to CP-29.

Availability For Public Comment

Comments on this project must be submitted in writing to the Contact Person no later than 05/10/2018 or 15 days after the publication date of this notice, whichever is later.

Contact Person

BETH A MAGEE
NYSDEC
232 Golf Course Rd
Warrensburg, NY 12885
(518) 623-1282

CC List for Complete Notice

Honorable Matthew Traver - Village of Fort Edward
Kevin Wood, P.E. - NYSDEC
ENB

EXHIBIT I

**[June 5, 2018 Letter and Email from
DEC to the Village of Fort Edward
Relative to an Air State Facility
Permit Modification]**

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 5
232 Golf Course Road, Warrensburg, NY 12885
P: (518) 623-1282 | F: (518) 623-3603
www.dec.ny.gov

June 5, 2018

Mr. Peter Hansen
Compliance Manager
Environmental Soil Management of New York, LLC
304 Towpath Road
Fort Edward, NY 12828

**Re: PERMIT MODIFICATION # 3
DEC Permit # 5-5330-00038/00021 (Air State Facility)
ESMI of NY
Fort Edward (T), Washington (Co.)**

Dear Mr. Hansen:

Enclosed please find the Air State Facility ("ASF") permit modification issued by the New York State Department of Environmental Conservation for the above referenced facility. The permit has been modified to allow the importation and treatment of biosolids within the existing thermal desorption unit.

Please review your permit to ensure that you understand the conditions and requirements. If you have any questions on this permit, please contact Stephen Barlow of our Division of Air Resources at (518) 623-1216.

Sincerely,



Kevin R. Bliss
Deputy Regional Permit Administrator

Enclosures

ec w/enc.: Stephen Barlow, P.E. – NYSDEC
Honorable Matthew Traver – Village of Fort Edward



PERMIT
Under the Environmental Conservation Law (ECL)

IDENTIFICATION INFORMATION

Permit Type: Air State Facility
Permit ID: 5-5330-00038/00021
Mod 0 Effective Date: 07/24/2013 Expiration Date: 07/23/2023
Mod 1 Effective Date: 11/03/2014 Expiration Date: 07/23/2023
Mod 2 Effective Date: 03/28/2016 Expiration Date: 07/23/2023
Mod 3 Effective Date: 06/05/2018 Expiration Date: 07/23/2023

Permit Issued To: ENVIRONMENTAL SOIL MANAGEMENT OF NY LLC
304 TOWPATH LN
FORT EDWARD, NY 12828-1754

Contact: PETER HANSEN
ESMI OF NEW YORK
304 TOWPATH ROAD
FORT EDWARD, NY 12828
(518) 747-5500

Facility: ENVIRONMENTAL SOIL MANAGEMENT OF N Y
304 TOWPATH RD
FORT EDWARD, NY 12828

Description:

By acceptance of this permit, the permittee agrees that the permit is contingent upon strict compliance with the ECL, all applicable regulations, the General Conditions specified and any Special Conditions included as part of this permit.

Permit Administrator: KEVIN R BLISS
NYSDEC - WARRENSBURG SUBOFFICE
232 GOLF COURSE RD
WARRENSBURG, NY 12885-1172

Authorized Signature:

Kevin R Bliss

Date: 5/5/18



Notification of Other State Permittee Obligations

Item A: Permittee Accepts Legal Responsibility and Agrees to Indemnification

The permittee expressly agrees to indemnify and hold harmless the Department of Environmental Conservation of the State of New York, its representatives, employees and agents ("DEC") for all claims, suits, actions, and damages, to the extent attributable to the permittee's acts or omissions in connection with the compliance permittee's undertaking of activities in connection with, or operation and maintenance of, the facility or facilities authorized by the permit whether in compliance or not in any compliance with the terms and conditions of the permit. This indemnification does not extend to any claims, suits, actions, or damages to the extent attributable to DEC's own negligent or intentional acts or omissions, or to any claims, suits, or actions naming the DEC and arising under article 78 of the New York Civil Practice Laws and Rules or any citizen suit or civil rights provision under federal or state laws.

Item B: Permittee's Contractors to Comply with Permit

The permittee is responsible for informing its independent contractors, employees, agents and assigns of their responsibility to comply with this permit, including all special conditions while acting as the permittee's agent with respect to the permitted activities, and such persons shall be subject to the same sanctions for violations of the Environmental Conservation Law as those prescribed for the permittee.

Item C: Permittee Responsible for Obtaining Other Required Permits

The permittee is responsible for obtaining any other permits, approvals, lands, easements and rights-of-way that may be required to carry out the activities that are authorized by this permit.

Item D: No Right to Trespass or Interfere with Riparian Rights

This permit does not convey to the permittee any right to trespass upon the lands or interfere with the riparian rights of others in order to perform the permitted work nor does it authorize the impairment of any rights, title, or interest in real or personal property held or vested in a person not a party to the permit.



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DEC GENERAL CONDITIONS

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- 5 5 Applications for permit renewals, modifications and transfers
- 5 6 Permit modifications, suspensions or revocations by the Department

Facility Level

- 6 7 Submission of application for permit modification or renewal-REGION 5 HEADQUARTERS



DEC GENERAL CONDITIONS
****** General Provisions ******
GENERAL CONDITIONS - Apply to ALL Authorized Permits.

Condition 1: Facility Inspection by the Department
Applicable State Requirement: ECL 19-0305

Item 1.1:

The permitted site or facility, including relevant records, is subject to inspection at reasonable hours and intervals by an authorized representative of the Department of Environmental Conservation (the Department) to determine whether the permittee is complying with this permit and the ECL. Such representative may order the work suspended pursuant to ECL 71-0301 and SAPA 401(3).

Item 1.2:

The permittee shall provide a person to accompany the Department's representative during an inspection to the permit area when requested by the Department.

Item 1.3:

A copy of this permit, including all referenced maps, drawings and special conditions, must be available for inspection by the Department at all times at the project site or facility. Failure to produce a copy of the permit upon request by a Department representative is a violation of this permit.

Condition 2: Relationship of this Permit to Other Department Orders and Determinations
Applicable State Requirement: ECL 3-0301 (2) (m)

Item 2.1:

Unless expressly provided for by the Department, issuance of this permit does not modify, supersede or rescind any order or determination previously issued by the Department or any of the terms, conditions or requirements contained in such order or determination.

Condition 2-1: Applications for permit renewals, modifications and transfers
Applicable State Requirement: 6 NYCRR 621.11

Item 2-1.1:

The permittee must submit a renewal application at least 180 days before expiration of permits for both Title V and State Facility Permits.

Item 2-1.3:

Permits are transferrable with the approval of the department unless specifically prohibited by the statute, regulation or another permit condition. Applications for permit transfer should be submitted prior to actual transfer of ownership.

Condition 3: Applications for permit renewals, modifications and transfers
Applicable State Requirement: 6 NYCRR 621.11

Item 3.1:

The permittee must submit a separate written application to the Department for renewal, modification or transfer of this permit. Such application must include any forms or supplemental



information the Department requires. Any renewal, modification or transfer granted by the Department must be in writing.

Item 3.2:

The permittee must submit a renewal application at least 180 days before expiration of permits for Title V Facility Permits, or at least 30 days before expiration of permits for State Facility Permits.

Item 3.3:

Permits are transferrable with the approval of the department unless specifically prohibited by the statute, regulation or another permit condition. Applications for permit transfer should be submitted prior to actual transfer of ownership.

Condition 3-1: Applications for permit renewals, modifications and transfers
Applicable State Requirement: 6 NYCRR 621.11

Item 3-1.1:

The permittee must submit a separate written application to the Department for renewal, modification or transfer of this permit. Such application must include any forms or supplemental information the Department requires. Any renewal, modification or transfer granted by the Department must be in writing.

Item 3-1.2:

The permittee must submit a renewal application at least 180 days before the expiration of permits for Title V and State Facility Permits.

Item 3-1.3

Permits are transferrable with the approval of the department unless specifically prohibited by the statute, regulation or another permit condition. Applications for permit transfer should be submitted prior to actual transfer of ownership.

Condition 4: Permit modifications, suspensions or revocations by the Department
Applicable State Requirement: 6 NYCRR 621.13

Item 4.1:

The Department reserves the right to exercise all available authority to modify, suspend, or revoke this permit in accordance with 6NYCRR Part 621. The grounds for modification, suspension or revocation include:

- a) materially false or inaccurate statements in the permit application or supporting papers;
- b) failure by the permittee to comply with any terms or conditions of the permit;
- c) exceeding the scope of the project as described in the permit application;
- d) newly discovered material information or a material change in environmental conditions, relevant technology or applicable law or regulations since the issuance of the existing permit;
- e) noncompliance with previously issued permit conditions, orders of the commissioner, any provisions of the Environmental Conservation Law or regulations of the Department related to the permitted activity.



****** Facility Level ******

**Condition 5: Submission of application for permit modification or renewal-REGION 5
HEADQUARTERS**
Applicable State Requirement: 6 NYCRR 621.6 (a)

Item 5.1:

Submission of applications for permit modification or renewal are to be submitted to:
NYSDEC Regional Permit Administrator
Region 5 Headquarters
Division of Environmental Permits
Route 86, PO Box 296
Ray Brook, NY 12977-0296
(518) 897-1234

New York State Department of Environmental Conservation

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Permit Under the Environmental Conservation Law (ECL)

ARTICLE 19: AIR POLLUTION CONTROL - AIR STATE FACILITY

PERMIT

IDENTIFICATION INFORMATION

Permit Issued To: ENVIRONMENTAL SOIL MANAGEMENT OF NY LLC
304 TOWPATH LN
FORT EDWARD, NY 12828-1754

Facility: ENVIRONMENTAL SOIL MANAGEMENT OF N Y
304 TOWPATH RD
FORT EDWARD, NY 12828

Authorized Activity By Standard Industrial Classification Code:
4953 - REFUSE SYSTEMS

Mod 0 Permit Effective Date: 07/24/2013

Permit Expiration Date: 07/23/2023

Mod 1 Permit Effective Date: 11/03/2014

Permit Expiration Date: 07/23/2023

Mod 2 Permit Effective Date: 03/28/2016

Permit Expiration Date: 07/23/2023

Mod 3 Permit Effective Date: 06/05/2018

Permit Expiration Date: 07/23/2023



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- 12 2-4 6 NYCRR Subpart 202-1: Compliance Demonstration
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- 25 15 6 NYCRR 201-1.4: Malfunctions and start-up/shutdown activities
- 25 16 6 NYCRR Subpart 201-5: Emission Unit Definition
- 26 17 6 NYCRR 201-5.2 (c): Renewal deadlines for state facility permits
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- 27 19 6 NYCRR 211.2: Visible Emissions Limited
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Emission Unit Level

- 32 20 6 NYCRR Subpart 201-5: Emission Point Definition By Emission Unit
- 33 21 6 NYCRR Subpart 201-5: Process Definition By Emission Unit

NOTE: * preceding the condition number indicates capping.



FEDERALLY ENFORCEABLE CONDITIONS

****** Facility Level ******

NOTIFICATION OF GENERAL PERMITTEE OBLIGATIONS

This section contains terms and conditions which are federally enforceable. Permittees may also have other obligations under regulations of general applicability

Item A: Sealing - 6 NYCRR 200.5

The Commissioner may seal an air contamination source to prevent its operation if compliance with 6 NYCRR Chapter III is not met within the time provided by an order of the Commissioner issued in the case of the violation. Sealing means labeling or tagging a source to notify any person that operation of the source is prohibited, and also includes physical means of preventing the operation of an air contamination source without resulting in destruction of any equipment associated with such source, and includes, but is not limited to, bolting, chaining or wiring shut control panels, apertures or conduits associated with such source.

No person shall operate any air contamination source sealed by the Commissioner in accordance with this section unless a modification has been made which enables such source to comply with all requirements applicable to such modification.

Unless authorized by the Commissioner, no person shall remove or alter any seal affixed to any contamination source in accordance with this section.

Item B: Acceptable Ambient Air Quality - 6 NYCRR 200.6

Notwithstanding the provisions of 6 NYCRR Chapter III, Subchapter A, no person shall allow or permit any air contamination source to emit air contaminants in quantities which alone or in combination with emissions from other air contamination sources would contravene any applicable ambient air quality standard and/or cause air pollution. In such cases where contravention occurs or may occur, the Commissioner shall specify the degree and/or method of emission control required.

Item C: Maintenance of Equipment - 6 NYCRR 200.7

Any person who owns or operates an air contamination source which is equipped with an emission control device shall operate such device and keep it in a satisfactory state of maintenance and repair in accordance with ordinary and necessary practices, standards and procedures, inclusive of manufacturer's specifications, required to operate such device effectively.

Item D: Unpermitted Emission Sources - 6 NYCRR 201-1.2

If an existing emission source was subject to the permitting requirements of 6 NYCRR Part 201 at the time of construction or

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modification, and the owner and/or operator failed to apply for a permit for such emission source then the following provisions apply:

(a) The owner and/or operator must apply for a permit for such emission source or register the facility in accordance with the provisions of Part 201.

(b) The emission source or facility is subject to all regulations that were applicable to it at the time of construction or modification and any subsequent requirements applicable to existing sources or facilities.

Item E: Recycling and Salvage - 6 NYCRR 201-1.7

Where practical, any person who owns or operates an air contamination source shall recycle or salvage air contaminants collected in an air cleaning device according to the requirements of 6 NYCRR.

Item F: Prohibition of Reintroduction of Collected Contaminants to the Air - 6 NYCRR 201-1.8

No person shall unnecessarily remove, handle, or cause to be handled, collected air contaminants from an air cleaning device for recycling, salvage or disposal in a manner that would reintroduce them to the outdoor atmosphere.

Item G: Proof of Eligibility for Sources Defined as Exempt Activities - 6 NYCRR 201-3.2 (a)

The owner and/or operator of an emission source or unit that is eligible to be exempt, may be required to certify that it operates within the specific criteria described in 6 NYCRR Subpart 201-3. The owner or operator of any such emission source must maintain all required records on-site for a period of five years and make them available to representatives of the Department upon request. Department representatives must be granted access to any facility which contains emission sources or units subject to 6 NYCRR Subpart 201-3, during normal operating hours, for the purpose of determining compliance with this and any other state and federal air pollution control requirements, regulations, or law.

Item H: Proof of Eligibility for Sources Defined as Trivial Activities - 6 NYCRR 201-3.3 (a)

The owner and/or operator of an emission source or unit that is listed as being trivial in 6 NYCRR Part 201 may be required to certify that it operates within the specific criteria described in 6 NYCRR Subpart 201-3. The owner or operator of any such emission source must maintain all required records on-site for a period of five years and make them available to representatives of the Department upon request. Department representatives must be granted access to any facility which contains emission sources or units subject to 6 NYCRR Subpart 201-3, during normal operating hours, for the purpose of determining compliance with this and any other state and federal air pollution

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control requirements, regulations, or law.

Item I: Required Emission Tests - 6 NYCRR 202-1.1

An acceptable report of measured emissions shall be submitted, as may be required by the Commissioner, to ascertain compliance or noncompliance with any air pollution code, rule, or regulation. Failure to submit a report acceptable to the Commissioner within the time stated shall be sufficient reason for the Commissioner to suspend or deny an operating permit. Notification and acceptable procedures are specified in 6 NYCRR Subpart 202-1.

Item J: Open Fires Prohibitions - 6 NYCRR 215.2

Except as allowed by section 215.3 of 6 NYCRR Part 215, no person shall burn, cause, suffer, allow or permit the burning of any materials in an open fire.

Item K: Permit Exclusion - ECL 19-0305

The issuance of this permit by the Department and the receipt thereof by the Applicant does not and shall not be construed as barring, diminishing, adjudicating or in any way affecting any legal, administrative or equitable rights or claims, actions, suits, causes of action or demands whatsoever that the Department may have against the Applicant for violations based on facts and circumstances alleged to have occurred or existed prior to the effective date of this permit, including, but not limited to, any enforcement action authorized pursuant to the provisions of applicable federal law, the Environmental Conservation Law of the State of New York (ECL) and Chapter III of the Official Compilation of the Codes, Rules and Regulations of the State of New York (NYCRR). The issuance of this permit also shall not in any way affect pending or future enforcement actions under the Clean Air Act brought by the United States or any person.

Item L: Federally Enforceable Requirements - 40 CFR 70.6 (b)

All terms and conditions in this permit required by the Act or any applicable requirement, including any provisions designed to limit a facility's potential to emit, are enforceable by the Administrator and citizens under the Act. The Department has, in this permit, specifically designated any terms and conditions that are not required under the Act or under any of its applicable requirements as being enforceable under only state regulations.

FEDERAL APPLICABLE REQUIREMENTS
The following conditions are federally enforceable.

Condition 2: Facility Permissible Emissions
Effective between the dates of 07/24/2013 and 07/23/2023

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Applicable Federal Requirement:6 NYCRR Subpart 201-7

Item 2.1:

The sum of emissions from the emission units specified in this permit shall not equal or exceed the following

Potential To Emit (PTE) rate for each regulated contaminant:

per year	CAS No: 007446-09-5 (From Mod 3)	PTE: 198,000 pounds
	Name: SULFUR DIOXIDE	
per year	CAS No: 007647-01-0 (From Mod 3)	PTE: 19,400 pounds
	Name: HYDROGEN CHLORIDE	

Condition 2-1: Capping Monitoring Condition
Effective between the dates of 03/28/2016 and 07/23/2023

Applicable Federal Requirement:6 NYCRR Subpart 201-7

Item 2-1.1:

Under the authority of 6 NYCRR Part 201-7, this condition contains an emission cap for the purpose of limiting emissions from the facility, emission unit or process to avoid being subject to the following applicable requirement(s) that the facility, emission unit or process would otherwise be subject to:

6 NYCRR 201-6.1 (a)

Item 2-1.2:

Operation of this facility shall take place in accordance with the approved criteria, emission limits, terms, conditions and standards in this permit.

Item 2-1.3:

The owner or operator of the permitted facility must maintain all required records on-site for a period of five years and make them available to representatives of the Department upon request. Department representatives must be granted access to any facility regulated by this Subpart, during normal operating hours, for the purpose of determining compliance with this and any other state and federal air pollution control requirements, regulations or law.

Item 2-1.4:

On an annual basis, unless otherwise specified below, beginning one year after the granting of an emissions cap, the responsible official shall provide a certification to the Department that the facility has operated all emission units within the limits imposed by the emission cap. This certification shall include a brief summary of the emissions subject to the cap for that time period and a comparison to the threshold levels that would require compliance with an applicable requirement.

Item 2-1.5:

The emission of pollutants that exceed the applicability thresholds for an applicable requirement, for which the facility has obtained an emissions cap, constitutes a violation of Part 201 and of the Act.

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Item 2-1.6:

The Compliance Demonstration activity will be performed for the Facility.

Regulated Contaminant(s):

CAS No: 007647-01-0 HYDROGEN CHLORIDE

Item 2-1.7:

Compliance Demonstration shall include the following monitoring:

Capping: Yes

Monitoring Type: WORK PRACTICE INVOLVING SPECIFIC OPERATIONS

Monitoring Description:

Actual chlorinated compound concentrations in feed soils are used to calculate emissions. All chlorine is assumed to convert to HCl.

Work Practice Type: PARAMETER OF PROCESS MATERIAL

Process Material: SOIL

Parameter Monitored: CHLORINE

Upper Permit Limit: 9.70 tons per year

Monitoring Frequency: PER BATCH OF PRODUCT/RAW MATERIAL CHANGE

Averaging Method: ANNUAL MAXIMUM ROLLED MONTHLY

Reporting Requirements: ANNUALLY (CALENDAR)

Reports due 30 days after the reporting period.

The initial report is due 1/30/2017.

Subsequent reports are due every 12 calendar month(s).

Condition 3-1: Capping Monitoring Condition

Effective between the dates of 06/05/2018 and 07/23/2023

Applicable Federal Requirement: 6 NYCRR Subpart 201-7

Replaces Condition(s) 2-3

Item 3-1.1:

Under the authority of 6 NYCRR Part 201-7, this condition contains an emission cap for the purpose of limiting emissions from the facility, emission unit or process to avoid being subject to the following applicable requirement(s) that the facility, emission unit or process would otherwise be subject to:

6 NYCRR Subpart 201-6

Item 3-1.2:

Operation of this facility shall take place in accordance with the approved criteria, emission limits, terms, conditions and standards in this permit.

Item 3-1.3:

The owner or operator of the permitted facility must maintain all required records on-site for a period of five years and make them available to representatives of the Department upon request. Department representatives must be granted access to any facility regulated by this Subpart, during normal operating hours, for the purpose of determining compliance with this and any other state and federal air pollution control requirements, regulations or law.

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Item 3-1.4:

On an annual basis, unless otherwise specified below, beginning one year after the granting of an emissions cap, the responsible official shall provide a certification to the Department that the facility has operated all emission units within the limits imposed by the emission cap. This certification shall include a brief summary of the emissions subject to the cap for that time period and a comparison to the threshold levels that would require compliance with an applicable requirement.

Item 3-1.5:

The emission of pollutants that exceed the applicability thresholds for an applicable requirement, for which the facility has obtained an emissions cap, constitutes a violation of Part 201 and of the Act.

Item 3-1.6:

The Compliance Demonstration activity will be performed for the Facility.

Regulated Contaminant(s):
CAS No: 0NY998-00-0 VOC

Item 3-1.7:

Compliance Demonstration shall include the following monitoring:

Capping: Yes

Monitoring Type: RECORD KEEPING/MAINTENANCE PROCEDURES

Monitoring Description:

Allowable annual emissions of VOC from Emission Unit 00001 is not to exceed 40 tons per year in order to assure total facility wide emissions remain below 50 tpy. Emissions are to be calculated based upon Actual VOCs fed to the kiln multiplied time (1- the most recent %DRE/100) + the total VOC content of the bio-solids fed to the pug mill.

At this time, the most recent %DREs are 99.9996% for the stationary treatment unit and 99.72% for the portable treatment unit.

The VOC content of the biosolids (lb/ton) will be determined during the RD&D test.

Monitoring Frequency: PER BATCH OF PRODUCT/RAW MATERIAL CHANGE

Averaging Method: ANNUAL MAXIMUM ROLLED MONTHLY

Reporting Requirements: ANNUALLY (CALENDAR)

Reports due 30 days after the reporting period.

The initial report is due 1/30/2019.

Subsequent reports are due every 12 calendar month(s).

Condition 3-2: Capping Monitoring Condition
Effective between the dates of 06/05/2018 and 07/23/2023

Applicable Federal Requirement:6 NYCRR Subpart 201-7

Replaces Condition(s) 1-1

Item 3-2.1:



New York State Department of Environmental Conservation

Permit ID: 5-5330-00038/00021

Facility DEC ID: 5533000038

Under the authority of 6 NYCRR Part 201-7, this condition contains an emission cap for the purpose of limiting emissions from the facility, emission unit or process to avoid being subject to the following applicable requirement(s) that the facility, emission unit or process would otherwise be subject to:

6 NYCRR Subpart 201-6

Item 3-2.2:

Operation of this facility shall take place in accordance with the approved criteria, emission limits, terms, conditions and standards in this permit.

Item 3-2.3:

The owner or operator of the permitted facility must maintain all required records on-site for a period of five years and make them available to representatives of the Department upon request. Department representatives must be granted access to any facility regulated by this Subpart, during normal operating hours, for the purpose of determining compliance with this and any other state and federal air pollution control requirements, regulations or law.

Item 3-2.4:

On an annual basis, unless otherwise specified below, beginning one year after the granting of an emissions cap, the responsible official shall provide a certification to the Department that the facility has operated all emission units within the limits imposed by the emission cap. This certification shall include a brief summary of the emissions subject to the cap for that time period and a comparison to the threshold levels that would require compliance with an applicable requirement.

Item 3-2.5:

The emission of pollutants that exceed the applicability thresholds for an applicable requirement, for which the facility has obtained an emissions cap, constitutes a violation of Part 201 and of the Act.

Item 3-2.6:

The Compliance Demonstration activity will be performed for the facility:
The Compliance Demonstration applies to:

Emission Unit: U-00001

Regulated Contaminant(s):

CAS No: 007446-09-5 SULFUR DIOXIDE

Item 3-2.7:

Compliance Demonstration shall include the following monitoring:

Capping: Yes

Monitoring Type: RECORD KEEPING/MAINTENANCE PROCEDURES

Monitoring Description:

Coal Tar contaminated soils must be blended with low sulfur contaminated soils in accordance with the O&M Manual and SW Permit to bring the %S in the hydrocarbon portion of the soil fed to the remediation units to less than 1.0%S.

Monitoring Frequency: AS REQUIRED - SEE PERMIT MONITORING DESCRIPTION



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Averaging Method: MAXIMUM - NOT TO BE EXCEEDED AT ANY TIME
(INSTANTANEOUS/DISCRETE OR GRAB)

Reporting Requirements: UPON REQUEST BY REGULATORY AGENCY

Condition 3-3: Capping Monitoring Condition
Effective between the dates of 06/05/2018 and 07/23/2023

Applicable Federal Requirement:6 NYCRR Subpart 201-7

Replaces Condition(s) 2-2

Item 3-3.1:

Under the authority of 6 NYCRR Part 201-7, this condition contains an emission cap for the purpose of limiting emissions from the facility, emission unit or process to avoid being subject to the following applicable requirement(s) that the facility, emission unit or process would otherwise be subject to:

6 NYCRR 201-6.1 (a)

Item 3-3.2:

Operation of this facility shall take place in accordance with the approved criteria, emission limits, terms, conditions and standards in this permit.

Item 3-3.3:

The owner or operator of the permitted facility must maintain all required records on-site for a period of five years and make them available to representatives of the Department upon request. Department representatives must be granted access to any facility regulated by this Subpart, during normal operating hours, for the purpose of determining compliance with this and any other state and federal air pollution control requirements, regulations or law.

Item 3-3.4:

On an annual basis, unless otherwise specified below, beginning one year after the granting of an emissions cap, the responsible official shall provide a certification to the Department that the facility has operated all emission units within the limits imposed by the emission cap. This certification shall include a brief summary of the emissions subject to the cap for that time period and a comparison to the threshold levels that would require compliance with an applicable requirement.

Item 3-3.5:

The emission of pollutants that exceed the applicability thresholds for an applicable requirement, for which the facility has obtained an emissions cap, constitutes a violation of Part 201 and of the Act.

Item 3-3.6:

The Compliance Demonstration activity will be performed for the Facility.

Regulated Contaminant(s):

CAS No: 007446-09-5 SULFUR DIOXIDE

Item 3-3.7:

Compliance Demonstration shall include the following monitoring:

Capping: Yes



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Monitoring Type: RECORD KEEPING/MAINTENANCE PROCEDURES

Monitoring Description:

The facility will limit emissions of sulfur dioxide from all sources to less than 198,000 pounds or less per 12-month period. Emissions will be calculated based upon the percent sulfur in the hydrocarbon portion of the soil remediated, to be determined utilizing one of the following methods: regulatory standard (State or Federal) for contaminant, analytical methodology in accordance with NYSDEC Permit No. 5-5330-00038/00019, or fuel source specification, and the regulated sulfur content of the waste fuel and/or oil burned in the treatment units.

Monitoring Frequency: AS REQUIRED - SEE PERMIT MONITORING DESCRIPTION

Averaging Method: ANNUAL MAXIMUM ROLLED MONTHLY

Reporting Requirements: ANNUALLY (CALENDAR)

Reports due 30 days after the reporting period.

The initial report is due 1/30/2019.

Subsequent reports are due every 12 calendar month(s).

Condition 2-4: Compliance Demonstration
Effective between the dates of 03/28/2016 and 07/23/2023

Applicable Federal Requirement:6 NYCRR Subpart 202-1

Item 2-4.1:

The Compliance Demonstration activity will be performed for the Facility.

Regulated Contaminant(s):

CAS No: 001746-01-6	2,3,7,8-TETRACHLORODIBENZO-P-DIOXIN
CAS No: 0NY998-00-0	VOC
CAS No: 001336-36-3	POLYCHLORINATED BIPHENYL

Item 2-4.2:

Compliance Demonstration shall include the following monitoring:

Monitoring Type: RECORD KEEPING/MAINTENANCE PROCEDURES

Monitoring Description:

NYSDEC and ESMI worked to identify reasonable criteria by which a contaminated media with the primary contaminant being PCB's would trigger the completion of a Proof of Performance (PoP) test. Through this effort, conditions which would invoke the requirement for the completion of a PCB PoP test were identified. This testing shall demonstrate the overall destruction and removal efficiency (DRE) for PCB and the formation of D/F on a pounds D/F emitted per pound of PCB input basis. The conditions are as follows:

- The primary contaminant, the reason the media is being thermally treated, is PCBs with a concentration greater than 1ppm, and
- The total mass of PCBs to be fed to the TDU during the PoP test is greater than 0.825 pounds

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This does not include soils containing an average of 1.0 ppm or less total PCBs that, once treated, may be beneficially used in accordance with BUD #610-5-58 or with another pertinent BUD granted pursuant to 6 NYCRR Part 360.

Example: Manufactured Gas Plant (MGP) contaminated soil with a 1.1 ppm PCB hit in one sample set but the average concentration in the incoming soil is < 1 ppm.

Upon media receipt at ESMI, confirmation sampling would be completed to confirm the concentration of PCBs exists in the media to meet the greater than 1ppm and the mass of 0.825 pounds.

- If the PCB concentration in the media averages less than 5ppm for the initial PoP test, ESMI would be required to perform a subsequent test, in the future, if annual feed of PCBs exceeds 500 pounds on a 12 month rolling basis. This testing is to be performed with soils having an average PCB concentration between 5 and 45 ppm. This testing would again have to demonstrate the overall DRE for PCB and the formation of D/F on a pounds D/F emitted per pound of PCB input basis.
- The testing, as described above, plus that for overall DRE of VOC, shall be required once per permit term (once every ten years).
- If PCB average concentrations in the test media exceeds 5ppm in the initial PoP test, ESMI would not be required to complete the subsequent testing described above.
- Test scheduling will be coordinated with the NYSDEC and the testing contractor as expeditiously as possible once ESMI has verified the above criteria for testing has been met.

Monitoring Frequency: AS REQUIRED - SEE PERMIT MONITORING DESCRIPTION
Reporting Requirements: ONCE / BATCH OR MONITORING OCCURRENCE

Condition 2-5: Notification
Effective between the dates of 03/28/2016 and 07/23/2023

Applicable Federal Requirement:6 NYCRR 202-1.2

Item 2-5.1:

A person who is required by the commissioner to submit a stack test report shall notify the commissioner, in writing, not less than 30 days prior to the test, of the time and date of the test. Such notification shall also include the acceptable procedures to be used to stack test including sampling and analytical procedures. Such person shall allow the commissioner, or his representative, free access to observe stack testing being conducted by such person.

Condition 9: Air pollution prohibited

New York State Department of Environmental Conservation

Permit ID: 5-5330-00038/00021

Facility DEC ID: 5533000038



Effective between the dates of 07/24/2013 and 07/23/2023

Applicable Federal Requirement:6 NYCRR 211.1

Item 9.1:

No person shall cause or allow emissions of air contaminants to the outdoor atmosphere of such quantity, characteristic or duration which are injurious to human, plant or animal life or to property, or which unreasonably interfere with the comfortable enjoyment of life or property. Notwithstanding the existence of specific air quality standards or emission limits, this prohibition applies, but is not limited to, any particulate, fume, gas, mist, odor, smoke, vapor, pollen, toxic or deleterious emission, either alone or in combination with others.

Condition 10: Compliance Demonstration

Effective between the dates of 07/24/2013 and 07/23/2023

Applicable Federal Requirement:6 NYCRR 212.4 (c)

Item 10.1:

The Compliance Demonstration activity will be performed for the facility:
The Compliance Demonstration applies to:

Emission Unit: U-00001
Process: 001

Emission Unit: U-00001
Process: 003

Emission Unit: U-00002
Process: 002

Regulated Contaminant(s):
CAS No: 0NY075-00-0 PARTICULATES

Item 10.2:

Compliance Demonstration shall include the following monitoring:

Monitoring Type: INTERMITTENT EMISSION TESTING

Monitoring Description:

Emissions of solid particulates are limited to less than 0.050 grains of particulates per cubic foot of exhaust gas, expressed at standard conditions on a dry gas basis. Compliance testing will be conducted at the discretion of the Department.

Upper Permit Limit: 0.05 grains per dscf

Reference Test Method: EPA Method 5

Monitoring Frequency: AS REQUIRED - SEE PERMIT MONITORING DESCRIPTION

Averaging Method: AVERAGING METHOD AS PER REFERENCE TEST METHOD INDICATED

Reporting Requirements: ONCE / BATCH OR MONITORING OCCURRENCE

New York State Department of Environmental Conservation

Permit ID: 5-5330-00038/00021

Facility DEC ID: 5533000038



Condition 1-3: Compliance Demonstration
Effective between the dates of 11/03/2014 and 07/23/2023

Applicable Federal Requirement: 6 NYCRR 212.6 (a)

Item 1-3.1:

The Compliance Demonstration activity will be performed for the Facility.

Regulated Contaminant(s):

CAS No: 0NY075-00-0 PARTICULATES

Item 1-3.2:

Compliance Demonstration shall include the following monitoring:

Monitoring Type: MONITORING OF PROCESS OR CONTROL DEVICE
PARAMETERS AS SURROGATE

Monitoring Description:

No person shall cause or allow emissions having an average opacity during any six consecutive minutes of 20 percent or greater from any process emission source, except only the emission of uncombined water. The Department reserves the right to perform or require the performance of a Method 9 opacity evaluation at any time during facility operation.

The permittee will conduct observations of visible emissions from the emission unit, process, etc. to which this condition applies at any time there are visible stack emissions which have the potential to exceed 20%. The permittee will investigate, in a timely manner, any instance where there is cause to believe that visible emissions have the potential to exceed the opacity standard.

The permittee shall investigate the cause, make any necessary corrections, and verify that the excess visible emissions problem has been corrected. If visible emissions with the potential to exceed 20% continue, the permittee will conduct a Method 9 assessment within the next operating day of the sources associated with the potential noncompliance to determine the degree of opacity and will notify the NYSDEC if the method 9 test indicates that the opacity standard is not met.

Records of visible emissions observations (or any follow-up method 9 tests), investigations and corrective actions will be kept on-site. Should the Department determine that permittee's record keeping format is inadequate to demonstrate compliance with this condition, it shall provide written notice to the permittee stating the inadequacies, and permittee shall have 90 days to revise its prospective record keeping format in a manner acceptable to the Department.

Parameter Monitored: OPACITY

Upper Permit Limit: 20 percent

Reference Test Method: Method 9

Monitoring Frequency: AS REQUIRED - SEE PERMIT MONITORING DESCRIPTION

New York State Department of Environmental Conservation

Permit ID: 5-5330-00038/00021

Facility DEC ID: 5533000038



Averaging Method: 6-MINUTE AVERAGE (METHOD 9)

Reporting Requirements: AS REQUIRED - SEE MONITORING DESCRIPTION

Condition 1-11: Compliance Demonstration

Effective between the dates of 11/03/2014 and 07/23/2023

Applicable Federal Requirement:6 NYCRR 212.9

Item 1-11.1:

The Compliance Demonstration activity will be performed for the facility:

The Compliance Demonstration applies to:

Emission Unit: U-00002

Regulated Contaminant(s):

CAS No: 0NY998-00-0 VOC

Item 1-11.2:

Compliance Demonstration shall include the following monitoring:

Monitoring Type: RECORD KEEPING/MAINTENANCE PROCEDURES

Monitoring Description:

Carbon bed monitoring shall be performed once per month with a PID. When the PID meter indicates VOC breakthrough, maintenance shall be performed. Maintenance includes cleaning, adjusting or changing-out the activated carbon.. After maintenance, carbon beds must operate at 99% control efficiency or better. VOC readings less than the accuracy of the PID (considered 2 ppm or 10% of recorded value which ever is greater) will not be considered breakthrough.

Reference Test Method: Method 21

Monitoring Frequency: MONTHLY

Averaging Method: MAXIMUM - NOT TO BE EXCEEDED AT ANY TIME
(INSTANTANEOUS/DISCRETE OR GRAB)

Reporting Requirements: UPON REQUEST BY REGULATORY AGENCY

Condition 12: Compliance Demonstration

Effective between the dates of 07/24/2013 and 07/23/2023

Applicable Federal Requirement:6 NYCRR 212.9 (d)

Item 12.1:

The Compliance Demonstration activity will be performed for the facility:

The Compliance Demonstration applies to:

Emission Unit: U-00001

Process: 004

Regulated Contaminant(s):

CAS No: 0NY075-00-0 PARTICULATES

Item 12.2:

New York State Department of Environmental Conservation

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Facility DEC ID: 5533000038



Compliance Demonstration shall include the following monitoring:

Monitoring Type: INTERMITTENT EMISSION TESTING

Monitoring Description:

Emissions of solid particulates are limited to less than 0.030 grains of particulates per cubic foot of exhaust gas, expressed at standard conditions on a dry gas basis. Compliance testing will be conducted at the discretion of the Department.

Upper Permit Limit: 0.03 grains per dscf

Reference Test Method: EPA Method 5

Monitoring Frequency: AS REQUIRED - SEE PERMIT MONITORING DESCRIPTION

Averaging Method: AVERAGING METHOD AS PER REFERENCE TEST METHOD INDICATED

Reporting Requirements: ONCE / BATCH OR MONITORING OCCURRENCE

Condition 1-14: Compliance Demonstration

Effective between the dates of 11/03/2014 and 07/23/2023

Applicable Federal Requirement: 6 NYCRR 225-1.2 (f)

Item 1-14.1:

The Compliance Demonstration activity will be performed for the Facility.

Item 1-14.2:

Compliance Demonstration shall include the following monitoring:

Monitoring Type: WORK PRACTICE INVOLVING SPECIFIC OPERATIONS

Monitoring Description:

Owners and/or operators of commercial, industrial, or residential emission sources that fire number two heating oil on or after July 1, 2012 are limited to the purchase of number two heating oil with 0.0015 percent sulfur by weight or less. Compliance with this limit will be based on vendor certifications.

Data collected pursuant to this Subpart must be tabulated and summarized in a form acceptable to the Department, and must be retained for at least five years. The owner of a Title V facility must furnish to the Department such records and summaries, on a semiannual calendar basis, within 30 days after the end of the semiannual period.

All other facility owners or distributors must submit these records and summaries upon request of the Department.

Work Practice Type: PARAMETER OF PROCESS MATERIAL

Process Material: NUMBER 2 HEATING OIL

Parameter Monitored: SULFUR CONTENT

Upper Permit Limit: 0.0015 percent by weight

Monitoring Frequency: PER DELIVERY

Averaging Method: MAXIMUM - NOT TO BE EXCEEDED AT ANY TIME (INSTANTANEOUS/DISCRETE OR GRAB)

Reporting Requirements: AS REQUIRED - SEE MONITORING DESCRIPTION

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Condition 1-15: Compliance Demonstration
Effective between the dates of 11/03/2014 and 07/23/2023

Applicable Federal Requirement:6 NYCRR 225-1.2 (h)

Item 1-15.1:

The Compliance Demonstration activity will be performed for the Facility.

Item 1-15.2:

Compliance Demonstration shall include the following monitoring:

Monitoring Type: WORK PRACTICE INVOLVING SPECIFIC OPERATIONS

Monitoring Description:

Owners and/or operators of a stationary combustion installations that fire distillate oil are limited to the firing of distillate oil with 0.0015 percent sulfur by weight or less on or after July 1, 2016. Compliance with this limit will be based on vendor certifications.

Data collected pursuant to this Subpart must be tabulated and summarized in a form acceptable to the Department, and must be retained for at least five years. The owner of a Title V facility must furnish to the Department such records and summaries, on a semiannual calendar basis, within 30 days after the end of the semiannual period.

All other facility owners or distributors must submit these records and summaries upon request of the Department.

Work Practice Type: PARAMETER OF PROCESS MATERIAL

Process Material: DISTILLATES - NUMBER 1 AND NUMBER 2 OIL

Parameter Monitored: SULFUR CONTENT

Upper Permit Limit: 0.0015 percent by weight

Monitoring Frequency: PER DELIVERY

Averaging Method: MAXIMUM - NOT TO BE EXCEEDED AT ANY TIME
(INSTANTANEOUS/DISCRETE OR GRAB)

Reporting Requirements: AS REQUIRED - SEE MONITORING DESCRIPTION

Condition 1-16: Compliance Demonstration
Effective between the dates of 11/03/2014 and 07/23/2023

Applicable Federal Requirement:6 NYCRR 225-1.2 (i)

Item 1-16.1:

The Compliance Demonstration activity will be performed for the Facility.

Item 1-16.2:

Compliance Demonstration shall include the following monitoring:

Monitoring Type: WORK PRACTICE INVOLVING SPECIFIC OPERATIONS

Monitoring Description:

Owners and/or operators of any stationary combustion installation that fires waste oil on or after July 1, 2014 are limited to the firing of waste oil with 0.75 percent sulfur by weight or



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Facility DEC ID: 5533000038

Condition 1-17: Compliance Demonstration
Effective between the dates of 11/03/2014 and 07/23/2023

Applicable Federal Requirement: 6 NYCRR 225-2.4 (b)

Item 1-17.1:

The Compliance Demonstration activity will be performed for the facility:
The Compliance Demonstration applies to:

Emission Unit: U-00001

Item 1-17.2:

Compliance Demonstration shall include the following monitoring:

Monitoring Type: WORK PRACTICE INVOLVING SPECIFIC OPERATIONS

Monitoring Description:

The minimum fuel heat content of the waste oil shall be at least
125,000 BTU/gallon on fuel.

Work Practice Type: PARAMETER OF PROCESS MATERIAL

Process Material: WASTE OIL

Parameter Monitored: HEAT CONTENT

Lower Permit Limit: 125000.0 British thermal units per gallon

Monitoring Frequency: PER BATCH OF PRODUCT/RAW MATERIAL CHANGE

Averaging Method: MINIMUM - NOT TO FALL BELOW STATED VALUE AT ANY
TIME

Reporting Requirements: UPON REQUEST BY REGULATORY AGENCY

Condition 1-18: Compliance Demonstration
Effective between the dates of 11/03/2014 and 07/23/2023

Applicable Federal Requirement: 6 NYCRR 225-2.4 (b)

Item 1-18.1:

The Compliance Demonstration activity will be performed for the facility:
The Compliance Demonstration applies to:

Emission Unit: U-00001

Item 1-18.2:

Compliance Demonstration shall include the following monitoring:

Monitoring Type: WORK PRACTICE INVOLVING SPECIFIC OPERATIONS

Monitoring Description:

The total halogen limit per Part 360-14.2(x),(1) is 4000 ppm maximum.
The more restrictive limit under part 225-2.4(b) is 1000 ppm
maximum.

Work Practice Type: PARAMETER OF PROCESS MATERIAL

Process Material: WASTE OIL

Parameter Monitored: CONCENTRATION



New York State Department of Environmental Conservation

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Upper Permit Limit: 1000 parts per million by weight
Monitoring Frequency: PER BATCH OF PRODUCT/RAW MATERIAL CHANGE
Averaging Method: MAXIMUM - NOT TO BE EXCEEDED AT ANY TIME
(INSTANTANEOUS/DISCRETE OR GRAB)
Reporting Requirements: UPON REQUEST BY REGULATORY AGENCY

Condition 1-19: Compliance Demonstration
Effective between the dates of 11/03/2014 and 07/23/2023

Applicable Federal Requirement:6 NYCRR 225-2.4 (b)

Item 1-19.1:

The Compliance Demonstration activity will be performed for the facility:
The Compliance Demonstration applies to:

Emission Unit: U-00001

Regulated Contaminant(s):
CAS No: 001336-36-3 POLYCHLORINATED BIPHENYL

Item 1-19.2:

Compliance Demonstration shall include the following monitoring:

Monitoring Type: WORK PRACTICE INVOLVING SPECIFIC OPERATIONS

Monitoring Description:

The more restrictive limitation for Total PCBs, per Part
360-14.2(x),(1) is < 2 ppm maximum. The limit under Part 225-2.4(b)
is < 50 ppm maximum.

Work Practice Type: PARAMETER OF PROCESS MATERIAL

Process Material: WASTE OIL

Parameter Monitored: CONCENTRATION

Upper Permit Limit: 50 parts per million by weight

Monitoring Frequency: PER BATCH OF PRODUCT/RAW MATERIAL CHANGE

Averaging Method: MAXIMUM - NOT TO BE EXCEEDED AT ANY TIME
(INSTANTANEOUS/DISCRETE OR GRAB)

Reporting Requirements: UPON REQUEST BY REGULATORY AGENCY

Condition 1-20: Compliance Demonstration
Effective between the dates of 11/03/2014 and 07/23/2023

Applicable Federal Requirement:6 NYCRR 225-2.4 (b)

Item 1-20.1:

The Compliance Demonstration activity will be performed for the facility:
The Compliance Demonstration applies to:

Emission Unit: U-00001

Regulated Contaminant(s):
CAS No: 007439-92-1 LEAD

New York State Department of Environmental Conservation

Permit ID: 5-5330-00038/00021

Facility DEC ID: 5533000038



Item 1-20.2:

Compliance Demonstration shall include the following monitoring:

Monitoring Type: WORK PRACTICE INVOLVING SPECIFIC OPERATIONS

Monitoring Description:

The more restrictive fuel contaminant limitation for lead under Part 360-14.2(x),(1) is 100 ppm maximum. The Division of Air restrictions under Part 225-2.4(b) are 250.0 ppm.

Work Practice Type: PARAMETER OF PROCESS MATERIAL

Process Material: WASTE OIL

Parameter Monitored: CONCENTRATION

Upper Permit Limit: 250.0 parts per million by weight

Monitoring Frequency: PER BATCH OF PRODUCT/RAW MATERIAL CHANGE

Averaging Method: MAXIMUM - NOT TO BE EXCEEDED AT ANY TIME
(INSTANTANEOUS/DISCRETE OR GRAB)

Reporting Requirements: UPON REQUEST BY REGULATORY AGENCY



STATE ONLY ENFORCEABLE CONDITIONS

****** Facility Level ******

NOTIFICATION OF GENERAL PERMITTEE OBLIGATIONS

This section contains terms and conditions which are not federally enforceable. Permittees may also have other obligations under regulations of general applicability

Item A: Emergency Defense - 6 NYCRR 201-1.5

An emergency, as defined by subpart 201-2, constitutes an affirmative defense to penalties sought in an enforcement action brought by the Department for noncompliance with emissions limitations or permit conditions for all facilities in New York State.

(a) The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An emergency occurred and that the facility owner or operator can identify the cause(s) of the emergency;

(2) The equipment at the permitted facility causing the emergency was at the time being properly operated and maintained;

(3) During the period of the emergency the facility owner or operator took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other requirements in the permit; and

(4) The facility owner or operator notified the Department within two working days after the event occurred. This notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.

(b) In any enforcement proceeding, the facility owner or operator seeking to establish the occurrence of an emergency has the burden of proof.

(c) This provision is in addition to any emergency or upset provision contained in any applicable requirement.

Item B: Public Access to Recordkeeping for Facilities With State Facility Permits - 6 NYCRR 201-1.10 (a)

Where facility owners and/or operators keep records pursuant to compliance with the requirements of 6 NYCRR Subpart 201-5.4, and/or the emission capping requirements of 6 NYCRR Subpart 201-7, the Department will make such records available to the public upon request in accordance with 6 NYCRR Part 616 - Public Access to Records. Facility owners and/or operators must submit the records required to comply with the request within sixty working days of written notification by the Department.

Item C: General Provisions for State Enforceable Permit Terms and Condition -

New York State Department of Environmental Conservation

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6 NYCRR Part 201-5

Any person who owns and/or operates stationary sources shall operate and maintain all emission units and any required emission control devices in compliance with all applicable Parts of this Chapter and existing laws, and shall operate the facility in accordance with all criteria, emission limits, terms, conditions, and standards in this permit. Failure of such person to properly operate and maintain the effectiveness of such emission units and emission control devices may be sufficient reason for the Department to revoke or deny a permit.

The owner or operator of the permitted facility must maintain all required records on-site for a period of five years and make them available to representatives of the Department upon request. Department representatives must be granted access to any facility regulated by this Subpart, during normal operating hours, for the purpose of determining compliance with this and any other state and federal air pollution control requirements, regulations or law.

STATE ONLY APPLICABLE REQUIREMENTS

The following conditions are state only enforceable.

Condition 14: Contaminant List

Effective between the dates of 07/24/2013 and 07/23/2023

Applicable State Requirement: ECL 19-0301

Item 14.1:

Emissions of the following contaminants are subject to contaminant specific requirements in this permit (emission limits, control requirements or compliance monitoring conditions).

CAS No: 001336-36-3
Name: POLYCHLORINATED BIPHENYL

CAS No: 001746-01-6
Name: 2,3,7,8-TETRACHLORODIBENZO-P-DIOXIN

CAS No: 007439-92-1
Name: LEAD

CAS No: 007446-09-5
Name: SULFUR DIOXIDE

CAS No: 007647-01-0
Name: HYDROGEN CHLORIDE

CAS No: 0NY075-00-0
Name: PARTICULATES

CAS No: 0NY998-00-0

New York State Department of Environmental Conservation

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Facility DEC ID: 5533000038



Name: VOC

Condition 15: Malfunctions and start-up/shutdown activities
Effective between the dates of 07/24/2013 and 07/23/2023

Applicable State Requirement:6 NYCRR 201-1.4

Item 15.1:

(a) The facility owner or operator shall take all necessary and appropriate actions to prevent the emission of air pollutants that result in contravention of any applicable emission standard during periods of start-up, shutdown, or malfunction.

(b) The facility owner or operator shall compile and maintain records of all equipment malfunctions, maintenance, or start-up/shutdown activities when they can be expected to result in an exceedance of any applicable emission standard, and shall submit a report of such activities to the department when requested to do so, or when so required by a condition of a permit issued for the corresponding air contamination source. Such reports shall state whether any violations occurred and, if so, whether they were unavoidable, include the time, frequency and duration of the maintenance and/or start-up/shutdown activities, and an estimate of the emission rates of any air contaminants released. Such records shall be maintained for a period of at least five years and made available for review to department representatives upon request. Facility owners or operators subject to continuous stack monitoring and quarterly reporting requirements need not submit additional reports for equipment maintenance or start-up/shutdown activities for the facility to the department.

(c) In the event that emissions of air contaminants in excess of any emission standard in this Subchapter occur due to a malfunction, the facility owner or operator shall compile and maintain records of the malfunction and notify the department as soon as possible during normal working hours, but not later than two working days after becoming aware that the malfunction occurred. When requested by the department, the facility owner or operator shall submit a written report to the department describing the malfunction, the corrective action taken, identification of air contaminants, and an estimate of the emission rates.

(d) The department may also require the owner or operator to include, in reports described under Subdivisions (b) and (c) of this Section, an estimate of the maximum ground level concentration of each air contaminant emitted and the effect of such emissions.

(e) A violation of any applicable emission standard resulting from start-up, shutdown, or malfunction conditions at a permitted or registered facility may not be subject to an enforcement action by the department and/or penalty if the department determines, in its sole discretion, that such a violation was unavoidable. The actions and recordkeeping and reporting requirements listed above must be adhered to in such circumstances.

Condition 16: Emission Unit Definition
Effective between the dates of 07/24/2013 and 07/23/2023

Applicable State Requirement:6 NYCRR Subpart 201-5

Item 16.1(From Mod 3):

The facility is authorized to perform regulated processes under this permit for:



Emission Unit: U-00001

Emission Unit Description:

This emission unit includes two Low Temperature Thermal Desorption Units (LTTDUs) used primarily to treat petroleum and nonpetroleum contaminated soils. Each LTTDU consists of a rotary kiln (primary treatment unit), thermal oxidizer (secondary treatment unit), evaporative cooling chamber, optional multiple cyclones, and baghouses.

Building(s): 00001

Item 16.2(From Mod 3):

The facility is authorized to perform regulated processes under this permit for:

Emission Unit: U-00002

Emission Unit Description:

The ventilation from the contaminated soil storage building has carbon bed filters with particulate pre-filters for control of particulate and VOC emissions.

Building(s): 00001

Condition 17: Renewal deadlines for state facility permits
Effective between the dates of 07/24/2013 and 07/23/2023

Applicable State Requirement:6 NYCRR 201-5.2 (c)

Item 17.1:

The owner or operator of a facility having an issued state facility permit shall submit a complete application at least 180 days, but not more than eighteen months, prior to the date of permit expiration for permit renewal purposes.

Condition 18: Compliance Demonstration
Effective between the dates of 07/24/2013 and 07/23/2023

Applicable State Requirement:6 NYCRR 201-5.3 (c)

Item 18.1:

The Compliance Demonstration activity will be performed for the Facility.

Item 18.2:

Compliance Demonstration shall include the following monitoring:

Monitoring Type: RECORD KEEPING/MAINTENANCE PROCEDURES

Monitoring Description:

Any reports or submissions required by this permit shall be submitted to the Regional Air Pollution Control Engineer (RAPCE) at the following address:

Division of Air Resources
NYS Dept. of Environmental Conservation
Region 5



New York State Department of Environmental Conservation

Permit ID: 5-5330-00038/00021

Facility DEC ID: 5533000038

232 Golf Course Rd.
Warrensburg, NY 12885

Reporting Requirements: AS REQUIRED - SEE MONITORING DESCRIPTION

Condition 19: Visible Emissions Limited
Effective between the dates of 07/24/2013 and 07/23/2023

Applicable State Requirement:6 NYCRR 211.2

Item 19.1:

Except as permitted by a specific part of this Subchapter and for open fires for which a restricted burning permit has been issued, no person shall cause or allow any air contamination source to emit any material having an opacity equal to or greater than 20 percent (six minute average) except for one continuous six-minute period per hour of not more than 57 percent opacity.

Condition 3-4: Compliance Demonstration
Effective between the dates of 06/05/2018 and 07/23/2023

Applicable State Requirement:6 NYCRR 212-2.3 (b)

Item 3-4.1:

The Compliance Demonstration activity will be performed for the facility:
The Compliance Demonstration applies to:

Emission Unit: U-00001

Regulated Contaminant(s):
CAS No: 007446-09-5 SULFUR DIOXIDE

Item 3-4.2:

Compliance Demonstration shall include the following monitoring:

Monitoring Type: WORK PRACTICE INVOLVING SPECIFIC OPERATIONS

Monitoring Description:

Coal Tar contaminated soils must be blended with low sulfur contaminated soils to bring the %S in the hydrocarbon portion of the soil fed to the remediation unit to less than 1.0%

Work Practice Type: PARAMETER OF PROCESS MATERIAL

Process Material: SOIL

Parameter Monitored: SULFUR CONTENT

Upper Permit Limit: 1.0 percent by weight

Monitoring Frequency: PER BATCH OF PRODUCT/RAW MATERIAL CHANGE

Averaging Method: MAXIMUM - NOT TO BE EXCEEDED AT ANY TIME
(INSTANTANEOUS/DISCRETE OR GRAB)

Reporting Requirements: UPON REQUEST BY REGULATORY AGENCY

Condition 3-5: Compliance Demonstration
Effective between the dates of 06/05/2018 and 07/23/2023

New York State Department of Environmental Conservation

Permit ID: 5-5330-00038/00021

Facility DEC ID: 5533000038



Applicable State Requirement:6 NYCRR 212-2.3 (b)

Replaces Condition(s) 2-8

Item 3-5.1:

The Compliance Demonstration activity will be performed for the Facility.

Regulated Contaminant(s):

CAS No: 001336-36-3 POLYCHLORINATED BIPHENYL

Item 3-5.2:

Compliance Demonstration shall include the following monitoring:

Monitoring Type: MONITORING OF PROCESS OR CONTROL DEVICE
PARAMETERS AS SURROGATE

Monitoring Description:

Pursuant to the requirements of 6 NYCRR 212-2.3(b), the annual emissions of PCBs (a Part 212 "A" rated contaminant) from this facility are limited to 4,308 lbs. At this rating, modeled PCB annual ambient impacts are approximately 5% of the annual guideline concentrations.

PCB annual emissions will be calculated based upon the 2016 PCB Proof of Performance Test showing 99.9996% destruction removal efficiency (DRE).

Work Practice Type: PROCESS MATERIAL THRUPUT

Process Material: PCB CONTAMINATED SOIL

Upper Permit Limit: 4,308 pounds per year

Monitoring Frequency: AS REQUIRED - SEE PERMIT MONITORING DESCRIPTION

Averaging Method: 12 MONTH AVERAGE - ROLLED MONTHLY

Reporting Requirements: ANNUALLY (CALENDAR)

Reports due 30 days after the reporting period.

The initial report is due 1/30/2019.

Subsequent reports are due every 12 calendar month(s).

Condition 2-6: Compliance Demonstration

Effective between the dates of 03/28/2016 and 07/23/2023

Applicable State Requirement:6 NYCRR 212-2.3 (b)

Item 2-6.1:

The Compliance Demonstration activity will be performed for the Facility.

Regulated Contaminant(s):

CAS No: 0NY998-00-0 VOC

Item 2-6.2:

Compliance Demonstration shall include the following monitoring:

Monitoring Type: WORK PRACTICE INVOLVING SPECIFIC OPERATIONS

Monitoring Description:

The total volatile & semi-volatile content of PCS after blending



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Permit ID: 5-5330-00038/00021

Facility DEC ID: 5533000038

which goes to the soil remediation units for treatment is not to exceed 810 lb/hr per rotary kiln. Soil is tested before acceptance for concentration. Based on analyses & the latest demonstrated destruction and removal efficiency, monthly VOC emission calculations are made.

Work Practice Type: PARAMETER OF PROCESS MATERIAL
Process Material: SOIL
Parameter Monitored: VOC CONTENT
Upper Permit Limit: 810 pounds per hour
Monitoring Frequency: PER BATCH OF PRODUCT/RAW MATERIAL CHANGE
Averaging Method: MAXIMUM - NOT TO BE EXCEEDED AT ANY TIME (INSTANTANEOUS/DISCRETE OR GRAB)
Reporting Requirements: ANNUALLY (CALENDAR)
Reports due 30 days after the reporting period.
The initial report is due 1/30/2017.
Subsequent reports are due every 12 calendar month(s).

Condition 3-6: Compliance Demonstration
Effective between the dates of 06/05/2018 and 07/23/2023

Applicable State Requirement: 6 NYCRR 212-2.3 (b)

Replaces Condition(s) 2-7

Item 3-6.1:
The Compliance Demonstration activity will be performed for the Facility.

Regulated Contaminant(s):	
CAS No: 001746-01-6	2,3,7,8-TETRACHLORODIBENZO-P-DIOXIN
CAS No: 0NY998-00-0	VOC
CAS No: 001336-36-3	POLYCHLORINATED BIPHENYL

Item 3-6.2:
Compliance Demonstration shall include the following monitoring:

Monitoring Type: RECORD KEEPING/MAINTENANCE PROCEDURES
Monitoring Description:
In order to assure they are maintaining the control efficiencies needed to demonstrate that emissions are in compliance with 6 NYCRR 212-2.3(b), the thermal oxidizer must maintain temperatures at or above those demonstrated on average during the last PoP test for the principal contaminant of concern (VOC, PCB or Coal Tar) for the respective units (on-site or mobile). These contaminants are "A" rated under Part 212. The minimum temperatures at the time of issuance of the permit modification are:

- On-site thermal oxidizer for;
- PCB - 1512 deg F
- VOC - 1500 deg F
- Coal Tar - 1500 deg F

New York State Department of Environmental Conservation

Permit ID: 5-5330-00038/00021

Facility DEC ID: 5533000038



Mobile thermal oxidizer for;

PCB - 1650 deg F
VOC - 1590 deg F
Coal Tar - 1710 deg F

Monitoring Frequency: CONTINUOUS
Reporting Requirements: ANNUALLY (CALENDAR)
Reports due 30 days after the reporting period.
The initial report is due 1/30/2019.
Subsequent reports are due every 12 calendar month(s).

Condition 3-7: Compliance Demonstration
Effective between the dates of 06/05/2018 and 07/23/2023

Applicable State Requirement: 6 NYCRR 212-2.3 (b)

Replaces Condition(s) 2-10

Item 3-7.1:

The Compliance Demonstration activity will be performed for the Facility.

Regulated Contaminant(s):

CAS No: 001336-36-3 POLYCHLORINATED BIPHENYL

Item 3-7.2:

Compliance Demonstration shall include the following monitoring:

Monitoring Type: WORK PRACTICE INVOLVING SPECIFIC OPERATIONS
Monitoring Description:

Pursuant to the requirements of 6 NYCRR 212-2.3(b) and to match the limit contained in the permittee's Part 360 permit (5-5330-00038/00019), the maximum concentration of PCB (a Part 212 "A" rated contaminant) per batch of media to be treated must not exceed 45 ppm. This primarily assures that they are not treating Hazardous Waste of 50 ppm or greater and is part of the overall scheme in limiting PCB emissions under Part 212.

Work Practice Type: PARAMETER OF PROCESS MATERIAL
Process Material: PCB CONTAMINATED SOIL
Parameter Monitored: CONCENTRATION
Upper Permit Limit: 45 parts per million by weight
Monitoring Frequency: PER BATCH OF PRODUCT/RAW MATERIAL CHANGE
Averaging Method: MAXIMUM - NOT TO EXCEED STATED VALUE - SEE MONITORING DESCRIPTION
Reporting Requirements: ANNUALLY (CALENDAR)
Reports due 30 days after the reporting period.
The initial report is due 1/30/2019.
Subsequent reports are due every 12 calendar month(s).

Condition 3-8: Compliance Demonstration

New York State Department of Environmental Conservation

Permit ID: 5-5330-00038/00021

Facility DEC ID: 5533000038



Effective between the dates of 06/05/2018 and 07/23/2023

Applicable State Requirement:6 NYCRR 212-2.3 (b)

Replaces Condition(s) 2-9

Item 3-8.1:

The Compliance Demonstration activity will be performed for the Facility.

Regulated Contaminant(s):

CAS No: 001746-01-6 2,3,7,8-TETRACHLORODIBENZO-P-DIOXIN

Item 3-8.2:

Compliance Demonstration shall include the following monitoring:

Monitoring Type: MONITORING OF PROCESS OR CONTROL DEVICE
PARAMETERS AS SURROGATE

Monitoring Description:

Pursuant to the requirements of 6 NYCRR 212-2.3(b), the annual emissions of D/F (a Part 212 "A" rated contaminant) from this facility are limited to 0.000007223 lbs.

Emissions are to be calculated as 2.65 E-10 lb/lb of PCB feed to the PTU. This is based upon the 2016 Proof of Performance Testing.

Work Practice Type: PROCESS MATERIAL THRUPUT

Process Material: PCB CONTAMINATED SOIL

Upper Permit Limit: 0.000007223 pounds per year

Monitoring Frequency: AS REQUIRED - SEE PERMIT MONITORING DESCRIPTION

Averaging Method: 12 MONTH AVERAGE - ROLLED MONTHLY

Reporting Requirements: ANNUALLY (CALENDAR)

Reports due 30 days after the reporting period.

The initial report is due 1/30/2019.

Subsequent reports are due every 12 calendar month(s).

Condition 2-11: Compliance Demonstration

Effective between the dates of 03/28/2016 and 07/23/2023

Applicable State Requirement:6 NYCRR 212-2.3 (b)

Item 2-11.1:

The Compliance Demonstration activity will be performed for the Facility.

Regulated Contaminant(s):

CAS No: 001336-36-3 POLYCHLORINATED BIPHENYL

Item 2-11.2:

Compliance Demonstration shall include the following monitoring:

Monitoring Type: MONITORING OF PROCESS OR CONTROL DEVICE
PARAMETERS AS SURROGATE

Monitoring Description:

The feed rate to the primary treatment unit (PTU) for PCB

New York State Department of Environmental Conservation

Permit ID: 5-5330-00038/00021

Facility DEC ID: 5533000038



contaminated media is limited to no more than 45 tons per hour. This will limit emissions of PCBs (a Part 212 A-rated contaminant) to acceptable levels, per 6 NYCRR 212-2.3(b). For purposes of this condition, PCB contaminated media does not include soils containing 1.0 ppm or less total PCBs that, once treated, may be beneficially used in accordance with BUD #610-5-58 or with another pertinent BUD granted pursuant to 6 NYCRR Part 360. Those soils, while not subject to the 45 ton per hour limit on media feed to the PTU, are subject to the 810 pound per hour feed limit on total volatile and semi-volatile content of petroleum contaminated soil to the thermal desorption unit found elsewhere in this permit.

Work Practice Type: PROCESS MATERIAL THRUPUT
Process Material: PCB CONTAMINATED SOIL
Upper Permit Limit: 45 tons per hour
Monitoring Frequency: CONTINUOUS
Averaging Method: 1 HOUR MAXIMUM - NOT TO BE EXCEEDED AT ANY TIME
Reporting Requirements: ANNUALLY (CALENDAR)
Reports due 30 days after the reporting period.
The initial report is due 1/30/2017.
Subsequent reports are due every 12 calendar month(s).

****** Emission Unit Level ******

Condition 20: Emission Point Definition By Emission Unit
Effective between the dates of 07/24/2013 and 07/23/2023

Applicable State Requirement:6 NYCRR Subpart 201-5

Item 20.1(From Mod 3):

The following emission points are included in this permit for the cited Emission Unit:

Emission Unit: U-00001

Emission Point: 00001
Height (ft.): 55 Diameter (in.): 44
NYTMN (km.): 4792.78 NYTME (km.): 615.847 Building: 00001

Emission Point: 00003
Height (ft.): 39 Length (in.): 80 Width (in.): 32
NYTMN (km.): 4792.754 NYTME (km.): 615.854

Item 20.2(From Mod 3):

The following emission points are included in this permit for the cited Emission Unit:

Emission Unit: U-00002

Emission Point: 00002
Height (ft.): 55 Diameter (in.): 26
NYTMN (km.): 4792.739 NYTME (km.): 615.813 Building: 00001



Condition 21: Process Definition By Emission Unit
Effective between the dates of 07/24/2013 and 07/23/2023

Applicable State Requirement:6 NYCRR Subpart 201-5

Item 21.1(From Mod 3):

This permit authorizes the following regulated processes for the cited Emission Unit:

Emission Unit: U-00001
Process: 001 Source Classification Code: 5-04-105-30
Process Description:

This process is the thermal desorption of contaminated media in the primary treatment units followed by thermal oxidation of effluent gasses in the secondary treatment units. The treatment units may be fueled by No. 2, No. 4, or No. 6 fuel oil, non-residential waste oil A, natural gas, or liquid petroleum gas. Each unit is equipped with an optional multiple cyclone and baghouse for emissions control. Emissions testing in 1998 demonstrated the ability to operate without multiple cyclones and meet applicable particulate matter emissions limitations. Biosolids/papersludge is managed in the pugmill at an approximate rate of 10-tons per hour.

Emission Source/Control: 00001 - Combustion
Design Capacity: 50 million Btu per hour

Emission Source/Control: 00003 - Combustion
Design Capacity: 40.5 million Btu per hour

Emission Source/Control: 00004 - Control
Control Type: MULTIPLE CYCLONE W/O FLY ASH INJECTION

Emission Source/Control: 00005 - Control
Control Type: FABRIC FILTER

Item 21.2(From Mod 3):

This permit authorizes the following regulated processes for the cited Emission Unit:

Emission Unit: U-00001
Process: 003 Source Classification Code: 5-04-105-30
Process Description:

Mobile Remediation Unit - This process is the thermal desorption of contaminated soils in the primary treatment units followed by thermal oxidation of effluent gasses in the secondary treatment units. The treatment units are fueled by No. 2 fuel oil, No. 4 fuel oil, non-residual Waste Oil A, natural gas, or liquid petroleum gas. Each unit is equipped with a baghouse for emissions control. Emissions testing during processing of coal-tar contaminated materials in 1998 demonstrates the ability to operate without the multiple cyclones and meet applicable particulate emission limitations.

Emission Source/Control: 00010 - Combustion



New York State Department of Environmental Conservation

Permit ID: 5-5330-00038/00021

Facility DEC ID: 5533000038

Design Capacity: 42 million Btu per hour

Emission Source/Control: 00011 - Combustion

Design Capacity: 42 million BTUs per hour

Emission Source/Control: 00012 - Control

Control Type: MULTIPLE CYCLONE W/O FLY ASH INJECTION

Emission Source/Control: 00013 - Control

Control Type: FABRIC FILTER

Item 21.3(From Mod 3):

This permit authorizes the following regulated processes for the cited Emission Unit:

Emission Unit: U-00001

Process: 004

Source Classification Code: 3-05-020-12

Process Description:

The drying of aggregate and mine tailings in either of the primary treatment units Emission Source 00001 or 00010. Gasses (water vapor & particulates) pass through the respective thermal oxidation (secondary treatment) units without any combustion. Each unit is equipped with an optional multiple cyclone and a baghouse for emissions control. Emissions testing during processing of coal-tar contaminated materials in 1998 demonstrates the ability to operate without the multiple cyclones and meet applicable particulate emission limitations.

Emission Source/Control: 00001 - Combustion

Design Capacity: 50 million Btu per hour

Emission Source/Control: 00003 - Combustion

Design Capacity: 40.5 million Btu per hour

Emission Source/Control: 00010 - Combustion

Design Capacity: 42 million Btu per hour

Emission Source/Control: 00011 - Combustion

Design Capacity: 42 million BTUs per hour

Emission Source/Control: 00004 - Control

Control Type: MULTIPLE CYCLONE W/O FLY ASH INJECTION

Emission Source/Control: 00005 - Control

Control Type: FABRIC FILTER

Emission Source/Control: 00012 - Control

Control Type: MULTIPLE CYCLONE W/O FLY ASH INJECTION

Emission Source/Control: 00013 - Control

Control Type: FABRIC FILTER

Item 21.4(From Mod 3):

This permit authorizes the following regulated processes for the cited Emission Unit:



Emission Unit: U-00002
Process: 002 Source Classification Code: 5-03-008-99
Process Description:
Building exhaust contains fugitive VOC from contaminated media storage, particulate from crushing, screening, and soil handling, and fugitive ammonia from biosolids storage.

Emission Source/Control: 00002 - Control
Control Type: ACTIVATED CARBON ADSORPTION

Emission Source/Control: 00009 - Control
Control Type: MAT OR PANEL FILTER

Emission Source/Control: 00006 - Process

Emission Source/Control: 00007 - Process

Emission Source/Control: 00008 - Process



Magee, Beth A (DEC)

From: Magee, Beth A (DEC)
Sent: Tuesday, June 05, 2018 1:14 PM
To: 'Peter Hansen'; 'Rob Martin'
Cc: Barlow, Stephen J (DEC); 'mayor@villageoffortedward.com'; Wood, Kevin (DEC)
Subject: DEC Permits for ESMI of NY: Importation and Treatment of Biosolids
Attachments: ESMI.RD&D for biosolids.SW.Permit.060518.pdf; ESMI.ASF.Ren 1 Mod 3.biosolids.Permit.cover letter.060518.pdf; ESMI ASF DEC Ren 1 Mod 3.060518.pdf; ESMI ASF AIR Ren 1 Mod 3.060518.pdf

Good afternoon.

Attached please find copies of the DEC issued Solid Waste Management permit and Air State Facility permit modification for the referenced facility. Hard copies of these documents will not be sent, unless you request to receive one. Please feel free to contact me with any questions.

Thank you,

Beth A. Magee, CPESC

Environmental Analyst 1, Division of Environmental Permits

New York State Department of Environmental Conservation

232 Golf Course Road, Warrensburg, NY 12885

P: (518) 623-1283 | F: (518) 623-3603 | beth.magee@dec.ny.gov

www.dec.ny.gov |  | 

EXHIBIT J

**[June 5, 2018 Letter from DEC to
the Village of Fort Edward Relative
to a Solid Waste Management
Permit Authorizing a RD&D
Project]**

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 5
232 Golf Course Road, Warrensburg, NY 12885
P: (518) 623-1282 | F: (518) 623-3603
www.dec.ny.gov

June 5, 2018

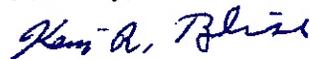
Mr. Peter Hansen
Compliance Manager
Environmental Soil Management of New York, LLC
304 Towpath Road
Fort Edward, NY 12828

**Re: RESEARCH, DEVELOPMENT & DEMONSTRATION PROJECT
DEC Permit # 5-5330-00038/00024 (Solid Waste)
ESMI of NY
Fort Edward (T), Washington (Co.)**

Dear Mr. Hansen:

Enclosed please find the Solid Waste Management permit issued by the New York State Department of Environmental Conservation for the above referenced facility. This permit authorizes ESMI to undertake a one-year Research, Development and Demonstration project involving the importation and treatment of biosolids within the existing thermal desorption unit. Please review your permit to ensure that you understand the conditions and requirements. If you have any questions on this permit, please contact Kevin Wood of our Division of Materials Management at (518) 623-1233.

Sincerely,



Kevin R. Bliss
Deputy Regional Permit Administrator

Enclosure

ec w/enc.: Honorable Matthew Traver – Village of Fort Edward
Kevin J. Wood, P.E. – NYSDEC



Department of
Environmental
Conservation



PERMIT
Under the Environmental Conservation Law (ECL)

Permittee and Facility Information

Permit Issued To:
ENVIRONMENTAL SOIL MANAGEMENT OF
NY LLC
304 TOWPATH LN
FORT EDWARD, NY 12828-1754

Facility:
ENVIRONMENTAL SOIL MANAGEMENT OF
NY
304 TOWPATH RD
FORT EDWARD, NY 12828

Facility Location: in FORT EDWARD in WASHINGTON COUNTY

Facility Principal Reference Point: NYTM-E: 615.78 NYTM-N: 4792.755
Latitude: 43°16'43.4" Longitude: 73°34'23.1"

Authorized Activity: This permit authorizes ESMI to undertake a proposed Research, Development and Demonstration (RD&D) project pursuant to 6 NYCRR 360.18. The project involves using the heat energy of soils exiting an existing thermal desorption unit to treat biosolids to meet Class A pathogen reduction criteria. The treated biosolids will then be amended with the treated soils to produce an organic topsoil material.

Permit Authorizations

Solid Waste Management - Under Article 27, Title 7

Permit ID 5-5330-00038/00024

New Permit

Effective Date: 6/5/2018

Expiration Date: 6/5/2019

NYSDEC Approval

By acceptance of this permit, the permittee agrees that the permit is contingent upon strict compliance with the ECL, all applicable regulations, and all conditions included as part of this permit.

Permit Administrator: KEVIN R BLISS, Deputy Regional Permit Administrator
Address: NYSDEC Region 5 Warrensburg Sub-Office
232 Golf Course Rd
Warrensburg, NY 12885

Authorized Signature: _____

Kevin R Bliss

Date 6/5/18



Permit Components

SOLID WASTE MANAGEMENT PERMIT CONDITIONS

GENERAL CONDITIONS, APPLY TO ALL AUTHORIZED PERMITS

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

SOLID WASTE MANAGEMENT PERMIT CONDITIONS

- 1. Conformance With Plans** All activities authorized by this permit must be in strict conformance with the permit application, plans and materials prepared by ESMI of New York and received by the DEC on 3/15/18.
- 2. Submittals** Unless otherwise specified, all submissions required by this permit shall be made to the Region 5 Office of the Department of Environmental Conservation (232 Golf Course Rd, Warrensburg, NY 12885), to the attention of the Regional Materials Management Engineer. The Department encourages electronic submittals.
- 3. Regulations** All references to 6 NYCRR Part 360 Series in this permit refer to the regulations effective November 4, 2017. In addition to the Operation Documents, the permittee must comply with the provisions of Section 360.18 pertaining to the RD&D project.
- 4. Operation Documents** The operation of the existing facility shall be in strict conformance with Department permits 5-5330-00038/00019 and 5-5330-00038/00021. The RD&D project must conform to the approved plan titled Research Project; Biosolids and Papermill Residual Management at ESMI of New York prepared by ESMI dated March 15, 2018.
- 5. Approved Biosolids and Papermill Sludge Sources for RD&D** The following waste sources are approved for acceptance for the RD&D project: Town of Ticonderoga WWTP, Washington County Sewer District #2 WWTP, Village of Granville WWTP, Lake George WWTP, Finch Paper, International Paper Ticonderoga Mill, and Essity Professional Hygiene N.A. LLC South Glens Falls. All other sources must receive written Department approval prior to acceptance.
- 6. Pathogen and Vector Attraction Reduction** The RD&D project must demonstrate that Class A pathogen reduction is met (361-3.7(a)(1)). For vector attraction reduction, the RD&D project must sufficiently demonstrate that the 361-3.7(b)(vii) and (viii) vector attraction reduction criteria are met for waste that does not contain, and that does contain untreated solids generated in a primary wastewater treatment process, respectively.



GENERAL CONDITIONS - Apply to ALL Authorized Permits:

1. Facility Inspection by The Department The permitted site or facility, including relevant records, is subject to inspection at reasonable hours and intervals by an authorized representative of the Department of Environmental Conservation (the Department) to determine whether the permittee is complying with this permit and the ECL. Such representative may order the work suspended pursuant to ECL 71- 0301 and SAPA 401(3).

The permittee shall provide a person to accompany the Department's representative during an inspection to the permit area when requested by the Department.

A copy of this permit, including all referenced maps, drawings and special conditions, must be available for inspection by the Department at all times at the project site or facility. Failure to produce a copy of the permit upon request by a Department representative is a violation of this permit.

2. Relationship of this Permit to Other Department Orders and Determinations Unless expressly provided for by the Department, issuance of this permit does not modify, supersede or rescind any order or determination previously issued by the Department or any of the terms, conditions or requirements contained in such order or determination.

3. Applications For Permit Renewals, Modifications or Transfers The permittee must submit a separate written application to the Department for permit renewal, modification or transfer of this permit. Such application must include any forms or supplemental information the Department requires. Any renewal, modification or transfer granted by the Department must be in writing. Submission of applications for permit renewal, modification or transfer are to be submitted to:

Regional Permit Administrator
NYSDEC Region 5 Warrensburg Sub-Office
232 Golf Course Rd
Warrensburg, NY12885

4. Submission of Renewal Application The permittee must submit a renewal application at least 180 days before permit expiration for the following permit authorizations: Solid Waste Management.

5. Permit Modifications, Suspensions and Revocations by the Department The Department reserves the right to exercise all available authority to modify, suspend or revoke this permit. The grounds for modification, suspension or revocation include:

- a. materially false or inaccurate statements in the permit application or supporting papers;
- b. failure by the permittee to comply with any terms or conditions of the permit;
- c. exceeding the scope of the project as described in the permit application;
- d. newly discovered material information or a material change in environmental conditions, relevant technology or applicable law or regulations since the issuance of the existing permit;



e. noncompliance with previously issued permit conditions, orders of the commissioner, any provisions of the Environmental Conservation Law or regulations of the Department related to the permitted activity.

6. **Permit Transfer** Permits are transferrable unless specifically prohibited by statute, regulation or another permit condition. Applications for permit transfer should be submitted prior to actual transfer of ownership.

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

Item A: Permittee Accepts Legal Responsibility and Agrees to Indemnification

The permittee, excepting state or federal agencies, expressly agrees to indemnify and hold harmless the Department of Environmental Conservation of the State of New York, its representatives, employees, and agents ("DEC") for all claims, suits, actions, and damages, to the extent attributable to the permittee's acts or omissions in connection with the permittee's undertaking of activities in connection with, or operation and maintenance of, the facility or facilities authorized by the permit whether in compliance or not in compliance with the terms and conditions of the permit. This indemnification does not extend to any claims, suits, actions, or damages to the extent attributable to DEC's own negligent or intentional acts or omissions, or to any claims, suits, or actions naming the DEC and arising under Article 78 of the New York Civil Practice Laws and Rules or any citizen suit or civil rights provision under federal or state laws.

Item B: Permittee's Contractors to Comply with Permit

The permittee is responsible for informing its independent contractors, employees, agents and assigns of their responsibility to comply with this permit, including all special conditions while acting as the permittee's agent with respect to the permitted activities, and such persons shall be subject to the same sanctions for violations of the Environmental Conservation Law as those prescribed for the permittee.

Item C: Permittee Responsible for Obtaining Other Required Permits

The permittee is responsible for obtaining any other permits, approvals, lands, easements and rights-of-way that may be required to carry out the activities that are authorized by this permit.

Item D: No Right to Trespass or Interfere with Riparian Rights

This permit does not convey to the permittee any right to trespass upon the lands or interfere with the riparian rights of others in order to perform the permitted work nor does it authorize the impairment of any rights, title, or interest in real or personal property held or vested in a person not a party to the permit.

EXHIBIT K

**[March 12, 2019 Letter from DEC to
the Village of Fort Edward]**

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 5
232 Golf Course Road, Warrensburg, NY 12885
P: (518) 623-1282 | F: (518) 623-3603
www.dec.ny.gov

March 12, 2019

Mr. Peter Hansen, Compliance Manager
Environmental Soil Management of New York, LLC
304 Towpath Road
Fort Edward, NY 12828

**RE: Research, Development & Demonstration Project
DEC Permit #5-5330-00038/00024 (Solid Waste)
ESMI of New York
Fort Edward (T), Washington (Co)**

Dear Mr. Hansen:

Enclosed is the renewal of your Solid Waste Management Permit. This permit renewal authorizes ESMI to perform a one-year Research, Development and Demonstration project involving the importation and treatment of biosolids within the existing thermal desorption unit.

If you have any questions or comments on this permit, please contact Kevin Wood of the Division of Materials Management at (518) 623-1233.

Sincerely,



Beth A. Magee, CPESC
Deputy Regional Permit Administrator

Enclosure

C Honorable M. Traver – Village of Fort Edward
K. Wood, P.E.



PERMIT
Under the Environmental Conservation Law (ECL)

Permittee and Facility Information

Permit Issued To: ENVIRONMENTAL SOIL MANAGEMENT OF NY LLC 304 TOWPATH LN FORT EDWARD, NY 12828-1754	Facility: ENVIRONMENTAL SOIL MANAGEMENT OF N Y 304 TOWPATH RD FORT EDWARD, NY 12828
--	--

Facility Location: in FORT EDWARD in WASHINGTON COUNTY
Facility Principal Reference Point: NYTM-E: 615.78 NYTM-N: 4792.755
Latitude: 43°16'43.4" Longitude: 73°34'23.1"

Authorized Activity: This permit authorizes ESMI to undertake a proposed Research, Development and Demonstration (RD&D) project pursuant to 6 NYCRR 360.18. The project involves using the heat energy of soils exiting an existing thermal desorption unit to treat biosolids to meet Class A pathogen reduction criteria. The treated biosolids will then be amended with the treated soils to produce an organic topsoil material.

Permit Authorizations

Solid Waste Management - Under Article 27, Title 7
Permit ID 5-5330-00038/00024
Renewal Effective Date: 6/6/2019 Expiration Date: 6/6/2020

NYSDEC Approval

By acceptance of this permit, the permittee agrees that the permit is contingent upon strict compliance with the ECL, all applicable regulations, and all conditions included as part of this permit.

Permit Administrator: BETH A MAGEE, Deputy Permit Administrator
Address: NYSDEC Region 5 Warrensburg Sub-Office
 232 Golf Course Rd
 Warrensburg, NY 12885

Authorized Signature: Beth A Magee Date 3/12/19



Permit Components

SOLID WASTE MANAGEMENT PERMIT CONDITIONS

GENERAL CONDITIONS, APPLY TO ALL AUTHORIZED PERMITS

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

SOLID WASTE MANAGEMENT PERMIT CONDITIONS

- 1. Conformance With Plans** All activities authorized by this permit must be in strict conformance with the permit application, plans and materials prepared by ESMI of New York and received by the DEC on 3/15/18.
- 2. Submittals** Unless otherwise specified, all submissions required by this permit shall be made to the Region 5 Office of the Department of Environmental Conservation (232 Golf Course Rd, Warrensburg, NY 12885), to the attention of the Regional Materials Management Engineer. The Department encourages electronic submittals.
- 3. Regulations** All references to 6 NYCRR Part 360 Series in this permit refer to the regulations effective November 4, 2017. In addition to the Operation Documents, the permittee must comply with the provisions of Section 360.18 pertaining to the RD&D project.
- 4. Operation Documents** The operation of the existing facility shall be in strict conformance with Department permits 5-5330-00038/00019 and 5-5330-00038/00021. The RD&D project must conform to the approved plan titled Research Project; Biosolids and Papermill Residual Management at ESMI of New York prepared by ESMI dated March 15, 2018.
- 5. Approved Biosolids and Papermill Sludge Sources for RD&D** The following waste sources are approved for acceptance for the RD&D project: Town of Ticonderoga WWTP, Washington County Sewer District #2 WWTP, Village of Granville WWTP, Lake George WWTP, Finch Paper, International Paper Ticonderoga Mill, and Essity Professional Hygiene N.A. LLC South Glens Falls. All other sources must receive written Department approval prior to acceptance.
- 6. Pathogen and Vector Attraction Reduction** The RD&D project must demonstrate that Class A pathogen reduction is met (361-3.7(a)(1)). For vector attraction reduction, the RD&D project must sufficiently demonstrate that the 361-3.7(b)(vii) and (viii) vector attraction reduction criteria are met for waste that does not contain, and that does contain untreated solids generated in a primary wastewater treatment process, respectively.



GENERAL CONDITIONS - Apply to ALL Authorized Permits:

1. Facility Inspection by The Department The permitted site or facility, including relevant records, is subject to inspection at reasonable hours and intervals by an authorized representative of the Department of Environmental Conservation (the Department) to determine whether the permittee is complying with this permit and the ECL. Such representative may order the work suspended pursuant to ECL 71- 0301 and SAPA 401(3).

The permittee shall provide a person to accompany the Department's representative during an inspection to the permit area when requested by the Department.

A copy of this permit, including all referenced maps, drawings and special conditions, must be available for inspection by the Department at all times at the project site or facility. Failure to produce a copy of the permit upon request by a Department representative is a violation of this permit.

2. Relationship of this Permit to Other Department Orders and Determinations Unless expressly provided for by the Department, issuance of this permit does not modify, supersede or rescind any order or determination previously issued by the Department or any of the terms, conditions or requirements contained in such order or determination.

3. Applications For Permit Renewals, Modifications or Transfers The permittee must submit a separate written application to the Department for permit renewal, modification or transfer of this permit. Such application must include any forms or supplemental information the Department requires. Any renewal, modification or transfer granted by the Department must be in writing. Submission of applications for permit renewal, modification or transfer are to be submitted to:

Regional Permit Administrator
NYSDEC Region 5 Warrensburg Sub-Office
232 Golf Course Rd
Warrensburg, NY12885

4. Submission of Renewal Application The permittee must submit a renewal application at least 180 days before permit expiration for the following permit authorizations: Solid Waste Management.

5. Permit Modifications, Suspensions and Revocations by the Department The Department reserves the right to exercise all available authority to modify, suspend or revoke this permit. The grounds for modification, suspension or revocation include:

- a. materially false or inaccurate statements in the permit application or supporting papers;
- b. failure by the permittee to comply with any terms or conditions of the permit;
- c. exceeding the scope of the project as described in the permit application;
- d. newly discovered material information or a material change in environmental conditions, relevant technology or applicable law or regulations since the issuance of the existing permit;



- e. noncompliance with previously issued permit conditions, orders of the commissioner, any provisions of the Environmental Conservation Law or regulations of the Department related to the permitted activity.

6. Permit Transfer Permits are transferrable unless specifically prohibited by statute, regulation or another permit condition. Applications for permit transfer should be submitted prior to actual transfer of ownership.

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

Item A: Permittee Accepts Legal Responsibility and Agrees to Indemnification

The permittee, excepting state or federal agencies, expressly agrees to indemnify and hold harmless the Department of Environmental Conservation of the State of New York, its representatives, employees, and agents ("DEC") for all claims, suits, actions, and damages, to the extent attributable to the permittee's acts or omissions in connection with the permittee's undertaking of activities in connection with, or operation and maintenance of, the facility or facilities authorized by the permit whether in compliance or not in compliance with the terms and conditions of the permit. This indemnification does not extend to any claims, suits, actions, or damages to the extent attributable to DEC's own negligent or intentional acts or omissions, or to any claims, suits, or actions naming the DEC and arising under Article 78 of the New York Civil Practice Laws and Rules or any citizen suit or civil rights provision under federal or state laws.

Item B: Permittee's Contractors to Comply with Permit

The permittee is responsible for informing its independent contractors, employees, agents and assigns of their responsibility to comply with this permit, including all special conditions while acting as the permittee's agent with respect to the permitted activities, and such persons shall be subject to the same sanctions for violations of the Environmental Conservation Law as those prescribed for the permittee.

Item C: Permittee Responsible for Obtaining Other Required Permits

The permittee is responsible for obtaining any other permits, approvals, lands, easements and rights-of-way that may be required to carry out the activities that are authorized by this permit.

Item D: No Right to Trespass or Interfere with Riparian Rights

This permit does not convey to the permittee any right to trespass upon the lands or interfere with the riparian rights of others in order to perform the permitted work nor does it authorize the impairment of any rights, title, or interest in real or personal property held or vested in a person not a party to the permit.

EXHIBIT L

**[September 10, 2021 Letter from
DEC to the Village of Fort Edward]**

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 5
232 Golf Course Road, Warrensburg, NY 12885
P: (518) 623-1282 | F: (518) 623-3603
www.dec.ny.gov

September 10, 2021

Robert Martin
ESMI of New York LLC
304 Towpath Lane
Fort Edward, NY 12828

**Re: RD&D PFAS Soil Stabilization Project
DEC Permit # 5-5330-00038/00026 (Solid Waste)
Fort Edward (T), Washington (Co.)**

Dear Robert Martin:

Enclosed please find the Solid Waste Management permit authorization issued by the New York State Department of Environmental Conservation for the **above referenced facility**. This permit authorizes ESMI to undertake a one-year Research, Development and Demonstration project involving the importation and treatment of PFAS contaminated soils within the existing soil storage building. Please review your permit to ensure that you understand the conditions and requirements. If you have any questions on this permit, please contact Kevin Wood of our Division of Materials Management at (518) 623-1233 or kevin.wood@dec.ny.gov.

Sincerely,

Beth A. Magee

Beth A. Magee
Deputy Regional Permit Administrator

Digitally signed by Beth A. Magee
Date: 2021.09.10 09:51:14 -04'00'

Enclosure

ec w/enc.: Honorable Matthew Traver – Village of Fort Edward
Kevin Wood, P.E. – DEC



Department of
Environmental
Conservation



Permit Components

SOLID WASTE MANAGEMENT PERMIT CONDITIONS

GENERAL CONDITIONS, APPLY TO ALL AUTHORIZED PERMITS

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

SOLID WASTE MANAGEMENT PERMIT CONDITIONS

- 1. Conformance With Plans** All activities authorized by this permit must be in strict conformance with the permit application, plans and materials prepared by ESMI on 7/26/21 and received by the DEC Region 5 DEP office on 9/1/21.
- 2. Project Summary Report** Within 90 days after expiration of this permit, the Permittee shall submit to the DEC Region 5 Materials Management Engineer a project summary report which meets the criteria of 6NYCRR Paragraph 360.18(d)(5).

GENERAL CONDITIONS - Apply to ALL Authorized Permits:

1. Facility Inspection by The Department The permitted site or facility, including relevant records, is subject to inspection at reasonable hours and intervals by an authorized representative of the Department of Environmental Conservation (the Department) to determine whether the permittee is complying with this permit and the ECL. Such representative may order the work suspended pursuant to ECL 71- 0301 and SAPA 401(3).

The permittee shall provide a person to accompany the Department's representative during an inspection to the permit area when requested by the Department.

A copy of this permit, including all referenced maps, drawings and special conditions, must be available for inspection by the Department at all times at the project site or facility. Failure to produce a copy of the permit upon request by a Department representative is a violation of this permit.

2. Relationship of this Permit to Other Department Orders and Determinations Unless expressly provided for by the Department, issuance of this permit does not modify, supersede or rescind any order or determination previously issued by the Department or any of the terms, conditions or requirements contained in such order or determination.

3. Applications For Permit Renewals, Modifications or Transfers The permittee must submit a separate written application to the Department for permit renewal, modification or transfer of this permit. Such application must include any forms or supplemental information the Department requires. Any renewal, modification or transfer granted by the Department must be in writing. Submission of applications for permit renewal, modification or transfer are to be submitted to:



Regional Permit Administrator
NYSDEC Region 5 Warrensburg Sub-Office
232 Golf Course Rd
Warrensburg, NY12885

4. Submission of Renewal Application The permittee must submit a renewal application at least 180 days before permit expiration for the following permit authorizations: Solid Waste Management.

5. Permit Modifications, Suspensions and Revocations by the Department The Department reserves the right to exercise all available authority to modify, suspend or revoke this permit. The grounds for modification, suspension or revocation include:

- a. materially false or inaccurate statements in the permit application or supporting papers;
- b. failure by the permittee to comply with any terms or conditions of the permit;
- c. exceeding the scope of the project as described in the permit application;
- d. newly discovered material information or a material change in environmental conditions, relevant technology or applicable law or regulations since the issuance of the existing permit;
- e. noncompliance with previously issued permit conditions, orders of the commissioner, any provisions of the Environmental Conservation Law or regulations of the Department related to the permitted activity.

6. Permit Transfer Permits are transferrable unless specifically prohibited by statute, regulation or another permit condition. Applications for permit transfer should be submitted prior to actual transfer of ownership.

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

Item A: Permittee Accepts Legal Responsibility and Agrees to Indemnification

The permittee, excepting state or federal agencies, expressly agrees to indemnify and hold harmless the Department of Environmental Conservation of the State of New York, its representatives, employees, and agents ("DEC") for all claims, suits, actions, and damages, to the extent attributable to the permittee's acts or omissions in connection with the permittee's undertaking of activities in connection with, or operation and maintenance of, the facility or facilities authorized by the permit whether in compliance or not in compliance with the terms and conditions of the permit. This indemnification does not extend to any claims, suits, actions, or damages to the extent attributable to DEC's own negligent or intentional acts or omissions, or to any claims, suits, or actions naming the DEC and arising under Article 78 of the New York Civil Practice Laws and Rules or any citizen suit or civil rights provision under federal or state laws.



Item B: Permittee's Contractors to Comply with Permit

The permittee is responsible for informing its independent contractors, employees, agents and assigns of their responsibility to comply with this permit, including all special conditions while acting as the permittee's agent with respect to the permitted activities, and such persons shall be subject to the same sanctions for violations of the Environmental Conservation Law as those prescribed for the permittee.

Item C: Permittee Responsible for Obtaining Other Required Permits

The permittee is responsible for obtaining any other permits, approvals, lands, easements and rights-of-way that may be required to carry out the activities that are authorized by this permit.

Item D: No Right to Trespass or Interfere with Riparian Rights

This permit does not convey to the permittee any right to trespass upon the lands or interfere with the riparian rights of others in order to perform the permitted work nor does it authorize the impairment of any rights, title, or interest in real or personal property held or vested in a person not a party to the permit.

EXHIBIT M

[ENB Notices]

Saratoga County - The Hudson-Mohawk Urban Cultural Park Commission, as lead agency, has determined that the proposed **Old Champlain Canal Linear Park** will not have a significant environmental impact. The action involves the development of a new linear park along a +/-1 mi. stretch of the original Champlain Canal. Elements of the park improvements include: restoration of the canal towpath with a stone dust surface, installation of fencing, railings, benches, interpretive signage, picnic facilities, plantings and other landscape improvements.

The project is located in the Town of Waterford in Saratoga County.

Contact: Linda Tremblay, Acting Executive Director, 97 Mohawk Street, Cohoes, NY 12047, (518) 237-7999

Washington County - The Washington County Board of Supervisors, as lead agency, has determined that the proposed **Consolidation of Agricultural Districts No. 23 and No. 2 to form Consolidated Agricultural District No. 3** will not have a significant environmental impact. The action involves the review and modification of Washington County Agricultural District no. 23 and consolidation of District No. 23 with modified Washington County Agricultural District No. 2 to form new Washington County Consolidated Agricultural District No. 3.

The project is located in portions of the Towns of Cambridge, Easton, Jackson and White Creek in Washington County.

Contact: R. Harry Booth, Chairman, Washington County Board of Supervisors, 383 Upper Broadway, Ft. Edward, NY 12828, (518) 746-2210

Notice of Non-Applicability of Title V of the Clean Air Act (CAA) Amendment and 6 NYCRR Part 231

Washington County - Notice is hereby given that the New York State Department of Environmental Conservation (NYSDEC) is proposing to cap National Soils, Incorporated, a new facility planned to be constructed in Fort Edward, NY, out of the CAA amendment of 1990 Title V permitting requirements and New York State DEC Regulation 6 NYCRR Part 231 "New Source Review in Non-Attainment Areas". The facility will be limited to less than 28 tons/yr (TPY) of NO_x, 30 TPY of volatile organic compounds (VOCs), less than 9.98 TPY of Hydrogen Chloride and less than 18.6 TPY of all Hazardous Air Pollutants (HAPs) combined. Emission limits will be restricted through a combination of limitations on hours of operation, maximum feed rate to be processed, and maximum allowable contaminant concentrations to be processed (verified by on site analyses of contaminant concentrations). **This facility will primarily decontaminate soils which have been contaminated by gasoline and oil spills.** Further information regarding this proposal is available at the NYSDEC Region 5 Office located at Hudson St. Ext., Warrensburg, NY 12885. **Public comment is invited for the next 30 days.** Comments should be submitted to the contact person below. A final determination will be made after the close of the public comment period.

Contact: Stephen J. Barlow, NYSDEC Region 5 Office, Hudson St. Ext., Warrensburg, NY 12885

coordinated review was not performed.

SEQR Lead Agency: None Designated

State Historic Preservation Act (SHPA) Determination: Cultural resource lists and map have been checked. No registered, eligible or inventoried archaeological sites or historic structures were identified at the project location. No further review in accordance with SHPA is required.

Coastal Management: This project is not located in a Coastal Management area and is not subject to the Waterfront Revitalization and Coastal Resources Act.

Opportunity for Public Comment: Comments on this project must be submitted in writing to the Contact Person no later than *Nov 9 2001*.

Contact: George D. Casey
NYSDEC Region 5 Warrensburg Sub-Office
Hudson St Ext|PO Box 220
Warrensburg, NY 12885
(518)623-1281

Washington County

Applicant: Thomas Longe
101 State Rt. 67
PO Box 191
Mechanicville, NY 12118

Facility: Wcc LLC Topsoil Mine
304 Towpath Road |4500 Ft NE of The Intersection With McIntyre Street
Fort Edward, NY 12828-

Application ID: 5-5330-00056/00001

Permit(s) Applied for: Article 23 Title 27 Mined Land Reclamation

Project is Located: Fort Edward, Washington County

Project Description:

WCC LLC is proposing to begin surface mining and processing of topsoil from 52 acres of a 285 acre property. Mining would be conducted in 11 phases; the duration of which would be approximately 5 years. Topsoil would be excavated from the 1 to 2 foot high mining face in a continuous cut working away from the initial excavation and moving out toward the phase boundary. The proposed mining operation will utilize a portable screening facility to produce finished topsoil. A 1200 foot haul road would provide direct access to Environmental Soil Management Incorporated (ESMI). The screened topsoil will be drawn from the ESMI Facility on Towpath Road then follow the established truck route through the Village of Fort Edward. Reclamation of the mine site will consist of returning each phase to the existing grade using treated soil from ESMI. ESMI treats nonhazardous hydrocarbon contaminated soil using a thermal desorption process (DEC permit # 5-5330-00038/00019, Best Use Determination # 610-5-58). The reclamation objective is to create land suitable for a future build-out of industrial uses consistent with the currently designated Industrial Zoning Classification. Copies of the mining and reclamation plan can be reviewed at the DEC office in Warrensburg.

State Environmental Quality Review (SEQR) Determination: Project is a Type I action and will not have a significant effect on the environment. A coordinated review with other agencies was performed and a Negative Declaration is on file.

SEQR Lead Agency: NYS Department of Environmental Conservation

State Historic Preservation Act (SHPA) Determination: A cultural resources survey has been completed. Based on information provided in the survey report, the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) has determined that the proposed activity will have

Washington County

Applicant: Environmental Soil Management of NY LLC
304 Towpath Rd
Fort Edward, NY 12828 -1754

Facility: Environmental Soil Management of N Y
304 Towpath Rd
Fort Edward, NY 12828

Application ID: 5-5330-00038/00019

Permit(s) Applied for: Article 27 Title 7 Solid Waste Management

Project is Located: Fort Edward, Washington County

Project Description:

The applicant has requested authorization to accept certain dredged soils for processing by low temperature thermal desorption at its solid waste management facility located on Towpath Rd. in the Village of Fort Edward. ESMI currently processes contaminated soils that contain non-hazardous levels of contaminants. ESMI's request is limited to dredged soils that originate from sites that are immediately adjacent to upland remediation sites. None of the remediation sites will be within the area of USEPA's Hudson River Reclamation Project. The proposed authorization would not change the facility's acceptance criteria, permitted emission limits, permitted throughput or existing performance requirements. A draft modified Solid Waste Management permit has been prepared and is available for review.

State Environmental Quality Review (SEQR) Determination:

Project is an Unlisted Action and will not have a significant impact on the environment. A Negative Declaration is on file. A coordinated review was performed.

SEQR Lead Agency:

NYS Department of Environmental Conservation

State Historic Preservation Act (SHPA) Determination:

The proposed activity is not subject to review in accordance with SHPA. The permit type is exempt or the activity is being reviewed in accordance with federal historic preservation regulations.

Coastal Management:

This project is not located in a Coastal Management area and is not subject to the Waterfront Revitalization and Coastal Resources Act.

Opportunity for Public Comment:

Comments on this project must be submitted in writing to the Contact Person no later than *Aug 20 2004*.

Contact:

Walter L Haynes
NYSDEC Region 5 Warrensburg SUB-OFFICE
232 Hudson St Ext
Warrensburg, NY 12885
(518)623-1281
r5dep@gw.dec.state.ny.us

An official website of New York State.
[Here's how you know](#) ▾



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Department

of

Environmental

Conservation

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ENB PUBLISH DATE: 12/17/2025

Town of Fort Edward - Environmental Soil Management of New York LLC dba ESMI A Clean Earth Company

Notice of Completed Application

Applicant:

ENVIRONMENTAL SOIL MANAGEMENT OF NEW YORK, LIMITED LIABILITY COMPANY
dba ESMI A Clean Earth Company
350 POPLAR CHURCH RD
CAMP HILL, PA 17011

Facility:

Environmental Soil Management of New York LLC dba ESMI A Clean Earth Company
304 Towpath Rd
FORT EDWARD, NY 12828

Application ID:

5-5330-00038/00027

Permit(s) Applied for:

Article 27 Title 7 Solid Waste Management

Project is Located:

FORT EDWARD, WASHINGTON COUNTY

Project Description:

Environmental Soil Management of New York LLC, dba ESMI of New York, has applied to obtain a Solid Waste Management Research, Development and Demonstration (RD&D) permit to test the effectiveness of its existing soil treatment process and air pollution controls for the treatment of Per- and Poly-fluoroalkyl Substances (PFAS) contaminated soil at their existing facility in Fort Edward, Washington County. The facility currently accepts and treats petroleum- and PCB-contaminated soil, uses a thermal desorption unit (TDU) to desorb pollutants from contaminated soils, and air pollution controls including particulate cyclones, a thermal oxidizer, and a baghouse, to treat pollutants to meet State air pollution control standards. The facility operates under both an Air State Facility permit, and a Solid Waste Management Facility permit issued by the Department.

The Department has reviewed the application and prepared a draft RD&D permit for the acceptance, storage within the existing soil storage building, and processing in the TDU of up to 5,000 tons of PFAS contaminated soil at the existing facility. Emissions from the TDU will be controlled during the two-week testing using the existing emissions control systems.

Although RD&D permits are minor permits for purposes of the Uniform Procedures Act and do not require either public notice or opportunity for comment, the Department exercised its discretion under 6 NYCRR 621.3(b)(3) to require public notification of this application that would temporarily alter the characteristics of waste processed at this existing facility. In addition, to enhance community awareness and engagement, the Department required the facility to prepare a Public Participation Plan and hold two public information meetings. A copy of the application materials and related documents <<https://pages.cleanearthinc.com/new-york-ppp>> can be found on the facility's online document repository: <https://pages.cleanearthinc.com/new-york-ppp> <<https://pages.cleanearthinc.com/new-york-ppp>> along with a copy of the Department's draft permit.

Availability of Application Documents:

Filed application documents, and Department draft permits where applicable, are available for inspection during normal business hours at the address of the contact person. To ensure timely service at the time of inspection, it is recommended that an appointment be made with the contact person.

State Environmental Quality Review (SEQR) Determination:

Project is not subject to SEQR because it is a Type II action.

SEQR Lead Agency: None Designated

State Historic Preservation Act (SHPA) Determination:

The proposed activity is not subject to review in accordance with SHPA. The application type is exempt and/or the project involves the continuation of an existing operational activity.

Coastal Management:

This project is not located in a Coastal Management area and is not subject to the Waterfront Revitalization and Coastal Resources Act.

DEC Commissioner Policy 29, Environmental Justice and Permitting (CP-29)

It has been determined that the proposed action is not subject to CP-29.

Opportunity for Public Comment:

Comments on this project must be submitted in writing to the Contact Person no later than *Jan 31, 2026*.

Primary Contact

Beth Magee

NYS DEC

232 Golf Course Rd

Warrensburg, NY 12885

dec.sm.ESMl@dec.ny.gov

This Page Covers

Region 5 - Eastern Adirondacks/Lake Champlain



Department of Environmental Conservation <>

EXHIBIT N

[Samples of Post-Star Publications]

WARREN COUNTY AFFIDAVIT

804321

RECEIVED
SEP - 9 2014
NYSDEC-PERMITS
REGION 5 - WARRENSBURG

STATE OF NEW YORK:

County of Warren, ss:

Jill Spear being duly sworn,

says that (s)he is an authorized designee for Lee Enterprises, publishers of THE POST-STAR, a daily newspaper published in Glens Falls, Warren County, State of New York, and that the printed notice attached hereto was cut from the said POST-STAR, and that the said notice was published therein, namely

Environmental Soil Management of NY LLC

August 29, 2014

Signed this 3rd day of September, 2014

Jill Spear

Sworn to before me this 3rd day of Sept, 2014

BRIAN J. CORCORAN
Notary Public - State of New York
No. 01006133976
Qualified in Saratoga County
My Commission Expires September 18, 2017

New York State Department of Environmental Conservation
Notice of Complete Application
Date: 09/21/2014
Applicant: ENVIRONMENTAL SOIL MANAGEMENT OF NY LLC
304 TOWPATH RD
FORT EDWARD, NY 12828-1754
Facility: ENVIRONMENTAL SOIL MANAGEMENT OF NY 304 TOWPATH RD
FORT EDWARD, NY 12828
Application ID: S-5330-00038/00019
Permit(s) Applied for: 1 - Article 27 Title 7 Solid Waste Management
Project is located: In FORT EDWARD in WASHINGTON COUNTY
Project Description:
The Department has made a tentative determination to issue a modification of the applicant's Solid Waste Management Permit to allow the acceptance of additional waste types to be treated in their existing thermal desorption soil treatment facility. The additional waste types to be accepted include paper mill sludge; dredged soils not related to upland remediation sites; and other inert, predominately non-combustible, non-volatile solids. The applicant will be required to obtain Department authorization prior to accepting any contaminated media for processing. Please refer to the application number listed above when providing comments on the proposed permit modification.
Availability of Application Documents:
Filed application documents, and Department draft permits where applicable, are available for inspection during normal business hours at the address of the contact person. To ensure timely service at the time of inspection, it is recommended that an appointment be made with the contact person.
State Environmental Quality Review (SEQR) Determination
Project is an Unlisted Action and will not have a significant impact on the environment. A Negative Declaration is on file. A coordinated review was not performed.
SEQR lead Agency: None Designated
State Historic Preservation Act (SHPA) Determination
Cultural resource lists and map have been checked. No registered, eligible or inventoried archaeological sites or historic structures were identified at the project location. No further review in accordance with SHPA is required.
DEC Commissioner Policy 20, Environmental Justice and Permitting (CP-20)
It has been determined that the proposed action is not subject to CP-20.
Availability For Public Comment
Comments on this project must be submitted in writing to the Contact Person not later than 09/11/2014 or 15 days after the publication date of this notice, whichever is later.
Contact Person
BETH A MAGEE
NY DEC
232 GOLF COURSE RD
WARRENSBURG, NY 12886
(518)823-1281
PUB: AUGUST 28, 2014

THE POST STAR - LEGALS
Printed on 08/26/2014 at 09:09 by speaj

Ad# 894321 First taken by speaj 08/26/2014 07:27
Last changed by speaj 08/26/2014 07:46

(518) 747-5500 Acct# 79068

ELSI OF NEW YORK

304 TOWPATH RD.

FORT EDWARD, NY 12828

Subscr? N

Given by EMSI OF NEW YORK

Start 08/29/2014 Stop 08/29/2014

Transient Bill Expir.

Class 001 LEGAL NOTICES

Index: NEW YORK STATE DEPARTMENT OF ENVIRO

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3	LEGAL		48.40	15.00	63.40	1	08/29/2014	08/29/2014	0000010
TOTAL AD COST					63.40				

***** TENTATIVE ***** TENTATIVE ***** TENTATIVE ***** TENTATIVE ***** TENTATIVE *****

New York State Department of
Environmental Conservation
Notice of Complete Application
Date: 08/21/2014
Applicant: ENVIRONMENTAL
SOIL MANAGEMENT OF NY LLC
304 TOWPATH RD
FORT EDWARD, NY 12828-1754
Facility: ENVIRONMENTAL SOIL
MANAGEMENT OF NY 304
TOWPATH RD
FORT EDWARD, NY 12828
Application ID: 5-5330-00038/00019
Permits(s) Applied for: 1 - Article
27 Title 7 Solid Waste Management
Project is located: in FORT
EDWARD in WASHINGTON
COUNTY

Project Description:

The Department has made a tentative determination to issue a modification of the applicant's Solid Waste Management Permit to allow the acceptance of additional waste types to be treated in their existing thermal desorption soil treatment facility. The additional wastes types to be accepted include paper mill sludge; dredged soils not related to upland remediation sites; and other inert, predominately non-combustible, non-volatile solids. The applicant will be required to obtain Department authorization prior to accepting any contaminated media for processing. Please refer to the application number listed above when providing comments on the proposed permit modification.

Availability of Application Documents:

Filed application documents, and Department draft permits where applicable, are available for inspection during normal business hours at the address of the contact person. To ensure timely service at the time of inspection, it is recommended that an appointment be made with the contact person.

State Environmental Quality

Review (SEQR) Determination
Project is an Unlisted Action and will not have a significant impact on the environment. A Negative Declaration is on file. A coordinated review was not performed.

SEQR Issued Agency: None Designated

State Historic Preservation Act (SHPA) Determination

Cultural resource lists and map have been checked. No registered, eligible or inventoried archaeological sites or historic structures were identified at the project location. No further review in accordance with SHPA is required.

DEC Commissioner Policy 29, Environmental Justice and Permitting (CP-29)

It has been determined that the proposed action is not subject to CP-29.

Availability For Public Comment
Comments on this project must be



9/10095

WARREN COUNTY AFFIDAVIT

RECEIVED
FEB 04 2016

STATE OF NEW YORK:

County of Warren, ss:

Donna Murchouse being duly sworn,

says that (s)he is an authorized designee for Lee Enterprises, publishers of THE POST-STAR, a daily newspaper published in Glens Falls, Warren County, State of New York, and that the printed notice attached hereto was cut from the said POST-STAR, and that the said notice was published therein, namely

EMSI of New York Application
February 1, 2016

Signed this 1 day of February, 2016

[Signature]

Sworn to before me this 1 day of Feb, 2016

[Signature]

New York State Department of Environmental Conservation
Notice of Complete Application
Date: 01/28/2016
Contract: ENVIRONMENTAL
SOIL MANAGEMENT OF NY L-0
304 TOMPAH RD
FORT EDWARD NY 12828 1754
County: ENVIRONMENTAL SOIL
MANAGEMENT OF NY 304
TOMPAH RD
FORT EDWARD NY 12828
Application #: 1-5330-00026-00027
Permittee: Applicant: Article
18-Aa State
Project: located at FORT
EDWARD in WASHINGTON
Project Description:
The purpose of this Permit
Modification is to establish the
conditions under which ESMF will
test PCB concentrations in soil
conditions for overall control and
for the formation of Ground
Water. Availability of Application
Documents:
The application documents and
Department rules permits where
applicable are available for
inspection during normal business
hours at the address of the contact
person. To assure timely service,
it is recommended that an application
be made with the contact person
State Environmental Quality
Review Act (SEQRA) Project is not
subject to SEQRA because it is a
Type II action.
Referred Agency: None
Noted
State Historic Preservation Act
(SHSPL) Determination:
The proposed activity is not subject
to review in accordance with
SHSPL. The Application type is
dormant and/or the project involves
the continuation of an existing
operation activity.
CPL: Commissioner Policy 29,
"Government" activities
Procedure/CPL 29
It was duly determined that the
proposed action is not subject to
CPL 29.
Availability For Public Comment:
Comments on this project will be
accepted on or after the following
period: no later than 10:00 AM on
or 30 days after the publication
date of this notice, whichever is
later.
Contact Person:
Mr. JAM P 502593
5428100
212 609 6000-403
WARREN COUNTY NY 12828
(518) 525-3000
PUB: FEBRUARY 1, 2016

*** Proof of Publication ***

WARREN COUNTY AFFIDAVIT

STATE OF NEW YORK:

County of Warren, ss:

Donna Morehouse _____ being duly sworn,

says that (s)he is an authorized designee for Lee Enterprises, publishers of THE POST-STAR, a daily newspaper published in Glens Falls, Warren County, State of New York, and that the printed notice attached hereto was cut from the said POST-STAR, and that the said notice was published therein, namely

Environmental Soil Management-NYSDEC
April 24, 2018

ENVIRONMENTAL SOIL MANAGEMENT-LEGALS
304 TOWPATH LANE
FORT EDWARD, NY 12828

ORDER NUMBER 47250

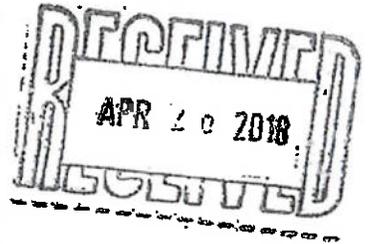
Signed this 24 day of April, 2018
Donna Morehouse

Sworn to before me this 24th day of April, 2018
[Signature]

PUBLISHED ON: 04/24/2018

TOTAL AD COST: 61.86
FILED ON: 4/19/2018

New York State Department of Environmental Conservation
Notice of Complete Application
Date: 04/19/2018
Applicant: ENVIRONMENTAL SOIL MANAGEMENT OF NY LLC
304 TOWPATH LN
FORT EDWARD, NY 12828-1754
Facility: ENVIRONMENTAL SOIL MANAGEMENT OF NY
304 TOWPATH RD
FORT EDWARD, NY 12828
Application ID: 5-6330-00038
#00024
Permits(s) Applied for: 1-Article 27 Title 7 Solid Waste Management
Project is located: in Fort Edward in Washington County
Project Description: The applicant has requested a one-year Research, Development and Demonstration Solid Waste permit to allow the importation of up to 10,000 tons of biosolids; consisting of municipal wastewater treatment plant sludge and paper mill sludge; to their permitted thermal desorption facility located on Towpath Lane in Fort Edward, the biosolids will be mixed with the heat-treated soils to increase the organic content and nutrient value of the soil. Treated soil will be stockpiled on-site for later reuse.
Availability of Application Documents: Filed application documents, and Department draft permits where applicable, are available for inspection during normal business hours at the address of the contact person. To ensure timely service at the time of inspection, it is recommended that an appointment be made with the contact person.
State Environmental Quality Review (SEQR) Determination
Project is not subject to SEQR because it is a Type II action.
SEQR Lead Agency None Designated
State Historic Preservation Act (SHPA) Determination
The proposed activity is not subject to review in accordance with SHPA. The application type is exempt and/or the project involves the continuation of an existing operational activity.
DEC Commissioner Policy 29, Environmental Justice and Permitting (CP-29) It has been determined that the proposed action is not subject to CP-29.
Availability For Public Comment
Comments on this project must be submitted in writing to the Contact Person no later than 05/10/2018 or 15 days after the publication date of this notice, whichever is later.
Contact Person
BETH A MAGEE
NYSDEC
232 Golf Course Rd
Warrensburg, NY 12885
(518) 623-1282
PUB: APRIL 24, 2018



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MAY 08 2018

NYS DEC - PERMITS
REGION 5 - WARRENSBURG

MONICA R. BISSON
Notary Public - State of New York
No. 01816234011
Qualified in Washington County
My Commission Expires January 3, 2019

Customer Ad Proof

60007150 ENVIRONMENTAL SOIL MANAGEMENT-LEGALS

Order Nbr 47250

New York State Department of
Environmental Conservation
Notice of Complete Application
Date: 04/19/2018
Applicant: ENVIRONMENTAL SOIL
MANAGEMENT OF NY LLC
304 TOWPATH LN
FORT EDWARD, NY 12828-1754
Facility: ENVIRONMENTAL SOIL
MANAGEMENT OF NY
304 TOWPATH RD
FORT EDWARD, NY 12828
Application ID: 5-5330-00038
/00024

Permits(s) Applied for: 1-Article 27
Title 7 Solid Waste Management
Project is located: in Fort Edward in
Washington County
Project Description: The applicant
has requested a one-year Re-
search, Development and Demon-
stration Solid Waste permit to allow
the importation of up to 10,000 tons
of biosolids; consisting of municipal
wastewater treatment plant sludge
and paper mill sludge; to their
permitted thermal desorption facility
located on Towpath Lane in Fort
Edward, the biosolids will be mixed
with the heat-treated soils to
increase the organic content and
nutrient value of the soil. Treated
soil will be stockpiled on-site for
later reuse.

Availability of Application Docu-
ments: Filed application documents,
and Department draft permits
where applicable, are available for
inspection during normal business
hours at the address of the contact
person. To ensure timely service at
the time of inspection, it is
recommended that an appointment
be made with the contact person.

State Environmental Quality Review
(SEQR) Determination
Project is not subject to SEQR
because it is a Type II action.
SEQR Lead Agency None Designa-
ted

State Historic Preservation Act
(SHPA) Determination
The proposed activity is not subject
to review in accordance with SHPA.
The application type is exempt and
/or the project involves the continu-
ation of an existing operational
activity.

DEC Commissioner Polloy 29,
Environmental Justice and Permit-
ting (CP-29) It has been determined
that the proposed action is not
subject to CP-29.

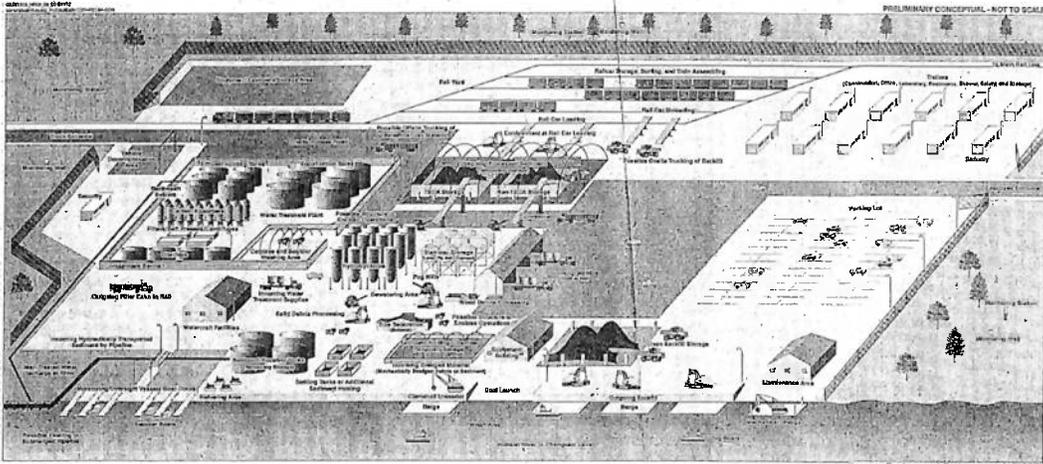
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Person no later than 05/10/2018 or
15 days after the publication date of
this notice, whichever is later.

Contact Person
BETH A MAGEE
NYSDEC
232 Golf Course Rd
Warrensburg, NY 12885
(518) 623-1262
PUB: APRIL 24, 2018

EXHIBIT O

[Post-Star Dredging Articles]

Preliminary Conceptual Sediment Transfer/Processing Facility for Hydraulically Dredged Sediment



Source: Ecology and Environment, Inc. 2004

Notes: 1. This sketch was prepared at the request of EPA, is conceptual, and is not to scale. It is intended to provide a general visual concept of a typical facility. The sketch shows the equipment associated with the major functional operations anticipated to be conducted at a facility based on GE's Preliminary Design Report. For example major functions include transfer of material (feed, pan, and backfill) along the waterfront, dewatering operations, water treatment operations and mill-plant operations. 2. This sketch is not intended to be part of the design and was developed based on discussions with the remedial design team and information from GE's Preliminary Design Report. Since design is ongoing and equipment and processes have not yet been selected, this sketch represents the best estimate of appearance of the facility at this time. It is possible, but not likely that there could be major differences in the appearance of the constructed facility. 3. This sketch is intended for presentation purposes only... 4. The equipment shown on the sketch provides a general visual concept and is not intended to provide a detailed view of the equipment. In an effort not to complicate and overcrowd the sketch, some required ancillary details such as piping, pumps, conveyors, vehicles and motorized construction equipment have been left off the sketch.

Company wants part of PCB remediation

◆ COMPANY Continued from Page A1

Co. plants in Hudson Falls and Fort Edward. GE is expected to foot the bill for the cleanup. At the dewatering facilities, water will be removed from PCB-laden sediments. The water will be cleaned and returned to the river, while the remaining contaminated waste will be shipped out of the area by train, EPA officials have said.

Except for a sliver of land lining the canal owned by the state Canal Corp., the rest of the acreage is actually all owned by D.A. Collins Companies and ESMI of New York, which is one of the buildings in the Fort Edward industrial park off Broadway Lane. Thomas Longo is the president of D.A. Collins.

D.A. Collins — a company that owns Palette Stone Corp. in Saratoga, Kubricky Construction Corp. in Glens Falls, Jointa Lime Co. and Jointa Gelusha in Glens Falls, and ESMI of New Hampshire, ESMI of New York and D.A. Collins Environmental Services — owns 389 acres in the industrial park.

Leo Rosales, the community involvement coordinator at the EPA's Hudson River field office in Fort Edward, said the property was "forwarded" to the agency for consideration.

"If we have a willing property owner, it makes things go a lot easier as far as acquiring the property or leasing the property based on what they're looking for," Rosales said.

Robert Manz, the president of D.A. Collins Environmental and ESMI of New York, said the company expressed interest in hosting a dewatering facility after the properties were placed on the first original list.

Manz said D.A. Collins Environmental and ESMI perform environmental cleanup and want to be involved in the cleanup of the Hudson River.

"People generally get very closed-minded about things they don't understand," Manz said. "We understand environmental. We understand remediation. It wasn't one of those where we raised our hand and said, 'Oh, we want it.'"

"It was a situation where when an opportunity presents itself, you need to have a heck of a lot better understanding of it before you can form some type of a decision on it."

Years ago, the property was used for farming. More recently, ESMI runs a permitted top soil mine, in which the property was stripped for top soil and reclaimed. Ideal Dairy, located to the north, leases 150 acres a year from the company.

The land is industrial property to be developed with the industrial park. Manz said D.A. Collins wants to eventually develop light industry commercial park with a road running down to Route 196, allowing for development of the entire park between 60 and 70 acres of the park are located in Empire Zone.

Residents worry about possible impact

◆ RESIDENTS Continued from Page A1

them enough notice and enough time to move? "We have 30 years at our home," Julie Wilson said, adding that it will take her 30 years to move it all.

"Is my home even going to be marketable or livable?" James Wilson asked. David King, the director of the EPA's Hudson River Field Office in Fort Edward, said the EPA will have to figure out how to minimize the impacts on the Wilsons.

He said the company and the EPA have not yet discussed treatment methodologies, particularly because the project is still in its design phase. They also haven't discussed whether the property, if announced as a final site at the end of fall, will be sold, leased, rented or used by the EPA, Manz said.

"We're an environmental remediation contractor," Manz said. "We would like to be involved."

Rosales said the EPA has not yet discussed the possibility with D.A. Collins, but did say that everything will happen on-site.

"There is no talk about shipping this material somewhere else to be processed," Rosales said. "These three sites are the three sites."

Alice Montello, who lives on Pecony Street, next to the industrial park, asked, "Why don't they do it someplace else?" She said her street already has a great deal of traffic.

"We might be a little town," she said, "but we're going to stick up for it."

King said Montello can expect about 60 railroad cars a day. Heidi Brownell questioned the EPA officials as to why they would want to take up valuable space in Fort Edward's only industrial park. She said as a mother of three, there's no figure for...

Edward. "Why focus on such a small town?" she said. She also accused the EPA of already having its mind made up about choosing Fort Edward, despite King's claims that the final sites have not yet been determined.

King said the property is ideal because it's located close to the dredging, there's sufficient acreage and direct access to rail, utilities are already located there and the owner is interested.

The property, however, is not the river, which would require the barges to go through Lock 7.

Fort Edward town Supervisor Marilyn Pulver read off a list of questions she has regarding the facility, including how much sediment will be processed daily and if local residents will be given priority to operate the facility.

"We will hold your feet to the fire," she said, receiving applause from the audience.



MONTY CALVERT—THE POST-STAR

Robert Manz, president of ESMI in the Fort Edward Industrial Park, shows the field behind his plant that is the proposed site of a PCB dewatering facility. ESMI New Hampshire, a sister company, has experience in the cleanup of PCBs.

Field center of PCB storm

Fort Edward company says it has the land and know-how to participate in cleanup

By GRETTA NEMCEK STANCLIFF
nemcek@poststar.com

FORT EDWARD ♦ Right now, the property targeted as a place to remove PCBs from Hudson River sediment looks like nothing more than a field of mud, particularly on Tuesday when a night's rain had soaked into the top soil.

Trucks drove up and down a mud-puddled dirt road hauling top soil, which ESMI of New York has a permit to strip. A string of rail cars sits to the northwest; the Champlain Canal to the southeast.

Except for the trucks, very little can be seen or heard on the property.

But in 2006, when the U.S. Environmental Protection Agency begins dredging the Hudson River of PCBs, about 30 acres of the 106.2-acre piece of property may look much different.

Barges may be hauling PCB-contaminated sediment up the Champlain Canal and dropping

it off at the site. The incoming dredging material could be temporarily stored in a holding chamber before it goes through what is essentially a water treatment plant, where it gets "dewatered."

Last June, the EPA released a list of 24 potential sites for dewatering facilities. That list was narrowed to seven sites in September, and now five, with the Energy Park/Longe/New York State Canal Corp. property in Fort Edward in the top three. The EPA has said it will choose between one and three sites to place dewatering facilities.

The federal agency is planning a nearly \$500 million project to dredge PCB-contaminated "hot spots" from a 40-mile stretch of the Hudson River between Fort Edward and Troy. PCBs, which are suspected of causing cancer, were dumped into the river from the 1940s until 1977 by General Electric

Please see COMPANY, Page A5

Dewatering site opponents speak

By GRETTA NEMCEK STANCLIFF
nemcek@poststar.com

FORT EDWARD ♦ To Carol Jones, a dewatering facility in Fort Edward is a "double whammy."

She lives on Rogers Island and already deals with river traffic.

And if PCB-contaminated sediment is shipped out of the area by train, railroad traffic will be worse than ever, she said.

"We get the noise from the river," she said, "we get the noise from the trains."

She said she'll be paying taxes to "live in hell."

Jones was one of about

50 people who attended a public meeting to discuss placing a facility to remove PCBs from the water in the Fort Edward Industrial Park, part of the U.S. Environmental Protection Agency's plan to dredge PCBs out of the Hudson River in 2006. She was also one of many to tell EPA officials that they don't want a dewatering facility in her town.

Julie and James Wiltschko, who own a farm direct the southwest of the proposed site in the Edward Industrial Park, wondered if they should relocate, would they observe the release of the early '70s Hubble in jecting cor

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