



Department of Environmental Conservation
Division of Mineral Resources

Report to the Governor and Legislature Regarding Bluestone Mining in New York State

March 15, 2008

New York State Department of Environmental Conservation

David A. Paterson, *Governor*

Pete Grannis, *Commissioner*

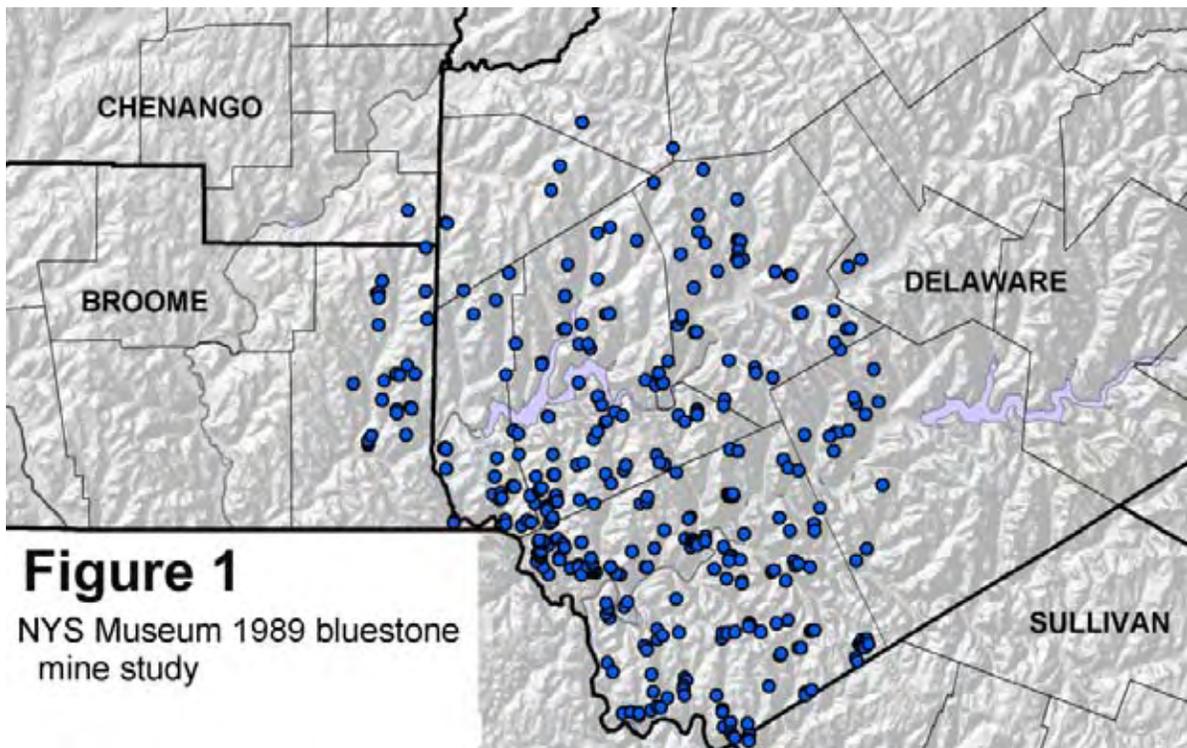
Introduction

On July 25, 2002, amendments to the New York State Mined Land Reclamation Law (“MLRL”) were signed into law which created a bluestone exploration authorization provision. The amendments became effective on October 28, 2002 and were to sunset in 2005. The amendments were extended in 2005 and are currently scheduled to sunset on July 28, 2008. The revised amendment included a requirement for the Department of Environmental Conservation (“Department”) to submit a report to the governor and legislature regarding bluestone mining exploration in the state on or before March 15, 2008. This report satisfies this requirement, contains an assessment of the success of the authorization and outlines the position of the Department with regard to making the amendments permanent.

History and Background

Bluestone is a sandstone of varying colors that can be split in parallel layers. It is quite unique and is only found in the Catskills and some adjoining counties to the west, as well as the adjacent portions of northeastern Pennsylvania. Bluestone has been mined periodically in New York since the mid-19th century and is used for sidewalks, building veneer, stair treads, curbing and other construction applications where durability and a non-skid surface are required. It is transported across the country to supply a nationwide demand. There are hundreds of historic bluestone mines in the state, for which the Department has limited information. A 1989 study by the New York State Museum identified 348 historical bluestone mines in a limited area centered in western Delaware County (Figure 1).

Bluestone miners typically explore for and mine the product at high elevations and at the edge of steep slopes, often in remote locations with difficult access. Quarries range from one or two



acres upward to as many as 35 acres. Mining is usually seasonal, avoiding the winter months. Miners remove as much as ten times more overburden than product in finding and mining good quality, unweathered rock. Consequently, even small mines can disturb large amounts of material. Historically, the overburden was cast over the edge of adjacent slopes to minimize costs, with no reclamation. This created substantial environmental impacts, increasing erosion and visual impacts, and made true reclamation difficult or impossible.

Changes to legislation and the regulation of bluestone mining in the Commonwealth of Pennsylvania in 1996 resulted in bluestone mining there being more restricted than in prior years. Bluestone operators from Pennsylvania began actively operating in New York, some with the misconception that New York did not regulate bluestone mining.

The Department's Division of Mineral Resources became aware in the mid to late 1990's that bluestone miners were exceeding the threshold for required permits under the MLRL. The law requires a permit for extraction of more than 1,000 tons of minerals in twelve successive calendar months. The 1991 amendments to the MLRL clarified the threshold to specify that overburden is included in the tonnage figure, but the bluestone industry assumed it was not subject to the law.

As an initial step in advance of exerting its regulatory authority and to correct misconceptions, the Department initiated an outreach and education program to the bluestone industry in 1997 working through the major bluestone wholesalers. They continue to serve as a focal point as they play a key role in the industry. They purchase bluestone from miners, operate their own, larger mines and make significant capital investments in equipment, such as computer-controlled diamond saws to produce fabricated and specialty stone products for unique markets. In August 1998, the wholesalers formed the New York State Bluestone Association. The estimated value of the bluestone industry in New York is \$100 million per year.

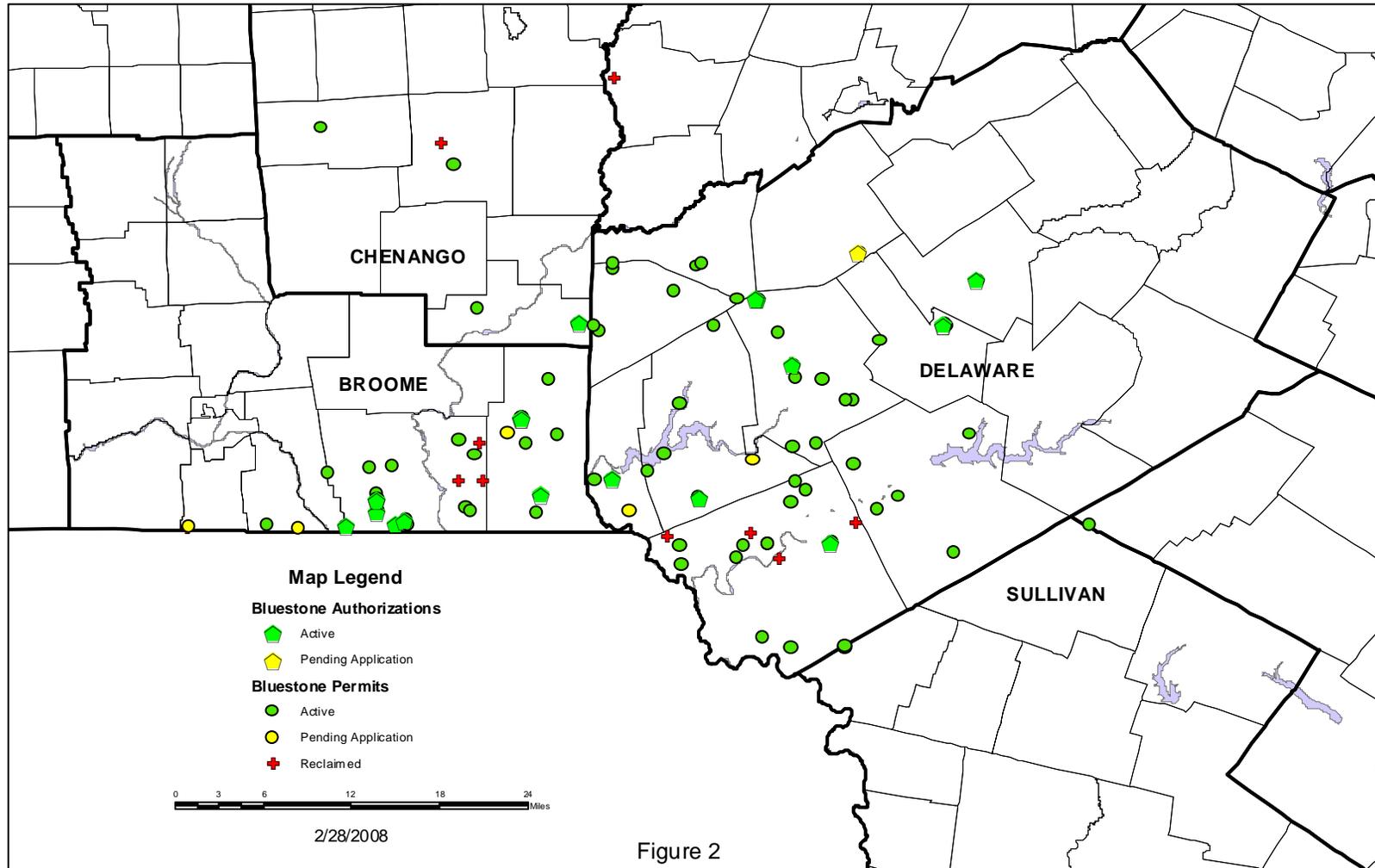
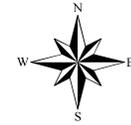
The Division of Mineral Resources bluestone regulatory program has included the following major elements:

- Preparation and distribution of a brochure describing requirements of the MLRL
- Preparation of a model mining and reclamation plan to simplify applications by bluestone miners, designated as the small scale bluestone mine permit application process
- Meetings with bluestone miners and wholesalers to explain legal requirements and the simplified application materials
- Acquisition of air photos to identify unpermitted bluestone mining
- Enforcement against significant illegal bluestone mining operations

The small scale bluestone mine permit application program is quite successful. There are now 64 permitted active bluestone mines and seven additional pending bluestone permit applications (Figure 2).

As a continuation of these regulatory efforts, Department staff began discussions with the New York State Bluestone Association to address the issue of exploration authorizations. These discussions led to the introduction in the Legislature of bills to establish a bluestone exploration

NYS Bluestone Mine Authorizations & Permits



authorization modeled after a Pennsylvania provision which allowed for the exploration of bluestone through a permit waiver system. The Legislature approved an amended bill which then Governor Pataki signed on July 30, 2002. The law, creating new Environmental Conservation Law § 23-2711.12-a, became effective on October 28, 2002, and was extended in 2005.

The Bluestone Exploration Authorization

The new amendment to the MLRL created a bluestone exploration authorization that allows the Department to grant an authorization for a person to explore for bluestone for up to one year in an area of not more than one acre that is not adjacent to any body of water. It provides that up to 500 tons of bluestone may be removed within twelve successive calendar months and that all overburden must remain on site. The amendment limits the authorization to a person with five or fewer employees, or a small business applying on behalf of such a person, and limits this person to no more than five authorizations at one time, none of which may be adjacent to other authorization sites. Reclamation must be completed within one year unless there is an authorization renewal and the total authorization period may not exceed two years.

The amendment sets specific, detailed requirements for applications, including maps, copies of any local permits and measures to control erosion and prevent groundwater contamination. The Department must provide local governments with a copy of any applications, and provide an opportunity for a local determination pursuant to existing provisions of the MLRL. An application form, including instructions, and other application materials are provided in the Appendix.

Processing of Bluestone Exploration Authorizations

In approving the amendment, the Legislature was careful to impose strict requirements to prevent adverse environmental impacts. To implement the program, the Division of Mineral Resources created a streamlined permit application and review process that provides environmental protections with minimal administrative hurdles commensurate with the small scale, temporary nature of the activity. Because of the strict environmental conditions created by the Legislature and supplemented by the application and approval process, complete applications are treated as Type II under the State Environmental Quality Review Act (“SEQRA”).

The application requirements for a bluestone exploration authorization include the following:

- Completed application form
- Description of the proposed activity
- Copies of any local permits, if required
- General location map
- Sketch of exploration area
- Environmental measures to control erosion and sedimentation
- Environmental measures to protect groundwater
- Financial Security

Copies of the completed applications are sent to the local Chief Administrative Officer for comment. If the site is located within the New York City watershed, a copy of the completed application will be sent to the New York City Department of Environmental Protection for comment.

Reclamation is mandated at the end of the exploration phase unless the person engaged in the activity applies for a full Mined Land Reclamation permit. Such an application would be subject to the same level of technical and environmental review as any standard Mined Land Reclamation permit application.

Renewals

An operator may seek a one-time, one-year renewal if it is determined that additional exploration is required to evaluate the resource. Renewals are to be submitted 30 days before the expiration date of the initial authorization. If an exploration authorization renewal is submitted in a timely manner (i.e., at least 30 days before the expiration date) the applicant will be allowed to continue with exploration activities while the renewal application is being processed. The Department will not process renewals received after the initial bluestone authorization has expired. Reclamation of the site must then be completed. All renewals expire at the two-year anniversary date of the original authorization.

Transition from a Bluestone Exploration Authorization to a DEC Mined Land Reclamation Permit

The Division of Mineral Resources has developed criteria to allow for the transitioning of an exploration authorization to a Mined Land Reclamation permit. This would be necessary when bluestone exploration activities are expected to remove more than 500 tons per year from the authorization site, when an area greater than one acre is expected to be disturbed or when resource extraction is projected beyond the term of the initial exploration authorization or the one-year renewal.

An application for a mining permit should be submitted at least 120 days prior to the expiration date of the bluestone exploration authorization to avoid unnecessary interruption of exploration or mining activities. Procedural requirements of the Uniform Procedures Act (UPA) and SEQRA apply to mining permit applications. If a mining permit application is pending when the exploration authorization expires, reclamation will not be ordered until a decision has been made on the mining permit application. No mining or bluestone exploration activities will be allowed after the expiration date of the bluestone exploration authorization, unless a mining permit has been issued.

Current Status

During the period from 2005 to 2008, 21 new applications for bluestone exploration authorizations were received statewide. Of the 21 submitted, 18 were issued and three are pending. A total of 12 renewal applications were received of which one is in the mining permit application process. Of the authorizations issued, 13 are still active, while two were not renewed

and two have expired and have permit applications being prepared. One new application is pending the results of an Office of Parks, Recreation and Historic Preservation (OPRHP) review and approval. No substantive comments were received from any of the local Chief Administrative Officers regarding exploration authorization applications.

One authorization resulted from an enforcement case where the miner was discovered mining without a permit. Fines were assessed and the operator was subsequently brought into compliance via the mining permit application process. In this case the exploration authorization functioned as a transition permit while the Department received and processed the full mining permit application. Two authorizations resulted from complaint investigations where unpermitted mining operations were discovered.

All authorization sites are inspected periodically or when and if a complaint is recorded. To date, the number of complaints regarding illegal bluestone mining is much lower than before enactment of the amendment. In Delaware and Broome counties, Department-initiated enforcement and citizen complaints have been the primary factors resulting in applications for bluestone authorization. Once exploration authorizations were issued, no subsequent enforcement actions were necessary against the applicants at any of the authorized sites. A detailed summary of the bluestone exploration authorizations is provided in Table 1.

Of the seven authorizations issued during the 2002 to 2005 period, three sites have been reclaimed, a small scale bluestone permit has been obtained for one site, small scale bluestone permits are pending for two sites, and one authorization was renewed and the site requires reclamation or a permit. In addition, the one pending authorization from the last reporting period was issued on June 1, 2007 upon fulfillment of OPHRP requirements.

Environmental Impacts of Bluestone Exploration Authorization

The majority of bluestone exploration authorizations are similar in scope. Bluestone exploration is a minor temporary use of the land that usually occurs at a previously disturbed site. In addition to the environmental protection afforded by the authorization, the Department also benefits in that we have a better idea of where the majority of bluestone mining activity is located. The provisions built into the amendment and the authorization requirements have resulted in the following environmental benefits:

- Casting of overburden over adjacent slopes no longer occurs
- Erosion and sediment control measures are in place at all sites
- Overburden and any available topsoil is stockpiled for use in final reclamation
- Drainage is directed to the internal workings of the site, preventing off site run-off of turbid water which could impact groundwater resources and streams
- All exploration sites must either obtain a DEC mining permit or be completely reclaimed

Conclusions and Recommendations

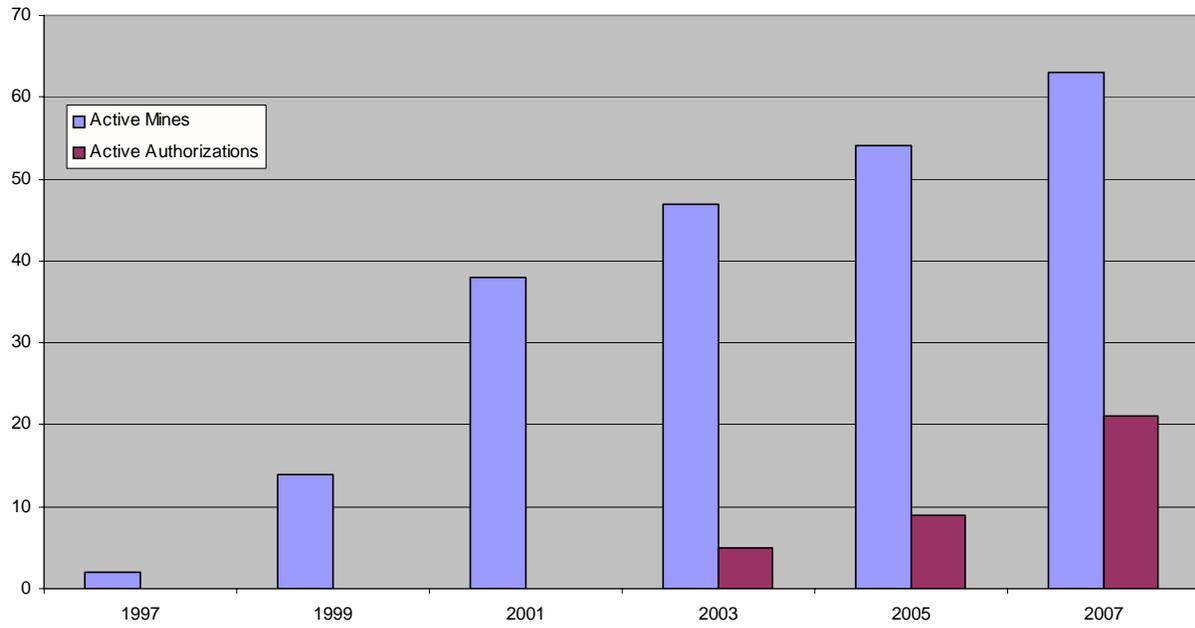
The Department recommends that the Bluestone Exploration Authorization, Environmental Conservation Law § 23-2711.12-a, be made permanent. This program is seen as a key component of the Department's efforts to provide for a viable bluestone industry while at the same time protecting the environment by ensuring compliance with state laws and regulations. It is seen as a companion tool to the small scale bluestone mine permit application process that was developed several years ago. The authorization provides relief to these small businesses by allowing exploration for a limited time within specific small areas without the need for a full mining permit. The miner saves the expense of time and effort needed to prepare and secure approval of a Mined Land Reclamation permit and payment of annual fees. The Department receives information and exerts control over the scope and duration of operations. The exploration authorization provides for the reclamation of the exploration area and submission of financial security to assure reclamation. Success has been demonstrable as the number of fully permitted bluestone operations has risen from two mines in 1999, to 54 mines in 2005, to 64 mines today.

A stable regulatory framework has been established which includes the exploration authorizations and small scale bluestone mine permits. As a result, enforcement activity has decreased, compliance has increased and environmental impacts are being addressed and monitored. The bluestone exploration authorization is also a great tool to re-activate and re-mine old quarry sites in an economic manner with environmental protections and oversight. The authorization also provides landowners and operators with a tool to bring small sites into regulatory compliance quickly and efficiently.

The limited location of bluestone deposits has resulted in a restricted marketing area which exacerbates the cyclical impact of bluestone demand on the industry. During the initial phases of the authorization, the number of applications was lower than expected. At the time of the initial bluestone report (March 15, 2005) to the governor and the legislature it was theorized that full utilization of the program would take more time and that exploration authorizations would increase as the process became utilized by more operators. The case as the number of bluestone exploration authorizations has risen from nine during the initial report period to 21 during the 2002 to 2005 period.

Market forces have led bluestone miners to enter older, worked sites as well as newer sites to explore for saleable product. The Department's exploratory authorizations provide the regulatory certainty and the level playing field necessary to foster this work. As expected, as knowledge of the bluestone exploration authorization provision has become more widely known in the bluestone community there has been an increase in the utilization of the program to allow a means of determining the economic viability of potential bluestone sites.

Bluestone Mine Permits & Authorizations



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Figure 1. New York State Museum 1989 Bluestone Mine Study

Figure 2. NYSDEC Division of Mineral Resources Bluestone Mines

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- Photograph of a Full Scale Bluestone Mine
- Photograph of Bluestone Stairs and Walls
- Bluestone Exploration Authorization Application & Instructions
- Authorization Processing, Renewal Information and Transition to Mined Land Reclamation Permit Brochure
- Bluestone Authorization (Processing Instructions for Staff)

**Table 1. Details of Bluestone Exploration Authorization Applications
2005-2008**

Mine ID	County/Town	Company Name	Initial Issue Date	Renewal Issue Date	Comment
40830	Delaware / Tompkins	Timothy Hatch	9/18/2004	9/18/2005	Authorization expired. Authorization was the result of a complaint investigation.
40842	Delaware / Hancock	Maria Genovesi	6/23/2005	6/23/2006	Authorization expired. Reclamation due to be complete in 2008.
40844	Delaware / Franklin	Bluestone Farms, Inc	Pending	--	
40845	Delaware / Hamden	J & J Bluestone Corp.	8/15/2005	2/12/2007	
40846	Delaware/ Tompkins	Michael Stafford	1/2/2006	2/1/2007	Historical Quarry Site.
40847	Delaware / Hamden	J & J Bluestone Corp.	1/20/2006	2/12/2007	
40849	Delaware / Walton	Lauren Wormuth	5/15/2006	5/15/2007	Previously unpermitted mine.
40857	Delaware / Delhi	Shannon Moseman	10/10/2006	10/10/2007	Authorization was the result of a complaint investigation.
40858	Delaware / Walton	R & K Kauffman	10/10/2006	10/10/2007	Was the site of a violation.
40859	Delaware / Walton	Donald Ogden	1/10/2007	Not Renewed.	Authorization expired. Previously unpermitted mine.

Mine ID	County/Town	Company Name	Initial Issue Date	Renewal Issue Date	Comment
40863	Delaware / Walton	Kenneth Page	6/25/2007	--	Previously unpermitted mine.
40864	Delaware / Deposit	RCS, LLC	Pending.	--	Awaiting a determination from OPRHP.
70873	Broome / Windsor	Richard Hobart	6/1/2007	--	
70897	Broome / Windsor	Balducci Bluestone, LLC	1/3/2006	5/1/2007	Originally issued to PA Stone Products, LLC. Authorization expired. Permit being sought.
70898	Broome / Windsor	Balducci Bluestone, LLC	1/3/2006	5/1/2007	Originally issued to PA Stone Products, LLC. Authorization expired. Permit being sought.
70906	Chenango / Afton	John D. Lepre	1/12/2007	--	Mined Land Reclamation Permit will be issued upon receipt of reclamation financial security.
70907	Broome / Windsor	Norman Kohlbach & Eugene Salvatore	5/11/2006	5/11/2007	Historical Quarry Site.
70909	Broome / Sanford	Simply Stone, LLC	8/27/2006	8/27/2007	Historical Quarry Site.
70913	Broome / Windsor	Tim Empet	7/20/2006	5/13/2007	Historical Quarry Site.
70922	Broome / Sanford	Naughton, Naughton, & King, LLC	4/1/2007	--	
70924	Broome / Windsor	Jade Brewer	4/1/2007	--	Adjoining land in enforcement for unpermitted mining by another operator.

Mine ID	County/Town	Company Name	Initial Issue Date	Renewal Issue Date	Comment
70927	Broome / Conklin	James D. Reynold	Pending	--	
70930	Broome / Sanford	Simply Stone, LLC	9/19/2007	--	Historical Quarry Site.
70934	Broome / Windsor	Naughton, Naughton, & King, LLC	1/2/2008	--	



**Bluestone Exploration Authorization
Simply Stone, LLC-Marsh Pond Road Mine
NYS Mine File No. 70909
Town of Sanford, Broome County**



**Full Scale Bluestone Mine
Logs Unlimited, LLC-Delaware Street Mine
NYS Mine File No. 40779
Town of Walton, Delaware County**



**Bluestone Stairs and Walls
Bethel Woods Center for the Arts
Town of Bethel, Sullivan County**



Bluestone Exploration Authorization Application

PRINT OR TYPE IN BLACK INK

For Instructions on completing this form, visit the Division's website at www.dec.ny.gov/lands/5020.html or contact your local Regional office.

1. Exploration Firm, Company, Agent or Individual

2. Permanent Address _____

City _____ State _____ Zip Code _____

3. Contact Person _____ 4. Telephone # _____

5. Taxpayer I.D. or Social Security Number _____

6. Application Type New Renewal (one year)

7. Estimated Period of Exploration: From ____ / ____ / ____ To ____ / ____ / ____

8. Exploration Location

Road _____ Nearest Road Intersection _____

Town _____ County _____

9. Map Location

USGS or NYSDOT 7 1/2 minute topographic quadrangle name _____

Attach topographic quadrangle map and county road map (minimum map size of 8 1/2" x 11") showing the exploration site location.

10. Local Zoning

Is bluestone mining exploration allowed at this location? Yes No

11. Does the local government require any type of permit for bluestone mining exploration at this location? Yes No
(If yes, please attach)

12. Types of Equipment to be Used

Drill Rig (Boreholes / Coreholes) Excavator Bulldozer Saws Other _____

13. Methods of Exploration

Drilling and Blasting Test Pits or Trenches Sawing

14. Name and Address of Surface Landowner

15. Name and Address of Mineral Owner (if different from surface owner)

16. Describe the proposed bluestone exploration activity by answering the following:
- a) Will the proposed exploration activity occur at an existing quarry? Yes No
 - b) Will a new road be built? Yes No (If Yes, construct water bars to divert surface water runoff. Mulch and seed all disturbed soil areas.)
 - c) Will existing soils be disturbed? Yes No (If yes, stockpile all soils. Seed stockpiled soils and cover with mulch to stabilize.)
 - d) Provide an estimate of soil thickness for the proposed exploration site.
Average soil thickness _____ inches Range of soil thickness _____ inches
 - e) What will be the approximate depth of overburden removed? _____ feet (Stockpile overburden and store separately.)
 - f) What is the distance to the nearest stream? _____ feet
 - g) What is the current condition of the existing vegetation?
Woodland Scrub/Brush Meadow/Pasture Sparse Vegetation
(Exploration site must be returned to pre-exploration land use condition.)

17. In the box below, sketch and label the location of the following details:
- a) Outline of Exploration Area. (Delineate the proposed exploration area if located within the perimeter of a larger, pre-existing mine or exploration area.)
 - b) Provide the approximate scale of the sketch (Example Scale: 1"=50 feet)
 - c) Topsoil and Overburden Storage Areas
 - d) Sediment Trap, Settling Pond, Erosion Control Devices
 - e) Access Road

Note: 1 acre is approx. 209 ft x 209 ft

Map Scale 1" = _____ feet

18. Performance and Design Standards

A. Exploration Phase

The following controls must be utilized as necessary to control water runoff and erosion at the exploration site and to prevent any off-site sedimentation.

- 1) Settling basins with a minimum sediment storage volume of 1800 cubic feet per acre of contributory drainage area.
- 2) All earth dikes shall be constructed in accordance with Figure 5A.1 entitled "Earth Dike Details", Page 5A.2.
- 3) All temporary swales shall be constructed in accordance with Figure 5A.2 entitled "Temporary Dike/Swale Details", Page 5A.4.
- 4) All perimeter swales shall be constructed in accordance with Figure 5A.3 entitled "Perimeter Dike/Swale Details", Page 5A.6.
- 5) All straw bale dikes shall be constructed in accordance with Figure 5A.8 entitled "Straw Bale Dike Details", Page 5A.18.
- 6) All silt fences shall be constructed in accordance with Figure 5A.9 entitled "Silt Fence Details", Page 5A.20.
- 7) All sediment traps shall be constructed in accordance with Figure 5A.18 entitled "Grass Outlet Sediment Trap: ST-11, Details", Page 5A.38.

B. Reclamation Phase

Describe the proposed method of reclaiming the land affected by exploration by answering the following:

- | | | |
|--|-----|----|
| 1) Will all overburden be used to backfill the excavation? | YES | NO |
| 2) Will all overburden be covered with soil? | YES | NO |
| 3) Will overburden be graded to meet existing contours? | YES | NO |
| 4) Will all soils be seeded and mulched immediately upon grading? | YES | NO |
| 5) Will all personal property and refuse be removed from the site? | YES | NO |

Attach a detailed explanation if "NO" is checked for any of the above questions.

List the equipment you plan to use to complete site reclamation.

The following reclamation standards shall apply to this bluestone exploration authorization:

- B.1) Reclamation shall be completed no later than 1 year from the date of authorization of bluestone exploration.**
- B.2) Backfilling - Overburden materials must be used to backfill the excavation and are to be pushed back and placed to minimize exposed rock faces. Remaining rock faces must not exceed 10 feet in height or must not exceed pre-existing rock face heights.**
- B.3) Grading - All ridges, peaks and slopes created either by excavation of a mineral or by the disposal of spoil shall be left no steeper than the following: rock (ledge or bedrock) - 90 degrees depending on the condition and characteristics of the formation; talus (broken rock) - 37 degrees, or a slope of 1 vertical on 1 1/4 horizontal, unless the talus is to be covered and revegetated in which case the slope shall not exceed 26 degrees, or a slope of 1 vertical on 2 horizontal; or shall be left no steeper than the pre-existing slope conditions.**
- B.4) Revegetation - Any area designated for revegetation shall be covered with an amount and type of material sufficient to support the growth of the proposed plant material. A minimum of 6 inches of a cover material with a soil composition capable of sustaining plant growth shall be provided on all land to be revegetated. The amount of soil cover may be reduced if the applicant can demonstrate that a lesser amount will be sufficient to support the growth of the proposed plant material, or if it is determined that a lesser volume of soil currently exists at the exploration site.**

C. General Operating Conditions

- C.1) The required reclamation bond or other approved surety, in the amount of \$1300, shall be maintained in full force and effect until reclamation of the exploration authorization area is approved by the Department in writing.**
- C.2) Exploration site area must not exceed one acre and must not be located within 100 feet of a body of water.**
- C.3) There shall be no discharge of turbid waters to any area outside the limits of the land to be affected by exploration. Drainage and water control features shall be constructed to the extent necessary to achieve this performance standard.**
- C.4) No materials (originating from offsite) of any kind shall be brought into this exploration site, except those specified in the approved exploration activity authorization.**
- C.5) Prior to the commencement of and for the duration of the exploration activity authorization, the limits of the bluestone exploration authorization area must be staked at all corners.**



NYSDEC - Bluestone Exploration Authorization Application

Instructions

Answer all questions completely and accurately. Incomplete forms will be returned.

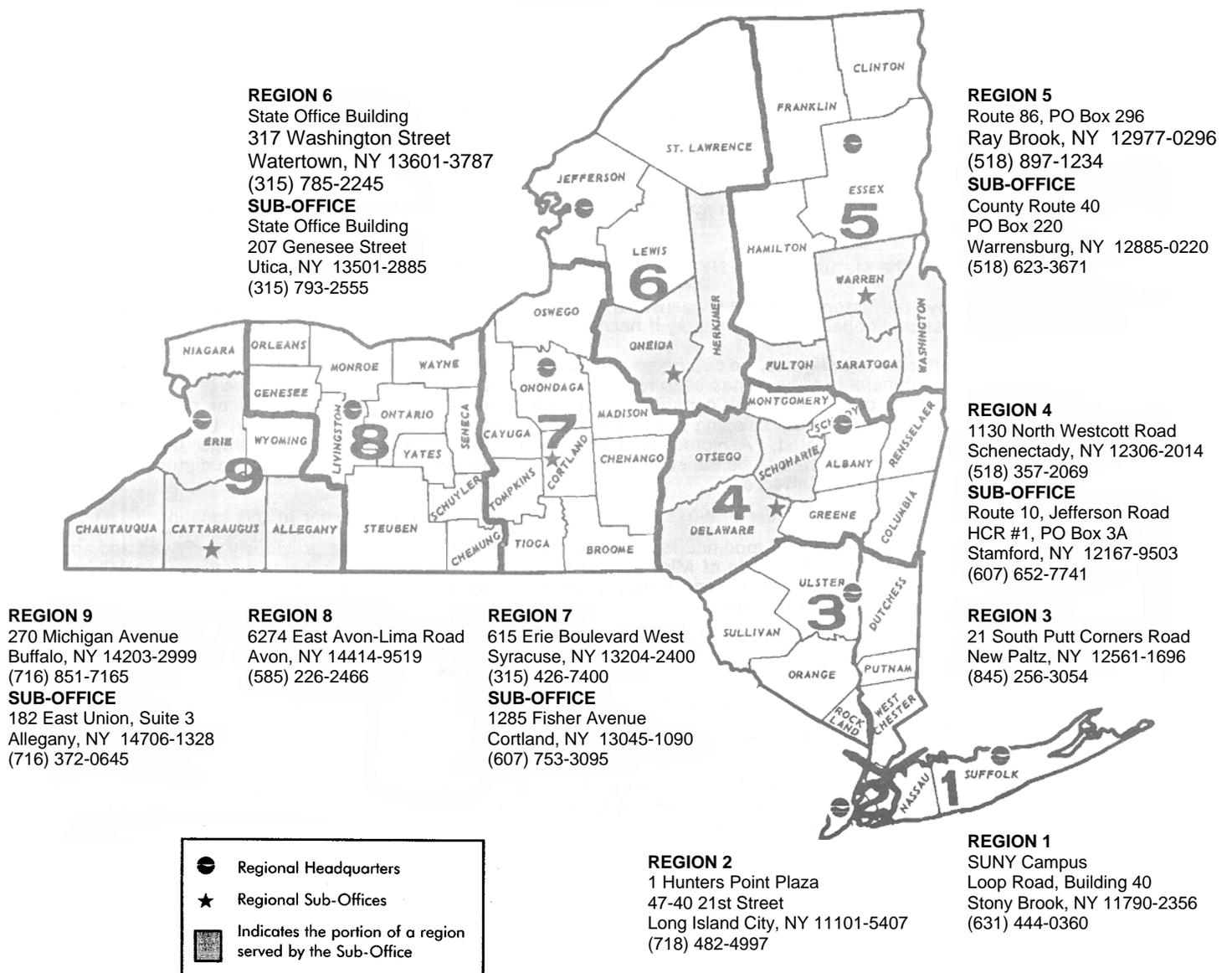
If you have any questions regarding this form, contact the Mined Land Reclamation Specialist for the region in which the proposed exploration area is located.

SPECIFIC INSTRUCTIONS:

- Question 1 Enter either the name of the individual, agent (person preparing application) or name of person or company applying on behalf of applicant.
- Question 2 Enter the permanent address of individual, agent or person or company applying on behalf of applicant.
- Questions 3 & 4 Provide the name and telephone number of a contact person.
- Question 5 If the applicant is an individual, enter the Social Security number. If the applicant is other than an individual person (e.g. a corporation, sole proprietorship, or small business) enter the taxpayer ID number.
- Question 6 Check the appropriate box.
- Question 7 Enter the dates of the proposed exploration. Authorization is for one year.
- Question 8 Enter the name of the access road, nearest major intersection, town and county where the exploration will take place.
- Question 9 Enter the name of the USGS Quadrangle Map where the exploration will take place. Provide a copy of the USGS quadrangle map and a county road map showing the exploration location.
- Question 10 Check the appropriate box.
- Question 11 Check the appropriate box regarding local laws, ordinances or special use permits.
- Question 12 Check the appropriate box regarding types of equipment to be used.
- Question 13 Check the appropriate box on the method of exploration.
- Question 14 Enter the name and address of landowner if different than applicant.
- Question 15 Enter the name and address of the mineral owner if different from landowner and/or applicant.
- Question 16 Provide a description of the proposed exploration activity by answering questions (a) through (g).

- Question 17 Provide a sketch/diagram of the area to be disturbed by the exploration. Indicate the approximate map scale. Note: Grid marks are spaced one inch apart.
- Question 18 Read the appropriate performance and design standards contained in this section of the application. Describe the proposed reclamation method by answering questions 1 through 5.
- Question 19 Enter the name of the individual authorized to conduct the exploration. Check the appropriate box regarding whether the landowner also is the mineral rights owner, and the application must be signed by landowner.
- Question 20 Applicant must read and certify all information provided and confirm consent and agreement by signing the completed application.

New York State Department of Environmental Conservation
Regional Offices



BLUESTONE EXPLORATION AUTHORIZATION

Department Processing of Bluestone Exploration Applications

Within 15 days following receipt of the application:

- ▶ MLR staff will review project to determine if other permits are required (e.g. stormwater).
- ▶ MLR staff will review project with regard to New York State Archaeology Site Locations (Cultural Resources Activity Map), Wild, Scenic and Recreation River program concerns and Endangered Species Act applicability (Natural Heritage Maps).
- ▶ Provide copies of Bluestone Exploration Authorization Application to other program staff (DEP, DOW, Fish & Wildlife).
- ▶ Regional MLR staff will review Bluestone Exploration Authorization Application for application completeness.
- ▶ Regional MLR staff to notify applicant if Bluestone Exploration Authorization Application is determined to be incomplete.

Within 45 days following receipt of the application:

- ▶ Site inspection by MLR staff.
- ▶ Applicant to provide financial security. This is required prior to authorization approval.
- ▶ When Bluestone Exploration Authorization Application is considered complete, MLR staff will send a letter and a copy of the application package to the local Chief Administrative Officer. (~16-45 days from receipt)

- ▶ If site is located within the NYC watershed area, regional MLR staff will send a copy of the completed application to NYC DEP. (~16-45 days from receipt)
- ▶ If application is approved, MLR staff signs the application package, provides authorization dates and returns a copy of the completed application to the applicant. (~45 days from receipt)

Renewals

- ▶ An operator may seek a one-time, one-year renewal if it is determined that additional exploration is required to evaluate the resource.
- ▶ Renewals expire at the two-year anniversary date of the original authorization.

Example:

Original Authorization Period:
May 20, 2008 to May 20, 2009

One-Year Renewal:
May 20, 2009 to May 20, 2010

- ▶ Renewals are to be submitted 30 days before the expiration date of the authorization.
- ▶ If renewal is submitted in a timely manner (i.e. 30 days before the expiration date) the applicant will be allowed to continue uninterrupted exploration until the renewal is issued.
- ▶ Late applications received less than 30 days before the expiration date may be considered without ordering reclamation. In this case, exploration must not continue past the expiration date. Exploration may only take place after receipt of a renewal authorization.
- ▶ The Department will not process renewals received after the initial bluestone authorization has expired. Reclamation must be completed.

Transition from Bluestone Exploration Authorization to a DEC Mined Land Reclamation Permit

- ▶ When does a bluestone miner need a DEC Mining Permit instead of an Exploration Authorization?
 - bluestone exploration activities involve removing more than 500 tons/year from the authorization site.
 - bluestone exploration /mining activities will disturb an area greater than 1 acre.
 - resource extraction is projected beyond the term of the initial exploration authorization, or beyond the one-year renewal.
- ▶ An application for a mining permit should be submitted at least 120 days prior to the expiration date of the bluestone exploration authorization to avoid unnecessary interruption of exploration or mining activities.
- ▶ Procedural requirements of UPA and SEQR will apply to mining permit applications.
- ▶ If a mining permit application is pending when the exploration authorization expires, reclamation will not be ordered until a decision has been made on the mining permit application.
- ▶ No mining or bluestone exploration activities will be allowed after the expiration date of the bluestone exploration authorization, unless a mining permit has been issued.

Mined Land Reclamation Specialists

Albany Office

Steven Potter
Matt Podniesinski
(518) 402-8072

*Statewide Program
Coordination*

Region 3

Halina Duda
(845) 256-3000

*Dutchess, Orange, Putnam,
Rockland, Sullivan, Ulster &
Westchester Counties*

Region 4

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BLUESTONE EXPLORATION AUTHORIZATION



Authorization Processing, Renewal Information and Transition to Mined Land Reclamation Permit

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BLUESTONE AUTHORIZATION

A legislative amendment to the Mined Land Reclamation Law, signed into law July 25, 2002, requires an authorization from the department for excavations undertaken in exploring for marketable bluestone deposits. Authorized parties may affect no more than one acre of land and may remove up to 500 tons per year of bluestone to test the economic viability of the mineral. The authorization may be issued for up to one year and may be renewed for up to an additional 12 month period. These authorizations may only be obtained by a company with five or fewer employees or a small business applying on behalf of a company with five or fewer employees. A small business means any business which is resident in this state, independently owned and operated, not dominant in its field, and employing not more than one hundred individuals. The legislation further requires that sites found to contain viable bluestone deposits be permitted under conventional permitting procedures if the applicant intends to pursue mining and that unviable sites be reclaimed.

The legislative memorandum in support of this law states that: “DEC authorization to mine in lieu of a permit is appropriate in the case of bluestone mining exploration.” The legislature’s acknowledgment of an authorization differing from a permit precludes these authorizations from the Uniform Procedures Act. The memorandum points out that exploration has not changed for generations and does not lend itself to other forms of exploration such as drilling. The goal of this legislation is for the department to know where bluestone exploration is taking place and to have these exploratory sites reclaimed at the end of the term if the minerals prove not to be economically viable.

The Minerals program has determined that bluestone exploration is a SEQR Type II action pursuant to 617.5 (c) (18)- information collection including basic data collection and research, water quality and pollution studies, traffic counts, engineering studies, surveys, ***subsurface investigations and soils studies that do not commit the agency to undertake, fund or approve any Type I or Unlisted action.*** Any additional permits that might be required for the bluestone authorization will also be considered Type II since the main activity is the exploration for bluestone.

Applications for bluestone authorizations will be received, reviewed and decisions issued by the Regional Mined Land Specialist. Application are to be received at least 45 days before the exploration is to begin. Application forms are being prepared by the Division of Mineral Resources. The procedures to be utilized by Minerals in administering the bluestone exploration authorization are as follows:

1. Within 15 days of application receipt, the Mined Land Specialists will undertake the following:

- Determine if the application form has been properly completed
- Determine if permits under other jurisdictions may be applicable, e.g. storm water, stream protection, wetlands, SPDES, or WSRR. If permits are required, the ML Specialist will

- disseminate the application to the Regional Permit Administrator and affected programs for comment on additional application requirements.
- Determine if the project site is subject to SHPA or may contain endangered species. If resources are identified, coordination with OPRHP and appropriate DEC program staff will be initiated.
 - Make a determination on application completeness and mail either a notice of complete application or a notice of incomplete application. This notice will identify any other approvals or data that are necessary, provide applications for permits and provide the name of a contact person who can answer questions that apply to DEC permits. Where UPA permits are required the application for bluestone exploration authorization will be administered under Uniform Procedures pursuant to 621.3 (d). Among other procedural requirements, bluestone authorization will be provided concurrently with other DEC approvals.
2. When the application is complete the MLR Specialist will send the complete application to:
- the local Chief Administrative Officer (CAO)
 - the New York City Department of Environmental Protection if the site is within the NYC watershed.
 - the National Park Service if the site is in the federally designated WSR river corridor for the Delaware River.
- Application recipients have 30 days to submit comments to the MLR Specialist.
3. MLR staff will inspect the site.
4. MLR staff will receive the reclamation financial security.
5. The MLR Specialist will sign the authorization, provide authorization dates and return a copy of the authorized application to the applicant. MLR Specialist will coordinate the issuance of the authorization with Permits for other UPA permits that are necessary.

Stormwater SPDES

Bluestone exploration and minerals property development is in the mining category pursuant to the stormwater program. A SPDES stormwater general permit for an industrial activity will be required for most operations. The MLR Specialist will notify the applicant that they need to file a Notice of Intent to obtain a general stormwater SPDES permit.

State Pollution Discharge Elimination System (SPDES) permits for process waters

Most bluestone explorations use very little water for cutting. It is anticipated that all process water will be contained on site for bluestone authorizations. If processing will result in a discharge that may require a SPDES permits, the MLR Specialist will coordinate with Water and Permits regarding application requirements and to provide for concurrent issuance of the exploration authorization and the SPDES permit.

Renewals

At the expiration of the first year of authorization operators may seek a renewal of the exploration authorization if it is determined that additional exploration is required to evaluate bluestone resources. The statute requires renewals for authorizations be submitted 30 days before the expiration of the authorization. Mining staff will work closely with bluestone operators to ensure that renewals are submitted in a timely manner. If the application for renewal is received 30 days before the expiration of the original authorization, the applicant can continue exploration until the renewal is issued. The renewal will expire at the two year anniversary date of the original authorization

At the discretion of the Mined Land Specialist, late applications for renewals received less than 30 days before the expiration date of the authorization may be considered without ordering reclamation, but exploration must not continue past the expiration date of the original authorization. Resumption of exploration may only take place after receipt of a renewed authorization.

Applications for renewals received after the expiration date of the first authorization will not be entertained. Reclamation must begin. Financial security is dependent on the success of the vegetation and may not be returned until sufficient growth is obtained.

Operations can continue past the renewal expiration date only if a permit has been obtained. If a permit application is pending at renewal expiration date, then reclamation will not be ordered pending a permit decision.

Transition to a Mining Permit

Application for a mining permit may be provided at any time during the exploration authorization term, but should be provided at least 120 days prior to expiration of an exploration authorization, where possible. The full procedural requirements of UPA and SEQR apply to applications for a mining permit. If a permit application is pending at the expiration date of an exploration authorization, reclamation will not be ordered pending a decision on the permit application. No mining can occur after the expiration of the authorization pending the decision on the permit application.