

# NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 4

1130 North Westcott Road, Schenectady, NY 12306-2014

P: (518) 357-2069 | F: (518) 357-2460

[www.dec.ny.gov](http://www.dec.ny.gov)

February 12, 2020

Mr. David Maguffin, Plant Manager  
Norlite LLC.  
628 South Saratoga Street  
Cohoes, NY 12047  
[david.maguffin@tradebe.com](mailto:david.maguffin@tradebe.com)

RE: DEC #4-0103-00016/00019  
MLF #40002  
Mine: Cohoes Quarry, Norlite LLC.  
City of Cohoes, Albany County

Dear Mr. Maguffin:

Enclosed please find your renewed and modified permit for mining operations at the Cohoes Quarry located at the Norlite LLC. facility, at the above-referenced location in accordance with the approved Mined Land-Use and Reclamation Plan. Also enclosed please find a sign which should be posted in a conspicuous location at the mine site.

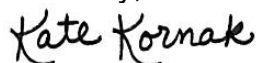
Please review the General and Special Conditions contained in the mining permit which will expire on February 11, 2025. Specifically, please note Mined Land Reclamation Condition #5 as it is new to this permit. Any deviation from the approved Mined Land-Use and Reclamation Plan during the five-year permit term will require a modification to the permit (see General Condition #3 of the permit).

Please be advised that the Uniform Procedures Regulations (6 NYCRR Part 621) provide that an applicant may request a public hearing if a permit is denied or contains conditions which are unacceptable to them. Any such request must be made in writing within 30 calendar days of the date of permit issuance and must be addressed to the Regional Permit Administrator at the address listed on this letterhead. A copy should also be sent to the Chief Administrative Law Judge at NYSDEC, 625 Broadway, 1st Floor, Albany, NY 12233-1550.

Please note that this permit does not eliminate the need to obtain any other federal, state or local permits or approvals that may be required for this project.

If you have any questions, please contact me.

Sincerely,



Kate Kornak  
Deputy Regional Permit Administrator

Enc. (Permit, sign)

cc: Norlite/Tradebe, Consultant, City of Cohoes, Town of Colonie, MLRS, File



**PERMIT**  
**Under the Environmental Conservation Law (ECL)**

**Permittee and Facility Information**

**Permit Issued To:**  
NORLITE LLC  
PO BOX 694  
COHOES, NY 12047-0694  
(518) 235-0401

**Facility:**  
NORLITE LLC  
628 S SARATOGA ST  
COHOES, NY 12047

**Facility Location:** in COHOES in ALBANY COUNTY

**Facility Principal Reference Point:** NYTM-E: 606.075      NYTM-N: 4734.426  
Latitude: 42°45'18.1"      Longitude: 73°42'13.5"

**Project Location:** 628 South Saratoga Street

**Authorized Activity:**

This permit authorizes continued operation of a 132-acre shale mine for which a previous permit has been issued under Article 23, Title 27 of the Environmental Conservation Law (Mined Land Reclamation). This permit also authorizes a modification to increase the Life-of-Mine boundary by 5-acres for inclusion of two existing stockpiles within the regulated boundary.

**This permit increases the Life-of-Mine boundary from 132-acres to 137-acres.**

Of the 137-acre Life-of-Mine area: 34-acres comprise the Southern Overburden Storage Area, 98-acres are authorized to be affected by excavation, and 39-acres are authorized to be affected by stockpiling and/or overburden storage. Onsite blasting and crushing is also approved.

All activities shall be conducted in accordance with the approved plans and permit conditions contained herein.

**Permit Authorizations**

**Mined Land Reclamation - Under Article 23, Title 27**

Permit ID 4-0103-00016/00019

(Mined Land ID 40002)

Renewal

Effective Date: 2/12/2020

Expiration Date: 2/11/2025



**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: KATE KORNAK, Deputy Permit Administrator  
Address: NYSDEC Region 4 Headquarters  
1130 N Westcott Rd  
Schenectady, NY 12306

Authorized Signature: \_\_\_\_\_ Date 2 / 12 / 2020

**Distribution List**

MLRS  
Mining Consultant  
Municipalities

**Permit Components**

MINED LAND RECLAMATION PERMIT CONDITIONS

GENERAL CONDITIONS, APPLY TO ALL AUTHORIZED PERMITS

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

**MINED LAND RECLAMATION PERMIT CONDITIONS**

**APPROVED DOCUMENTS AND WASTES**

**1. Conformance With Plans** All activities authorized by this permit must be in strict conformance with the approved plans submitted by the applicant or applicant's agent as part of the permit application. Such plans were approved by the Department on various dates and consist of the following items:

Documents prepared by P.W. Grosser Consulting, Inc.:

1. Correspondences re: Mining Permit Renewal Application dated 2/28/2019 and 10/23/2019
2. Mined Land Use Plan map, dated 12/13/2018
3. Reclamation Plan Map, dated 9/16/2019, last revised 10/21/2019
4. Final Grade Profiles, dated 12/13/2018



Documents prepared by Spectra Environmental Group, Inc.:

5. Mined Land Use Plan Modification and all enclosed figures, tables, plates, and appendices, dated 11/2004
6. Mine Plan Map, dated 12/17/2002, last revised 5/25/2003
7. Mine Plan Map, dated 5/2/2004, last revised February 28, 2005
8. Notice of Incomplete Application Response and all enclosed figures, tables, plates, and appendices, dated 7/2005
9. Response to Notice of Incomplete Application, dated 12/21/2005
10. Addendum to the Stormwater Pollution Prevention Plan (SWPPP) including all figures, plates and appendices, dated November 2007, and received on 12/4/2007
11. Stormwater Pollution Prevention Plan, Revision 2 and all enclosed figures, table, plates, and appendices, dated 3/2009
12. Addendum to the Southern Overburden Storage Area Construction SWPPP including all figures plats and appendices, dated 2/2010
13. Correspondence re: Southern Overburden Storage Area, Structural Overburden Berm Construction dated 4/30/2010
14. Correspondences re: Mined Land Permit Modification – Southern Overburden Storage Area, dated 7/28/2010 and 9/13/2010
15. Mined Land Use Plan and all enclosed figures, tables, plates, and appendices, dated 12/2012, last revised 1/2013

Documents prepared Sterling Environmental Engineering, P.C.:

16. Stormwater Pollution Prevention Plan and Best Management Practices Plan, dated 11/18/2004, last revised 2/29/2012

Documents prepared by Dunn Geoscience Corp or Dunn Corporation:

17. Mined Land Use and Reclamation Plans by Dunn Geoscience, dated 7/17/1989, revised by Greenbush Resources, Inc, dated 10/14/1997.
18. Modification Application For Permit to Mine, including narrative, Mining Plan, Final Grade Profiles, and Mining Plan with Temporary Reclamation Area, dated 8/14/1992

Other Documents:

19. Correspondence (i.e. mining narrative) from Griggs-Lang Consulting Geologists dated 10/30/2002
20. Correspondence regarding Norlite Rezoning from Whiteman, Osterman & Hanna LLP, dated 1/22/2007
21. Fugitive Dust Plan by Sci-Tech Inc, dated 8/1990, last revised 7/16/2010

Where the approved plans and conditions of this permit conflict, the permit conditions shall supersede the approved plans.

If any of the above-referenced documents conflict, the document with the most recent date shall apply.

**2. No Deviation From Approved Plan** The permittee shall not deviate or depart from the approved mined land use plan without approval by the Department of an alteration or modification thereto.



**3. Conditions Prevail Over Plans** If any condition of this permit conflicts with the approved plans, the permit condition shall prevail over the plans.

**4. No Disposal of Waste at Mine** There shall be no disposal in the mine of any material regulated as a solid waste under 6 NYCRR Part 360.

**5. Importation of Materials** Except as provided in the application documents/approved plans (Condition 1), materials originating from outside the mine may not be imported into the mine without Department approval.

**6. Storage of Overburden** Prior to placing any additional overburden on the Southern Overburden Storage Area pile(s), the permittee shall install all appropriate drainage structures, as depicted in maps and plates in the Stormwater Pollution Prevention Plan, Revision 02, by Spectra Environmental Group, dated 3/2009 (listed as Document #11 in Special Condition #1). Specifically, the permittee shall install the shale drainage layer and drainage pipes under the first berm of the pile north of the gas pipeline (known as Pile #2 in 2019 correspondence by PW Grosser). Prior to placing any overburden in a perimeter berm on the west side of the Life of Mine area, the permittee shall apply, and receive approval from the Department, for a modification of the Mined Land Use Plan.

#### FINANCIAL SURETY

**7. Bond, Surety to Remain in Force** Any required reclamation bond or other surety, in an amount determined by the Department, shall be maintained in full force and effect. Such a bond or other surety shall not be terminated until the reclamation of the mined area is approved by the department in writing.

#### GENERAL REQUIREMENTS

**8. Post Sign and Permit** The enclosed permit and permit sign must be conspicuously posted in a publicly accessible location at the project site. They must be visible, legible and protected from the elements at all times.

**9. Maintain Area Markers for Permit Term** The permittee shall provide permanent markers such as stakes, posts or other devices acceptable to the Department to identify and delineate the permit area, as outlined on the approved Mining Plan Map. These markers are to be installed prior to the start of mining and shall be maintained for the duration of the permit term.

**10. Strip and Stockpile Soils for Reclamation** Prior to the excavation of previously undisturbed areas, topsoil and overburden shall be stripped, stockpiled separately, and used for reclamation of mined areas. These stockpiles shall be seeded to establish a vegetative cover within 30 days, or as soon as practicable following their construction. The permittee shall locate all overburden stockpiles within the permitted area of the approved Life of Mine. Sufficient quantities of topsoil must be retained on the site for use in reclamation, unless prior approval is granted by the Department.

**11. No Unpermitted Discharge Outside Limits of Mine** There shall be no natural swales or channels or constructed features such as ditches, pipes, etc., that are capable of discharging waters to any offsite areas or to any areas outside the limits of the Life of Mine except those explicitly described and shown in the narrative and graphic portions of the approved Mined Land Use Plan. All silt laden water and storm water generated on, or running across, the site shall be retained within the approved project area. The permittee must comply with all applicable State Pollutant Discharge Elimination System (SPDES)



permit requirements and provide necessary notifications for off-site point source discharges.

**12. Fueling of Equipment and Reporting of Spills** Fueling of equipment shall be controlled to prevent spillage. Any spillage of fuels, waste oils, other petroleum products or hazardous materials shall be reported to the Department's Spill Hotline number (1-800-457-7362) within 2 hours. The permittee shall retain the Department's Spill Response number for immediate access in the permittee's office and at the mine site.

**13. Dust Control** Water or other approved dust palliatives must be applied to haulageways and other parts of the mine, as often as necessary, to prevent visible dust from leaving the mine property.

**14. Air Pollution Control Permit** An Article 19 (Air Pollution Control) Permit must be obtained from the Department if the following processing facilities are used:

- a. Permanent facilities capable of processing greater than 25 tons per hour of minerals; or
- b. Mobile (portable) facilities capable of processing greater than 150 tons per hour of minerals.

**15. Permit Does Not Apply to Structures and Safety Aspects** Unless expressly provided for, the issuance of this permit does not apply to any structures contained on the plans or in the specifications, nor does this permit apply to safety aspects of the operation and/or reclamation plan.

**16. Human or Archaeological Remains** If any human remains or archaeological remains are encountered during excavation, the permittee must immediately cease, or cause to cease, all work in the area of the remains and notify

Regional Permit Administrator  
NYSDEC Region 4 Headquarters  
1130 N Westcott Rd  
Schenectady, NY12306

Work shall not resume until written permission to do so has been received from the Department.

**17. File a Termination Notice** If the permittee decided to discontinue operation, a termination notice shall be filed 30 days prior to the scheduled temporary or permanent cessation of mining.

## OPERATIONS

**18. Hours of Operation** The hours of operation within the mining affected area shall be limited to 6:00 AM to 9:00 PM Monday through Saturday. There shall be no operation (including, but not limited to the startup or operation of motorized equipment, trucks, and/or mining equipment) within the mining affected area on Sundays and the following holidays: New Years Day, Memorial Day, July 4, Labor Day, Thanksgiving Day and Christmas Day.

**19. Hours of Operation for Southern Overburden Storage Area** The operation of the Southern Overburden Storage Area shall be limited to 7:00 AM to 6:00 PM, Monday through Friday and on Saturday between 7:00 AM to 4:00 PM. After placement of the initial berm (Berm 1), the operation of the Southern Overburden Storage Area shall be limited to November through April, with the exception of the construction of Structural Berms 2 through 6 which is authorized during the summer months (May through October).



**20. All Equipment in the Southern Overburden Storage Area Shall be Equipped with Broadband Back-up Alarms** All mobile construction equipment working within the Southern Overburden Storage Area, including but not limited to, dump trucks, haul trucks, excavators, backhoes, loaders, bulldozers, and graders, shall be equipped with a broadband back-up alarm in lieu of a standard tonal back-up alarm. The broadband alarms shall use a multifrequency sound as more fully described in correspondence provided by Spectra dated September 13, 2010.

## **BLASTING**

**21. Blasting Hours** Blasting shall only occur between the hours of 9:00 AM and 4:00 PM, Monday through Friday, excluding federal holidays.

**22. Licensed Blaster Required** All blasting shall be undertaken, monitored and recorded by a blaster licensed by the New York State Department of Labor. The permittee shall maintain copies of all blasting records. Such records shall be made available to the Department (NYSDEC) upon request.

**23. Blasting Shall Prevent Injury and Property Damage** Blasting shall be conducted in a manner that will prevent injury to any person and damage to public or private property outside the life of mine. In the event that an off-site property owner makes a claim of structural damage due to a blasting event or mining activities, the permittee shall immediately notify the Department, investigate the loss claim with the property owner, and provide the Department with a written report within 7 days of the complaint.

**24. No Flyrock Beyond the Life of Mine Boundary** There shall be no flyrock beyond the life of mine boundary including flyrock that travels in the air or along the ground. In the event of flyrock beyond the life of mine boundary all blasting shall cease immediately and the flyrock incident shall be reported within 24 hours to the Regional Mined Land Reclamation Specialist. Blasting shall not resume until written approval to resume blasting is obtained from the Department.

**25. Seismograph Monitoring** All blasts shall be monitored with a properly calibrated seismograph. Seismographs shall be installed at the nearest residential receptor and any locations identified within the approved Mined Land Use Plan or locations determined by the Department. Seismograph records shall be provided to the Department upon request.

**26. Air Blast Limits** Air blast shall not exceed 133 dB at the location of any dwelling, public building, school, church, or community or institutional building outside the permit area.

**27. Ground Vibration Limits** Blasting shall be controlled so that ground vibrations (Peak Particle Velocity) shall not exceed the limits of the Variable Particle vs. Frequency Limits recommended by the U.S. Bureau of Mines Report of Investigation 8507 (refer to attached graph). Maximum peak particle velocity shall not exceed these limits at the location of any dwelling, public building, school, church, or community or institutional building outside the permit area. If measurements are made at other than the nearest residential structure, the measurements shall be interpreted in accordance with U.S. Bureau of Mines Report - 8507.

**28. Fugitive Dust Plan** Permittee shall implement and maintain conformance with Norlite's Fugitive Dust Plan/Best Management Practices Plan.



**29. Storage of Explosives** Storage of explosives on site shall conform to State of New York, Department of Labor Industrial Code Rule 39, found at 12 NYCRR 39:  
Part 39.6 General Provisions for the Storage and Handling of Explosives  
Part 39.8 Construction and Maintenance of Magazines  
Part 39.9 Location of Magazines

**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 4 Headquarters  
1130 N Westcott Rd  
Schenectady, NY12306

**4. Submission of Renewal Application** The permittee must submit a renewal application at least 30 days before permit expiration for the following permit authorizations: Mined Land Reclamation.

**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.

# NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 4

1130 North Westcott Road, Schenectady, NY 12306-2014

P: (518) 357-2069 | F: (518) 357-2460

[www.dec.ny.gov](http://www.dec.ny.gov)

February 2, 2020

Ms. Amanda Primeau  
Executive Assistant to the Mayor  
City of Cohoes  
97 Mohawk Street  
Cohoes, NY 12047  
[aprimeau@ci.cohoes.ny.us](mailto:aprimeau@ci.cohoes.ny.us)

Ms. Harriet Katz  
4 Oxford Circle  
Cohoes, NY 12047  
[hatchkatz@aol.com](mailto:hatchkatz@aol.com)

## **Response to Public Comments**

Renewal and Modification of Mined Land Permit ID#: 4-0103-00016  
Norlite, LLC. located at 628 South Saratoga St. Cohoes, Albany County

Ms. Primeau and Ms. Katz,

As you are aware, the above-referenced application for renewal and modification to an existing mining permit was submitted for public notice. As part of that public notice, the City of Cohoes submitted comments to the Department on June 18, 2019 and Ms. Katz submitted two comments to the Department on July 2 and July 16, 2019. This letter responds to those comments and concerns.

### **Comments from Ms. Katz:**

Ms. Katz put forth question of whether planting of deer-resistant trees could be incorporated into the above-referenced permit. It was requested that the trees be planted along the facility's active mine face in order to stabilize soil and minimize the effect of mining blasts. The July 16<sup>th</sup> comment was submitted to a NYSDEC Forester via email with copy to the Deputy Regional Permit Administrator, Kate Kornak.

### **Department Response:**

Norlite ("the Permittee") has indicated in a written response dated August 5, 2019 a willingness to plant trees on the property in a manner that will not interfere with daily operations at the site. The Permittee has indicated that recommendations and input from a NYSDEC Forester will be considered when choosing species of deer-resistant trees. However, the Department maintains that incorporating the planting of such trees into the Mined Land Reclamation permit is not appropriate. The request for tree planting has been made in regard to improving soil stabilization and to reduce the effects from blasting operations. The current Mined Land Reclamation permit is being modified to incorporate a 5-acre area of historic graded base stockpiles that were not previously included within the Life-of-Mine. Mining operations within

this 5-acre area include material storage only; no excavation nor blasting is proposed or authorized for this 5-acre expansion of the Life-of-Mine. The Department fully supports the planting of appropriate species of trees independent of the permitting process, and our Division of Lands and Forests will provide guidance necessary for development of a tree planting plan upon request of the Permittee.

Comment from Ms. Primeau on behalf of Ms. Robyn King (dated June 18, 2019):

Ms. King commented that the proposed expansion to the Life-of-Mine is adjacent to one of the Cohoes Housing Authority developments on Saratoga Street. While the planned expansion is located at the site of an existing pile, Ms. King noted that if the Permittee is planning on blasting in this area there may be impacts in terms of dust, noise, or vibration to residents in that area.

Department Response:

The Department's action to modify this Mined Land Reclamation permit is being performed to incorporate an already-disturbed 5-acre portion of the property within the Life-of-Mine boundary for regulatory purposes. Including this area within the boundary will ensure the appropriate reclamation occurs and is enforceable upon mining termination. The modification does *not* allow for any new uses to this 5-acre area. No blasting, excavation, or other ground disturbance is permitted. There will be no increased impacts to dust, noise or vibration in the 5-acre expansion area.

The Department has fully reviewed the comments submitted, the applicant's response, and the proposed Mined Land Use Plan and Reclamation Plan. It is the Department's position that the potential impacts for this renewal and modification have been mitigated, and the proposed action meets the standards for issuance of a Mined Land Reclamation permit. As such, a copy of the permit is attached for your records.

Thank you for expressing your concerns regarding this project. Please feel free to contact me at (518)357-2459 or by email at [kate.kornak@dec.ny.gov](mailto:kate.kornak@dec.ny.gov) if you have any questions.

Sincerely,



Kate Kornak  
Deputy Regional Permit Administrator

Encls: Norlite Mined Land Reclamation Permit #4-0103-00016/00019

Cc: Permittee  
DEC Mined Land Reclamation  
Permittee Consultant  
File