

FINAL ENVIRONMENTAL IMPACT STATEMENT

For the

**WARREN W. FANE, INC.
HEMSTREET PARK PIT
DYER PROPERTY MODIFICATION (MLF# 40289)
Town of Schaghticoke, Rensselaer County, New York**

Lead Agency: New York State Department of Environmental Conservation
Region 4
1130 Westcott Road, Schenectady, New York 12306-2014
Phone: (518)-357-2452
Contact: Nancy Baker, Regional Permit Administrator

Prepared for: Warren W. Fane, Inc.
62 Leverage Road
Troy, New York 12182

Prepared by: Griggs-Lang Consulting Geologists and Engineers, P.C.
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(518) 270-5920
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Old Chatham, New York, 12037
(914) 213-1942 (cell)
Contact: Stephen R. Oberon, Principal
(Cultural Resources Assessment)

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Contact: Thomas M. Ward, Vice President
(Wetland Delineation at Stream Crossings)

Date Prepared: October 12, 2018
Date Accepted: October 24, 2018

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1.0 Legislative Hearing Transcript – August 14, 2018

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NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of the Application of
WARREN W. FANE, INC.

August 14, 2018, 6:07 P.M.

Schaghticoke Town Hall
200 Northline Drive
Melrose, New York

RECEIVED
AUG 30 2018
Hearings and
Mediation Services

BEFORE: MOLLY T. McBRIDE,
Administrative Law Judge
State of New York
Department of Environmental Conservation
Office of Hearings & Mediation Services

COPY

REPORTED BY:
Ellen J. Frankovitch,
Court Reporter & Notary Public

1 ALJ McBRIDE: Good evening, ladies and
2 gentlemen. My name is Molly McBride and I am
3 an Administrative Law Judge with the New York
4 State Department of Environmental
5 Conservation.

6 Tonight we're here for the legislative
7 public comment hearing regarding the application
8 of Warren W. Fane, Inc. for the expansion of the
9 life of mine area at the Hemstreet Park Mine
10 from 165 to 270.5 acres to accommodate aggregate
11 mining, intra-mine haulage roads and stormwater
12 control features. The project would impact
13 approximately 225 linear feet of two class C(T)
14 streams and approximately 0.3 acres of federal
15 wetlands.

16 Pursuant to 6 NYCRR Part 621, the
17 Department published Notice of this hearing in
18 the Department's Environmental Notice Bulletin
19 on July 18, 2018, and applicant published Notice
20 in the "Troy Record" on July 19, 2018.

21 This public comment session is for members
22 of the public to put their comments on the
23 record for the Department's consideration. This
24 not a question and answer session. Anyone who

1 would like to speak today will come up and fill
2 out a speaker card.

3 I'll note for the record that we have no
4 one signed up to speak and it is approximately
5 6:10 p.m. We're going to take a brief recess to
6 see if anyone joins us a little bit later, and
7 if not, we'll close the record shortly.

8 We'll go off the record.

9 (A break was taken in the proceedings.)

10 * * * * *

11 ALJ McBRIDE: We're back on the record on
12 the legislative public hearing regarding the
13 application of Warren W. Fane, Inc.

14 Again, I would note for the record that we
15 have no one who has appeared to speak on the
16 matter, and we will close the record.

17 Thank you for coming out.

18 (Proceedings concluded at 6:20 p.m.)

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C E R T I F I C A T I O N

I, ELLEN J. FRANKOVITCH, Shorthand Reporter
and Notary Public in and for the State of New York, do
hereby CERTIFY that the foregoing record taken by me at
the date and place noted in the heading hereof is a true
and accurate transcript of same, to the best of my
ability and belief.



ELLEN J. FRANKOVITCH

Dated: August 17, 2018

2.0 Public Comments

Baker, Nancy M (DEC)

From: dec.sm.DEP.R4
Sent: Monday, August 13, 2018 3:51 PM
To: Baker, Nancy M (DEC)
Subject: FW: Hemstreet Park Pit

From: Craig Wilson [mailto:raffertywilson@mac.com]
Sent: Sunday, August 12, 2018 11:53 AM
To: dec.sm.DEP.R4 <R4DEP@dec.ny.gov>
Subject: Hemstreet Park Pit

ATTENTION: This email came from an external source. Do not open attachments or click on links from unknown senders or unexpected emails.

Dear Nancy,

Unfortunately I will not be able to attend the hearing on 8/14, but please consider my comments for the record.

DEC Application Numbers:

[4-3842-00020/00001](#) (Mining Permit)

[4-3842-00020/00012](#) (Stream Disturbance Permit)

[4-3842-00020/00013](#) (Freshwater Wetland/Water Quality Certification)

Water

We continue to see a growth in the number of mining acres in Schaghticoke, and with this project we are inching towards 1,000 acres, yet many of our residents have low quality and inadequate quantities of water. I understand how valuable sand and gravel are to a vibrant state and national economy. Considering this, is it too much to ask to bring clean, fresh, and affordable water to all the residents who need it? I feel this could be a fair trade off to being a host community to so many acres of mining.

Cultural Resources

I remain skeptical that with all the historically documented activities of Native Americans in this vicinity that only one piece of 'chert' was located. Should an independent investigation for resources be done? Can the area where the piece was found be confined so that it remains undisturbed? Can the mining employees in Schaghticoke receive training in identification of artifacts, notification of the appropriate authorities when artifacts are found and proper preservation of artifacts?

Stream Disturbance

Is this really the best plan we can come up with? Do we really want change the natural state of the unnamed tributary? Are there no other alternative plans that could be explored besides this disturbance or hauling on Pinewoods road?

Overall permit adherence

I believe that all mining operations in Schaghticoke should refocus their efforts on adhering to permit conditions. I've seen traffic leaving a local mine well into the evening. Sand, gravel and mud are continually encountered outside the mines on our local county and state roadways. I continue to see DEC mining staff inspections where violations are noted for the same offenses many times consecutively without correction or explanation to the public. There is no information on how violations are resolved or remediated. The miners must be better neighbors.

Thank you for your time,

Craig Wilson
731 Old Schaghticoke Rd
Schaghticoke, NY 12154
518-728-1766

3.0 Response to Comments

The only public comments that were received for the project were those presented by Mr. Craig Wilson in an August 13, 2018 email to Nancy M. Baker, Regional Permit Administrator.

Comment:

Water

We continue to see growth in the number of mining acres in Schaghticoke, and with this project we are inching towards 1,000 acres. Yet many of our residents have low quality and inadequate quantities of water. I understand how valuable sand and gravel are to a vibrant state and national economy. Considering this, is it too much to ask to bring clean, fresh and affordable water to all residents who need it. I feel this could be a fair trade off to being a host community to so many acres of mining.

Response:

The quality and quantity of water available to residents in the Town of Schaghticoke is primarily a function of the geology, hydrogeology and the volume of water made available to the area (i.e precipitation. The project, as planned, will not change the amount of precipitation falling in the town, nor will it adversely alter the geology/hydrogeology of watersheds contributing to residents' wells. As discussed in sections 4.1.4.2 and 4.1.4.3 of the Draft Environmental Impact Statement the project, as planned, will have no adverse impacts on water resources available to residents in Schaghticoke. Mitigation measures implemented to ensure no potential for impact include the following:

Section 4.1.4.2

There is no potential impact to water quantity because:

- There are no municipal water supplies in the vicinity of the site.
- There will be no excavation into the water table. Excavation will remain a minimum of 5 feet above the high seasonal water table. As such, there will be no reconfiguration of the water table.
- All other wells are located in excess of 1,200 from the planned excavation areas and/or are located across groundwater divides or are located at elevations well below the planned final floor elevations.

Care will be taken so that potential contaminants are not spilled or disposed of in a manner that would reduce the quality of the surface water or groundwater.

Section 4.1.4.3

The proposed mitigation measures and how each measure controls or eliminates the potential surface water and groundwater quality impacts of potential leaks or spills from on-site equipment operation are described below.

The mitigation measures represent best management practices that control potential surface water and groundwater impacts during all phases of the project.

- *On-site storage.* No hazardous wastes or toxic chemicals will be stored or disposed of in the life-of-mine area, including Areas A, B and C.
- *No Fueling.* No fueling of equipment will be performed in Areas A, B or C.
- *Maintenance.* Maintenance and repair will be done to ensure equipment is kept in good working order. This mitigates to the maximum extent practicable the possibility of leaks from operating equipment.
- *Location of maintenance.* Maintenance will not be performed in Areas A, B or C except in the event of a breakdown. All other maintenance will be performed in the shop area in the existing life-of-mine area.
- *Controlling access.* The only access to areas A, B and C will be via the planned internal access roads leading from the main pit. The gate controlling access to the main pit is locked when the site is not operating. This minimizes the likelihood of spills and leakage from vandalism of equipment.
- *Spill response.* In the unlikely event of a spill, the NYSDEC Spill Hotline will be contacted immediately and clean up done in accordance with their recommendations.
- *Inspections.* Regular inspections will be made in accordance with the requirements of the SWPPP in Appendix F of the DEIS. The results of the inspections and any actions taken will be recorded in the SWPPP.

Removal of Equipment. All mining equipment will be removed from the planned expansion areas (Areas A, B and C) prior to the completion of final site reclamation. This will reduce the potential for spills and leaks.

*

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*

Fane's sand and gravel operations in the Town of Schaghticoke do not and will not adversely impact water quality or water availability to Schaghticoke's residents. Water woes are unfortunate but it is not incumbent on Fane to remedy water issues of residents in the Town any more than it would be for Mr. Wilson to do so.

Comment:

Cultural Resources

I remain skeptical that with all the historically documented activities of Native Americans in this vicinity that only one piece of 'chert' was located. Should an independent

investigation for resources be done? Can the area where the piece was found be confined so that it remains undisturbed? Can the mining employees in Schaghticoke receive training in identification of artifacts, notification of the appropriate authorities when artifacts are found and proper preservation of artifacts?

Response:

A thorough and objective cultural resources investigation was performed by Columbia Heritage, Ltd. Specifically, Columbia Heritage, Ltd. performed literature research and fieldwork for Phase I and II Cultural Resources surveys and compiled a comprehensive report that was submitted to the New York State Office of Parks, Recreation and Historic Preservation for review.

Columbia Heritage, Ltd. reported “Systematic archaeological inspection and archaeological shovel test sampling of the proposed mined modification area encountered one piece of cultural material pertaining to the indigenous inhabitants of the region and very sparsely scattered European American era domestic refuse. More intensive investigation around the single find spot encountered no additional cultural material. The piece of modified chert debitage recovered is interpreted as the remains of the opportunistic utilization of a piece of glacially-deposited stone, most likely acquired within the vicinity of the find spot, and is not seen to have been associated with focused cultural activity. The very few European American items encountered in the prepared fields are seen to represent secondary deposition associated with agricultural activities such as manure spreading. These items are not considered likely to contain significant cultural information and were not retained.

Based on these findings, proposed modification of the mining limits is seen to have no effect on cultural resources and no further archaeological investigation of the affected area is recommended”.

No significant cultural resources were found and no further investigation was recommended by Columbia Heritage, Ltd.

Upon review of the Columbia Heritage, Ltd report, the New York State Office of Parks, Recreation and Historic Preservation concluded “*Based upon this review, it is the New York State Office of Parks, Recreation and Historic Preservation’s opinion that your project will have no impact on archaeological and/or historic resources listed in or eligible for the New York State and National Register of Historic Places.*” No additional investigation was required.

Comment:

Stream Disturbance

Is this really the best plan we can come up with? Do we really want change (hic) the natural state of the unnamed tributary? Are there no alternative plans that could be

explored besides this disturbance or hauling on Pinewoods Road?

Response:

The planned access route(s) to Areas A, B and C have been carefully planned to minimize impact potential to streams. Areas A and B can only be accessed by crossing a stream (unnamed stream 941-33 – an unnamed tributary to the Hudson River). Area C can be accessed via Pinewoods Road, but the planned access to Area C minimizes potential impacts to a greater extent than would direct access to Area C via Pinewoods Road. Therefore, Area C will be accessed by means of a separate crossing of unnamed stream 941-33.

In total, Fane is planning four (4) crossings of unnamed streams (waters of the United States) as a component of the expansion of its Hemstreet Park Pit. Sand and gravel will be hauled from Areas A, B and C to the main processing facility at the Hemstreet Park Pit. The four crossings have been planned and designed to meet United States Army Corps of Engineers (USACOE) criteria. The chosen access represents the lowest impact routes/areas from the respective expansion areas (Areas A, B and C) to the existing processing plant.

As stated previously, Areas A and B require the crossing of unnamed stream 941-33 in all instances. There is no feasible cost-effective alternative to the planned access road to Areas A and B.

Fane is planning to cross unnamed stream 941-33 at a different location to access Area C. This separate crossing is required because unnamed stream 941-34.1 separates Area C from Areas A and B. Access to Area C also requires the crossing of unnamed tributaries to unnamed stream 941-34.1.

Fane hauls excavated sand and gravel from its reserves areas to its processing plant via internal haul roads. Off-road trucks are used to haul this material. This would continue to be the case for sand and gravel reserves hauled from Areas A and B, as there is no other feasible way of accessing these reserves areas.

If Fane were to haul sand and gravel from Area C to the processing plant via Pinewoods Road, it would necessitate haulage using small trucks. Pinewoods Road is a town road with a posted weight limit of ten (10) tons. Trucks that can move sand and gravel in commercial, albeit small, quantities have a minimum weight of approximately 5 tons when they are empty. These trucks would have the capacity to move only approximately 5 tons of sand and gravel at a time when operating on a road with a posted 10-ton weight limit. The off-road haul trucks that Fane uses on the internal haul roads are 35-ton trucks. That is, they have a 35-ton sand and gravel capacity. Haulage via the on-road trucks versus the off-road trucks would necessitate 7 times as many vehicle movements (35 tons at a time versus 5 tons at a time) to haul sand and gravel materials from Area C to the processing plant. The haul distance from Area C to the processing plant via the internal access road is approximately 45 percent of the on-road distance (Pinewoods Road to

River Road to Allen Road). The smaller capacity of the on-road trucks (14 percent of the off-road haul trucks) to comply with the 10-ton capacity, combined with longer on-road haul distance (2.2 times longer) would result in approximately *15 times* as many miles traveled to move the same volume of reserves to the processing facility. *ALL* of these miles would be on public roads versus *no* miles on public roads if the sand and gravel materials were to be hauled via the internal access road leading to Area C. The increased truck traffic would certainly result in wear to the local roadways over the duration of excavation from Area C.

Fane has planned the two crossings of unnamed stream 941-33 and the crossings of unnamed tributaries to unnamed stream 941-34.1 in compliance with United States Army Corps of Engineers (USACOE) criteria. The project, as planned, minimizes impacts to the maximum extent practicable.

Comment:

Overall Permit Adherence

I believe that all mining operations in Schaghticoke should refocus their efforts on adhering to permit conditions. I've seen traffic leaving a local mine well into the evening. Sand, gravel and mud are continually encountered outside the mines on our local county and state roadways. I continue to see DEC mining staff inspections where violations are noted for the same offenses many times consecutively without correction or explanation to the public. There is no information on how violations are resolved or remediated. The miners must be better neighbors.

Response:

Fane is compliant with its State Mining Permits in the Town of Schaghticoke.

4.0 Outline of Changes in Response to Comments

There are no changes to the project in response to public comments.