



Department of  
Environmental  
Conservation

# The SEQRA PROCESS

Who Does What, When and With What?

# Purpose of SEQRA

- Incorporate consideration of “environmental factors” into an agency’s decision-making process at the earliest possible time

# What Does SEQRA Say?

- “No agency involved in an “action” may undertake, fund or approve the “action” until it has complied with the provisions of SEQRA”
- What is an “Agency” as defined here?
  - A public body- elected and appointed
  - Includes state departments, local boards, districts, governing bodies and public authorities

# How Do you “Start SEQRA?”

- Initiating agency or **first agency to receive an application** is responsible for initiating SEQRA
- That first agency must “classify” the action.
- First involved agency must also identify other state or local agencies who may have one or more jurisdictions over the project,

for example:

- Highway access permit
- Natural resource-based permits
- Local land use approvals



# How to Decide Lead Agency

- First agency either seeks permission from other agencies to be lead agency or.....
- Asks other agencies if they would like to be lead agency
- One agency must be the lead, usually the one with the most **knowledge and experience** about the issue or most involvement with the project
- If no agency wants to be lead DEC Commissioner will decide and **we don't like to do that!**

# Lead Agency

- Involved agency with the most interest, involvement and concern about the proposed action
- Responsible for reviewing environmental assessment form (EAF)
- Responsible for determining if an environmental impact statement must be prepared
- Must determine significance within 20 days of being named “lead agency”



# Lead Agency Must Classify the Action

Three types of Actions Under SEQRA:

- Type I
- Type II
- Unlisted

# Type II

- Not subject to SEQRA
- List available in Part 617 to help determine if “action” is a Type II
- Classification as Type II concludes SEQRA
- Examples:
  - 1, 2 or 3-family homes on approved lots
  - Issuance of an area variance
  - Most maintenance or repair to buildings





# Type I

- More likely to have adverse impacts on environment
- More likely to require an environmental impact statement (EIS)
- List available in 617 NYCRR
- Must continue with SEQRA process



# Unlisted Actions

- Not on Type 1 or Type 2 lists; fall below Type 1 threshold
- Require that SEQRA continue
- Largest category of actions subject to SEQRA
- Actions range from minor use variances to complex construction activities



# Lead, Involved and Interested Agencies

- **Involved Agency** -public body which undertakes, funds or approves proposed action
- **Lead Agency** - involved agency which coordinates the SEQRA review
  - responsible for determining whether an environmental impact statement will be required
- **Interested Agency** -public body not undertaking, funding or approving the proposed action
  - wishes to participate in the process because of its expertise or specific concerns
  - Sierra Club, Audubon, Conservation Advisory Council etc.



# Who Does What Next?

- The **Environmental Assessment Form** Determines the significance of the application
- The **Lead Agency completes** with assistance and input from involved agencies



# Environmental Assessment Form (EAF) Key to SEQRA Review

Three parts to EAF

➤ Part 1

- Site and Project Descriptions
- **Project Sponsor/Applicant Completes**

➤ Part 2

- Potential Impacts and Magnitudes
- **Lead Agency Completes**

➤ Part 3 (may be optional)

- Importance of Impacts Identified in Part 2
- **Lead Agency Completes, if necessary**



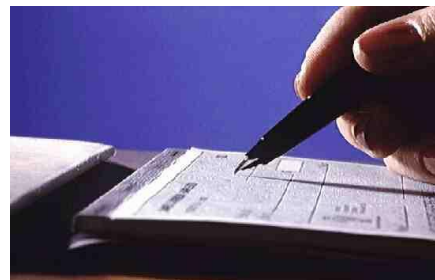
# Environmental Assessment Form

- Two Types-
  - **Short and Full/Long** Environmental Assessment Forms (EAF)
  - **Type I Actions**- must complete **full EAF**
  - **Unlisted Actions**- may use **short form**, but lead agency can require applicant to use full/long form
- Both have Parts 1, 2, and 3
- Lead agency can require supplemental information to EAF if needed to make determination of significance



# Part I of EAF- The Applicant's Responsibility

- Applicant must provide accurate, complete information for Part 1
  - May need to provide supporting information to verify answers provided
- **Lead agency responsible for reviewing EAF and verifying accuracy** of info with materials submitted for project
  - Should flag any problem
  - Identify missing information
  - Require revisions if necessary



## Answers to Part One are Completed by Applicant

- If any answers in Part I seem untrue, meet with applicant to discuss and have him revise
- Don't accept **answers that are inaccurate**, based on hard facts you have
- **Lead agency** is ultimately responsible for Parts 1, 2 and 3 of EAF.
- Lead agency can and should **require supplemental information to EAF** if needed to make determination of significance





# Part 2 of the EAF

## Lead Agency Responsibility

Part 2 requires lead agency to identify each impact as either “**none/small impact**” or “**moderate to a large impact**”

Examples:

- Does action **impair natural resources**?
- Does action **increase potential** for erosion, flooding, drainage problems?
- Does **action create hazard to environmental resources or human health**?
- Will there be **remediation for hazardous materials** on site?



# EAF Part 2 Answers

## None to Small Impact Examples:

- There will be a small impact to **community character** because of concerns over consistency with existing architectural and aesthetic resources (Question # 3)
- **Historic /Archaeological resources on site**, but no major changes will occur. Location where resources exist will be avoided, for example (Question #8)
- **Wetlands in the vicinity** of the project, but a site-specific inventory shows there are none on the project site (Question #9)
- **Minor disturbances to traffic** will occur, but they won't alter the level of traffic services (Question # 5)
- **Historic preservation permits** have been issued that are in compliance with the local historic preservation code (Question # 8)



# EAF Part 2 Answers

## Moderate to Large Impact Examples:

- **Historic structures will be demolished** or relocated (Question # 8)
- Historic structures to be remodeled in a way that **destroys or damages historic value** (Question #8)
- Proposed action will **increase flooding potential** in the project area (Question # 10)
- Proposed project **requests a land use not permitted by existing zoning** (Question # 1)
- Proposed action will **damage or reduce the number of threatened species** in the area (Question #9)
- Project **changes the character or view** of important aesthetic resources (Question #3)



## EAF Part 3

- Lead agency completes, if necessary
- Used to elaborate on any answers in Part 2 that couldn't be mitigated.
- If unable to still mitigate to lead agency's satisfaction, **may be reason for making a positive declaration**



# EAF Decision Options

1. **A Negative Declaration** means the project will have no **significant impacts** on the environment
  - Ends the review process
2. **A Positive Declaration** means the application may have a **significant impact** on the environment
  - An environmental impact statement must be prepared
3. **Conditional Negative Declaration** may be made for Unlisted Actions
  - Only if a coordinated review was conducted



# Making a Decision

- **Timing and substance** of the EAF should be conducted in conjunction with the underlying application
- You can't make a **positive declaration** under SEQRA and yet approve the site plan, subdivision or variance.
- A **positive declaration** puts the application **on hold** until an environmental impact statement is completed and reviewed.
- Public hearings on EIS should be conducted **at the same time** as the hearings for the underlying application as well



# Determination of Significance

- In writing by the Lead Agency
- Must identify all relevant impacts
- Must look at whole action-even those separated by time or distance (**no segmentation**)
- Must take a “hard look” at all potential impacts
- Must explain why impact **may or will not be significant**



# Determination of Significance

Must provide “Reasoned Elaboration”

- Be explicit
- Is potential impact likely, significant, or neither
- Describe mitigation included in project plans
- Name sources you rely on to reach conclusions
- Explain how cited sources support your conclusions





**If Lead Agency Makes a Positive Declaration.....**

**A Draft Environmental Impact Must be Prepared**



# Scoping the DEIS

- Not mandatory, but encouraged
- Creates a formal outline for DEIS
- Focuses on significant issues; eliminates non-significant issues
- Identifies necessary information
- Identifies alternatives
- Identifies mitigation measures
- Provides opportunity for other agency and public input or mitigation to minimize impacts



# Scoping the DEIS

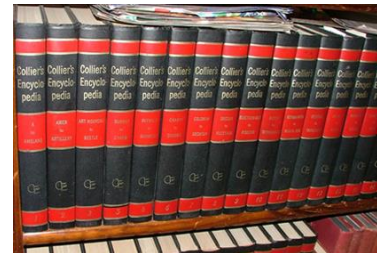
- If scoping is used, must be an opportunity for public participation
- Lead agency is ultimately responsible for determining issues to be included in the scope
- 60 days for completion of scoping
- Negotiation of extensions is common



# DEIS Content

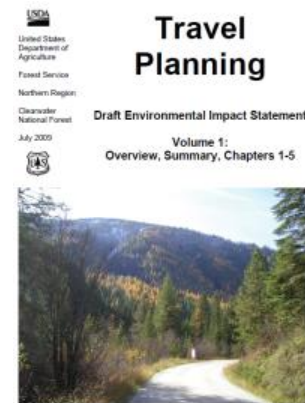
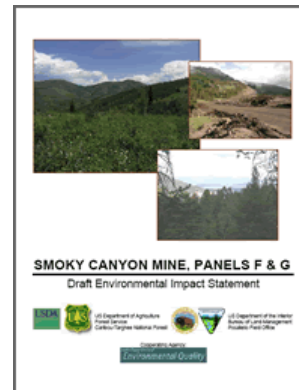
## Analytic, not Encyclopedic

- Describe the Action
- Define the Location
- Describe the Setting
- Evaluate potential significant adverse impacts
- Identify potential mitigation measures
- Discuss reasonable alternatives
- Must include the “no action” alternative



# Preparing the DEIS

- DEIS usually prepared by applicant/sponsor and submitted to lead agency
- Lead agency must review to determine if DEIS is “adequate”
  - May be returned to sponsor/applicant for revision
  - Must provide specific written comments or suggested changes- give direction
- Lead agency has 45 days for review; 30 if resubmission
- All DEIS must be posted on the web and remain there until FEIS is accepted



# Public Comment on DEIS

- Notice of Completion of DEIS
  - Must be on public web site, filed with all required agencies and published in Environmental Notice Bulletin
- Public Hearing is optional under SEQRA
  - Minimum of 14 days notice of hearing
  - Should run concurrently with other hearings required for the action



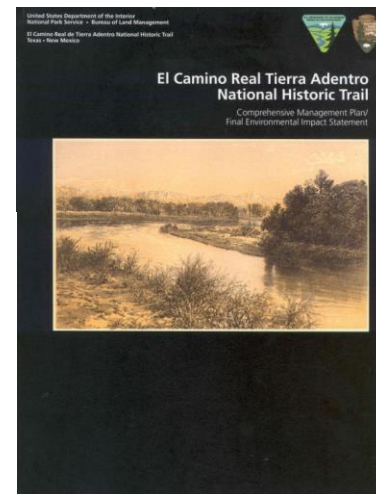
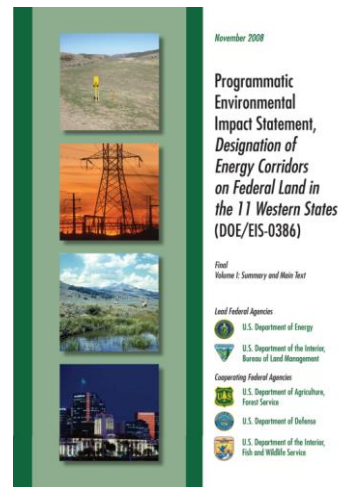
# Public Comment on DEIS

- Hold Hearing if:
  - Substantial interest shown by the public or involved agencies
  - Significant adverse environmental effects have been identified
  - Concerns or questions regarding adequacy of mitigation measures and alternatives proposed
  - Public hearing can aid the agency decision making process



# Final Environmental Impact Statement (FEIS)

- Prepared after close of comment period on DEIS
- Consists of :
  - Draft EIS, including revisions or supplements
  - Summary or copies of comments received
  - Lead agency's response to substantive comments
- Lead agency responsible for accuracy and adequacy of all responses in the FEIS, even though project sponsor may prepare such





# Final Environmental Impact Statement (FEIS)

- Must be completed:
  - Within 45 days after a public hearing OR
  - Within 60 days after the DEIS “Notice of Completion” if no public hearing
- Lead agency must file “Notice of Completion” of FEIS
- All FEIS must be posted on the web and remain there for a year after all permits/approvals made
- Starts a 10 day “consideration” period
  - Not an additional round of public comment



# Findings

- Made by lead and all involved agencies after FEIS is accepted
- Reasoned conclusion using information from the FEIS
- Serves as rationale for each agency's decision on the FEIS
- Certifies proposed action is one that avoids or minimizes environmental impacts

## After Findings

- SEQRA process concludes
- Underlying permits and approvals can be made
  - Funding released for project
  - Special permits or variances issued
  - Zoning amendment approved
  - Law passed by local municipality etc.



# Case Example

# Proposed Development by Hanson Aggregates, New York and Scott Congel

- Property located on Woodchuck Hill Road, Dewitt; extends south to Rt. 173
- Zoned as Industrial
- 454 acres
- Owned by Scott Congel
- Abuts land currently mined by Hanson
- Hanson wants to purchase land from Congel and extend mining operation

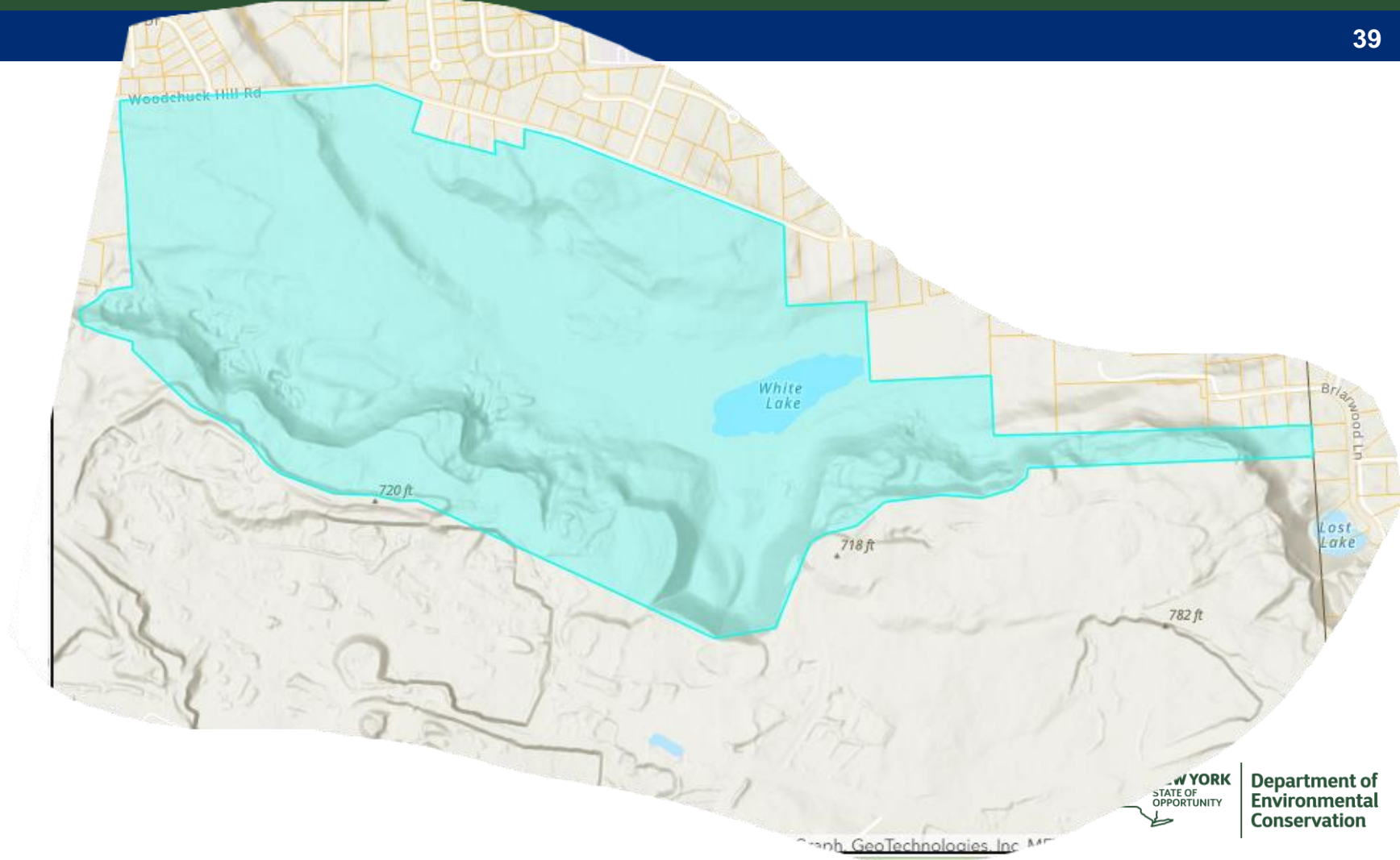


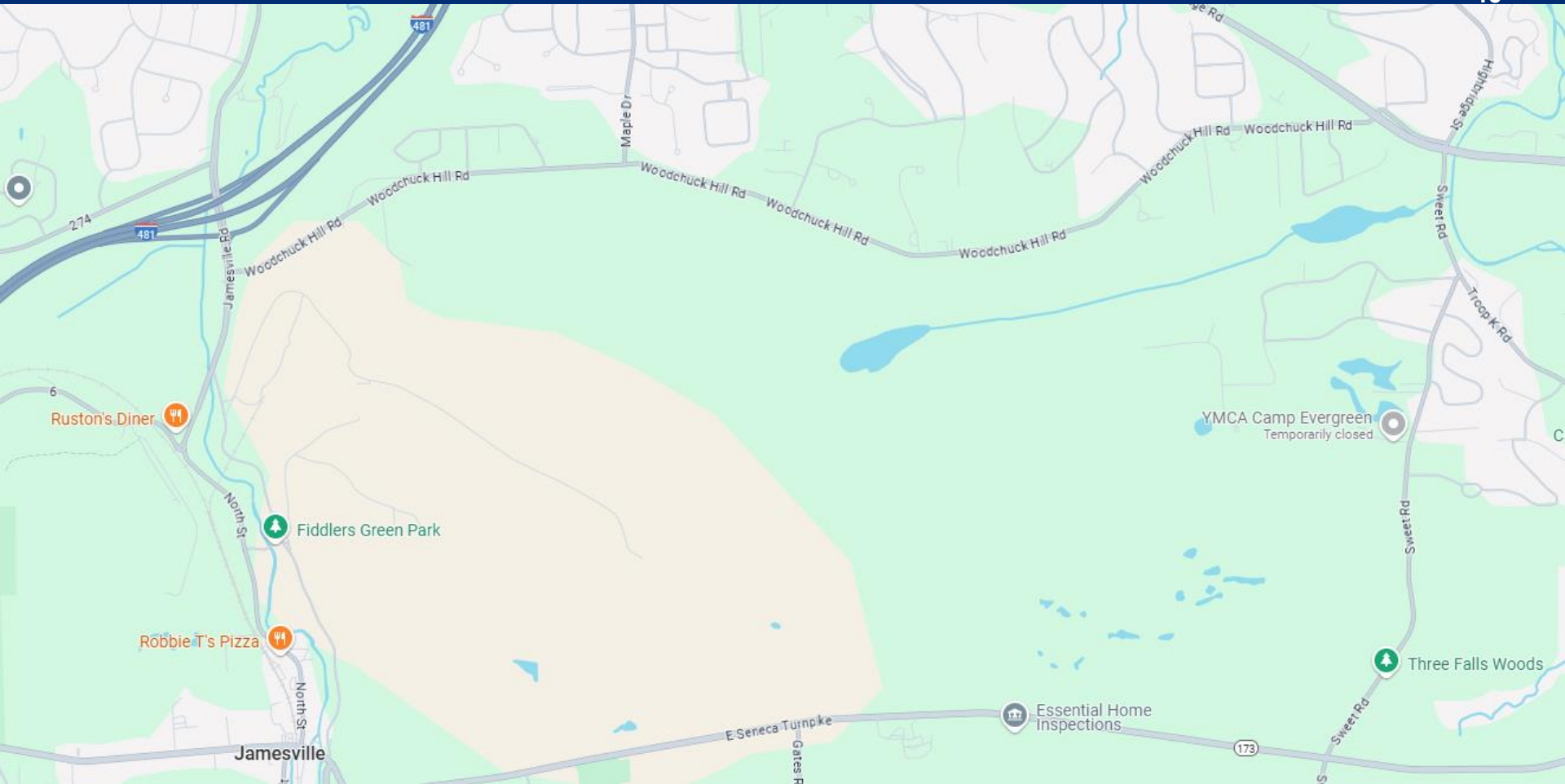


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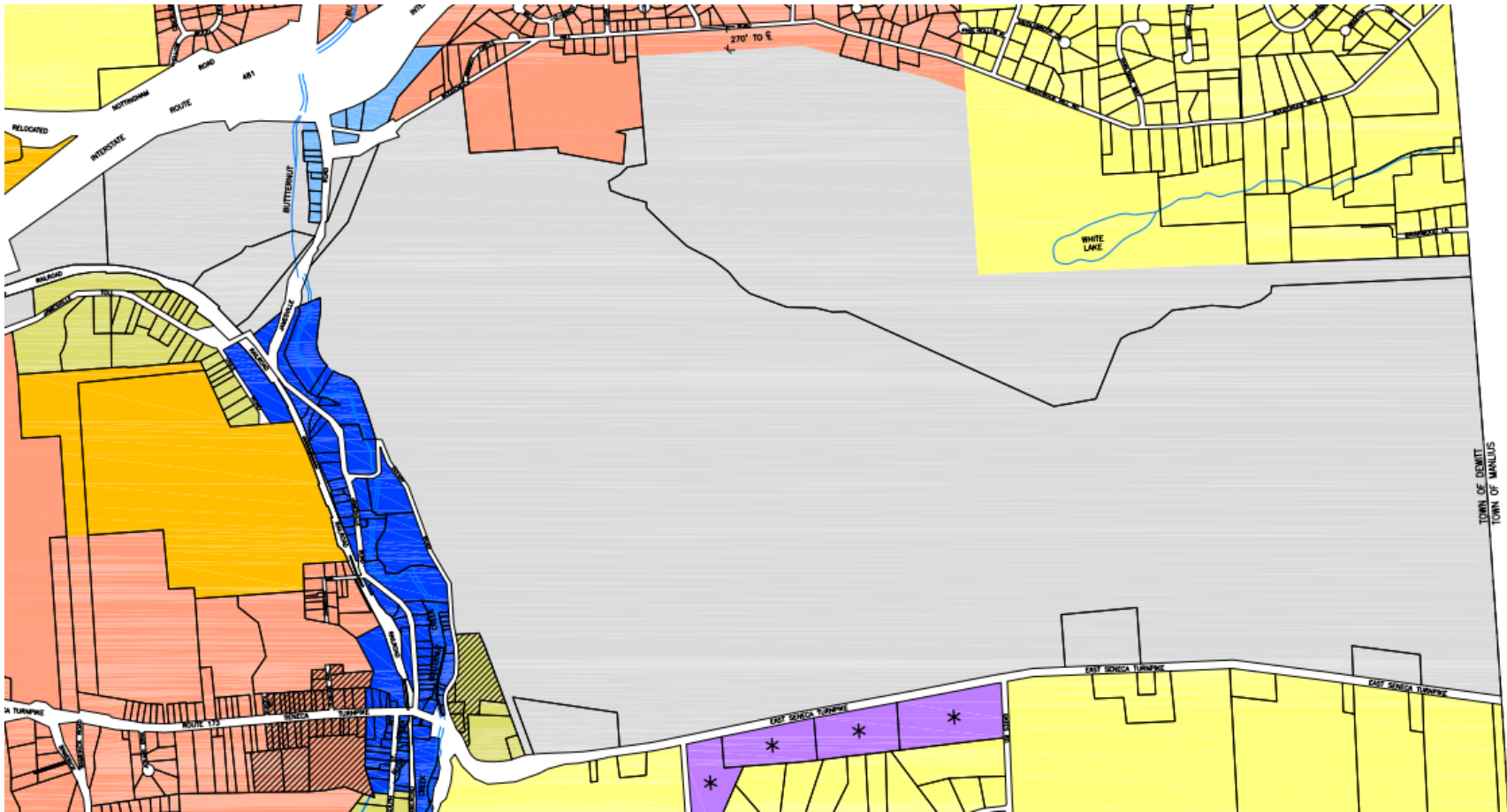
Robbie T's Pizza

Google









# Proposed Action

- Congel wants to **subdivide off six lots** and keep them for himself on Woodchuck Hill Road as residential lots since only residential is allowed on the first 250 feet of land facing Woodchuck Hill Road
- The rest of the land he wants to sell to Hanson
- Hanson and Congel are coming to the town because they don't want to segment their actions
- Want to be upfront about their plans → **avoid segmentation**



# Proposed Action

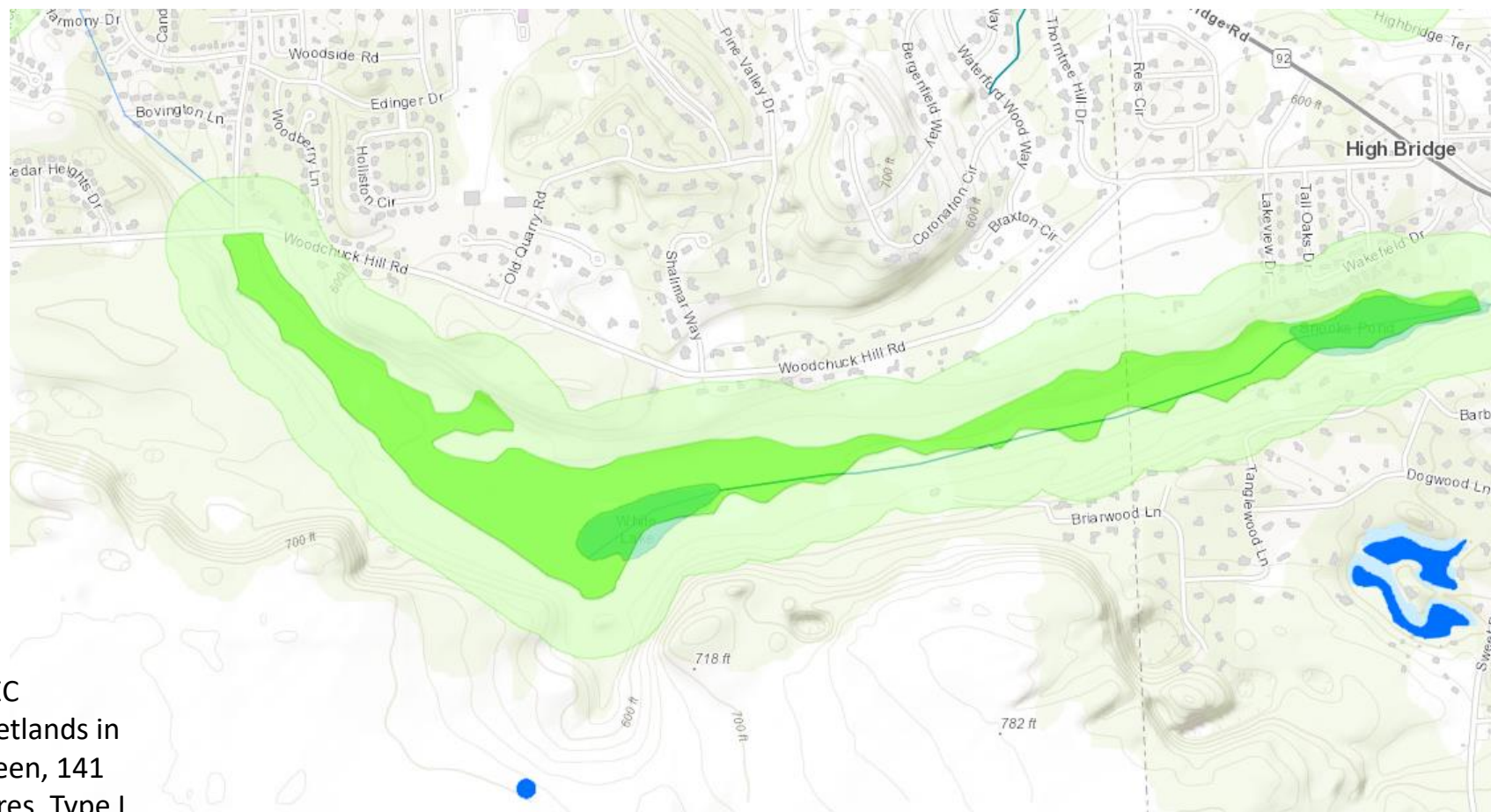
- Hanson wants to extend its mining northwards
- Would increase the size of Hanson's mined area by 35%
- Would need mining permit extension from DEC
- Minimal review from local government, as DEC reviews and decides all mining permits



# Proposed Action

- Town can **review the subdivision**, as it is not involved in the mining application extension
- Application also needs **wetland permit**
- On the mining side of the proposal, Town could **set hours of operation** and express any concerns to DEC
  - Backs up to residential neighborhood partly in Dewitt and partly in Manlius
  - Lighting, noise, dust, road use concerns also local concern





DEC  
Wetlands in  
green, 141  
acres, Type I

# So, What Should Happen Here?

- Two separate actions, **subdivision of six new lots** and **extension/revision of mining permit**
- DEC acts as lead agency
- Dewitt Planning Board is an **Involved Agency** in the review since it **grants subdivision approval**
- Both proposals should be coordinated for SEQRA since they are related

# Determining the type of Action

- The mining action makes this a **Type I action**
- Part 617.4 (b) (6) (i) states the following actions are Type I if they are to be **directly undertaken**, funded or approved by an agency:
  - Activities, other than the construction of residential facilities, that **meet or exceed any of the following thresholds**; or the expansion of existing nonresidential facilities by more than 50 percent of any of the following thresholds:
    - (i) a project or action that involves **the physical alteration of 10 acres**;



# A Long EAF will be necessary

- DEC will lead the review since it's the lead agency
- Dewitt will have a secondary role as an involved agency
- Local governments can make a determination and notify the department and applicant in regard to:
  - setbacks from property boundaries and public thoroughfares and rights-of-way;
  - manmade or natural barriers designed to restrict access if needed, and if affirmative, the type, length, height, and location thereof;
  - dust control;
  - hours of operation; and
  - whether mining is prohibited at that location.





## Other Town Input

- Not mentioned by law, but certainly reasonable, would be the **impact on town and county roads** that will result (wear and tear) from an increase in mining activity
- Heavy trucks full of sand and gravel will have an impact on deterioration of local roads in the town and in the town of Manlius as well.
- A **letter of credit or performance bond** to pay for repairs to the roads should be posted by Hanson.



Possible entrance onto  
Briarwood Road, Dewitt



Department of  
Environmental  
Conservation



Possible entrance  
onto Woodchuck Hill  
Road



Department of  
Environmental  
Conservation

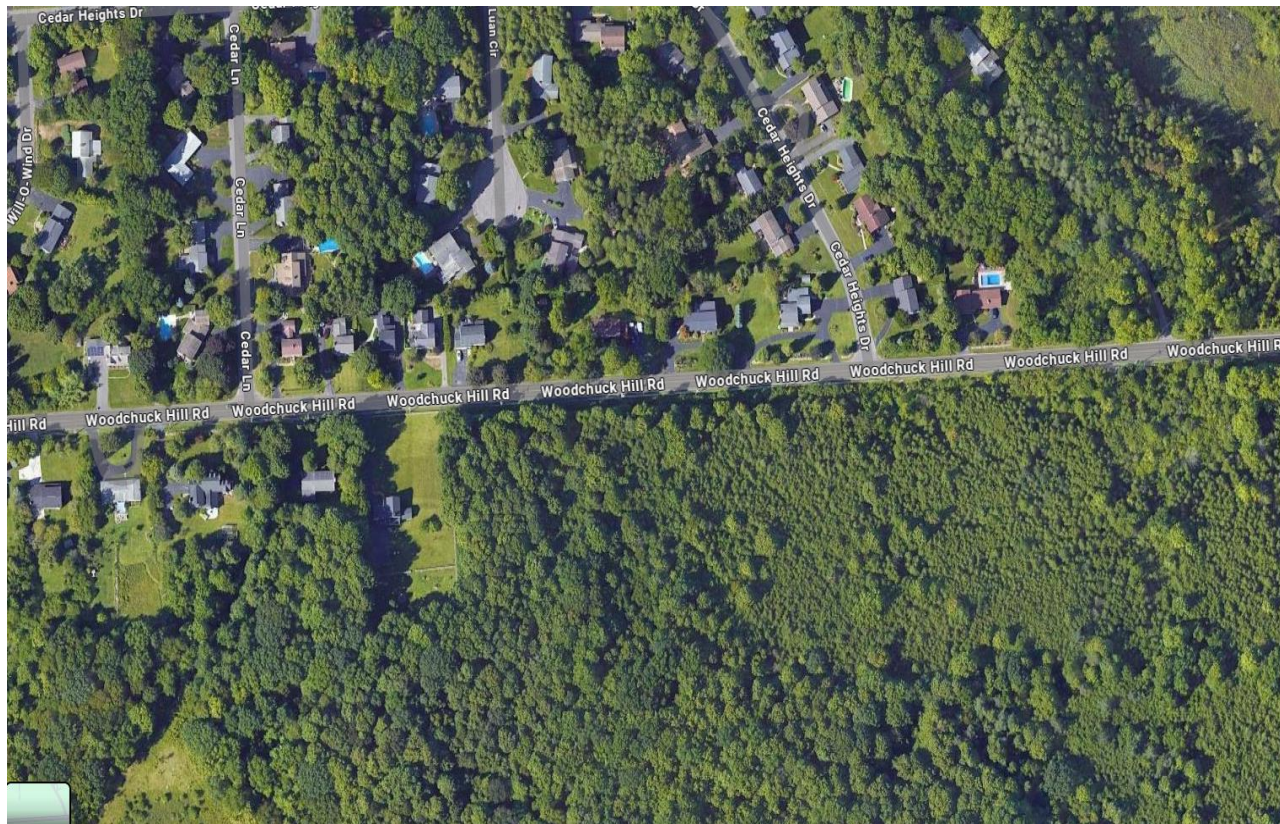
# Local Input on Subdivision

- Dewitt will also be primary in subdivision review issues
- Traffic, erosion control, increase in runoff, lot sizes meeting zoning requirements etc. will all be input local planning board provides to the EAF
- Public hearing on the subdivision should be coordinated with any hearing DEC requires
- Public hearing time frame requirements won't start until DEC has a complete application for the mining extension permit/modification



# What Happens.....?

- Possible different scenarios for this action
- **Subdivision** will probably be approved as it's not controversial or unusual in the area and it meets current zoning



# What Happens.....?

- **Wetlands permit** is questionable
  - It's 141 acres and a class 1 (most valuable/important) wetland
  - May be **permitted in a limited capacity**; depends on exactly where Hanson plans to mine
  - Certainly won't be approved for the entire property
  - May have to **create wetlands elsewhere** in the vicinity to replace those lost to project





and Forest Preserve

Hill Rd

Shalimar Way

Woodchuck Hill Rd

Woodchuck Hill Rd

Woodchuck Hill Rd

Woodchuck Hill Rd

Woodchuck Hill Rd

White Lake

Birchwood Ln

# What Happens.....?

- Mining extension is questionable since it would allow mining very close to residential areas, in wetlands and close to lands with conservation easements on them managed by the Central NY Land Trust (Three Falls Woods)
  - May be permitted but not throughout the entire piece of property
  - If granted DEC should work with towns and county to develop provisions for a performance bond and/or letter of credit for road repairs granted to county and towns.





Parking area for  
Three Falls  
Woods owned  
by CNY Land  
Trust



# When Must Decisions be Made?

- Remember **lead agency** must be made within 30 days of receipt of a ***complete application***
- Decision on **negative/positive declaration** must be made within another **20 days**
- Extensions can always be made by mutual agreement with the applicant
- ***Happens often as applicant doesn't want to be denied or told they have to do an EIS***



# SEQRA Resources on the DEC Website

General SEQRA Information <http://www.dec.ny.gov/permits/357.html>

Stepping Through SEQRA- Sequential Information on SEQRA

<http://www.dec.ny.gov/permits/6189.html>

SEQRA Handbook (Updated)

<http://www.dec.ny.gov/permits/6188.html>

SEQRA Forms - <http://www.dec.ny.gov/permits/6191.html>

Other SEQRA Publications

<http://www.dec.ny.gov/permits/26860.html>

Draft Model Short and Full Environmental Assessment Forms-

proposed <http://www.dec.ny.gov/permits/70393.html>



# For More Information

## NYS Department of Environmental Conservation, Division of Environmental Permits

625 Broadway, Albany, NY 12233

518-402-9167

<http://www.dec.ny.gov/permtis/357.html>

## NYS Department of State Division of Local Gov't

One Commerce Plaza

99 Washington Ave

Suite 1015

Albany, NY 12231

518-473-3355

518-474-6740 (Legal)

<http://www.dos.state.ny.us/lgss/index.htm>



Department of  
Environmental  
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# For More Information

## NYS DEC, Region 7 Offices

5786 Widewaters Parkway, Syracuse, NY  
13214-1867

315-426-7403 Public Outreach &  
Education

315-426- 7438 Environmental Permits

<http://www.dec.ny.gov/about/615.html>

reg7info@gw.dec.state.ny.us

