
NOYAC CIVIC COUNCIL

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COMMUNICATION - PRESERVATION - SUSTAINABILITY - EDUCATION - REPRESENTATION

February 13, 2020

Mary A Mackinnon
NYSDEC Region 1 Headquarters
SUNY @ Stony Brook, 50 Circle Rd
Stony Brook, NY 11790

Dear Ms. Mackinnon:

RE: Sand Land Corp
PO Box 1259
Wainscott, NY 11975 -1259
Facility:
Wainscott Sand and Gravel
Middle Line Hwy - Ne End
Bridgehampton, NY 11932
Application ID: 1-4736-00851/00001

Permit(s) Applied for:

Article 23 Title 27 Mined Land Reclamation

The Noyac Civic Council (“NCC”) is a local community organization of over 500+ members. We request that the NYS Department of Environmental Conservation (“DEC”) deny the January, 2020 Sand Land Mine’s (Wainscott Sand and Gravel) application* *to modify its existing permit to allow importation of crushed stone, crushed concrete aggregate, compost.* We request that this application be denied because it is illegal, in violation of the law, the Town Code, and three Appellate Court rulings. Bringing these materials on site would violate the DEC’s own promise that these materials would all be removed from the site permanently.

The Noyac Civic Council has spearheaded public outcry about operations at the Sand Land Mine for decades. As evidenced by public records, residents voiced their concerns about Sand Land’s operations in their backyard being conducted in a safe and limited fashion. This was reported in the November 17, 1961 edition of a Bridgehampton newspaper *The News*, Mrs. William Koch, President of the Noyac Civic Council, voiced the community’s concerns at the Zoning Board of Appeals meeting. The NCC was concerned that Bridgehampton Sand and Gravel’s (as it was called) “proposed operation of the sand and gravel pit would not constitute any ‘obnoxious use,’ and the determination said that no smoke, fumes or noise would result from the operation.” Fast forward to today, and the sad truth is that the residents were only too prescient in their thoughts. The mine has not only vastly

exceeded its operations as a mine but has gone on to become a mulching and grinding facility for landscape and demolition material. This use, which is clearly outside the scope of the mine's charter, has resulted in a cesspool of hazardous and toxic chemicals pooling on the property above the sole source aquifer for this region.

From 1962-2018 the Sand Land Mine operations have proceeded mostly unchecked and unregulated by DEC.

November 19, 2014: Public hearing before ALJ Molly McBride by DEC Commissioner Joseph Martens – Hearing was only scheduled after residents, the Town Board, the Town Supervisor, Highway Supervisor, NYS Assemblyman Thiele, NYS Senator LaValle, scientists, geologists and numerous environmental and citizen groups universally voiced their strong opposition to Sand Land's permit to expand. Noyac Civic Council and residents demanded that test wells and lycemeters be installed at this site.

December 11, 2014: Noyac Civic Council (NCC) letter to Commissioner Martens: Sand Land has not fulfilled its original obligations for the original permit. No reclamation has been done in a safe manner. The sides of the mine have been collapsing.

April 3, 2015: DEC issues Notice of Permit Denial stating that the environmental review and negative declaration “failed to consider the operation of a solid waste (C&D debris, yard waste and land clearing debris) management facility at the site and potential impacts from both operations”.

October 21, 2015: Issues Conference where issues were raised by petitioners. The NCC's grounds for denial include EAF and Negative Declaration Procedural Issues:

- Faulty SEQRA process. *Environmental assessment failed to include solid waste disposal at site.*
- Procedural requirement not followed—Town not given opportunity to comment on the water quality issue. As a result, the NCC was not given the opportunity to protect our water. NCC raised concerns that the disposal of construction and demolition debris is over our aquifer. Suffolk County Department of Health (SCDH) and NYSDEC found that such facilities had significant impacts to groundwater quality. *The negative declaration in connection with the SEQRA review for modification of the mining permit failed to consider this issue.*
- Significant negative impact from excessive truck traffic (300+ per day) using local and rural roads, exacerbates traffic, noise and dust in Noyac.

March 30, 2016: Appellate Division upheld 2012 ZBA decision: The processing of waste and debris are not permitted uses at the Mine.

August, 2017: Test wells installed by Suffolk County Department of Health Services.

January 26, 2018: DEC ALJ Judge McClymonds ruled that the Chief Administrator Officer (CAO) of Southampton (Town Supervisor Schneiderman) should tell the DEC whether or not mining or new mines are allowed in the Town. **The magnitude of the Mine's application to expand is so large that it is considered a new mine.**

July 13, 2018: Press Conference held to release the Suffolk County Health Department's final report on the “Investigation of Potential Impacts to Groundwater” at Wainscott Sand & Gravel/Sand Land Facility, 585 Middle Line Highway, Noyack, N.Y. (June 29, 2018). Excessive arsenic, lead, cobalt, manganese, radioactive metals found in the aquifer. Suffolk County Health Department begins free well testing for wells downgradient from the contamination.

July 18, 2018: Supervisor Schneiderman's (CAO) letter to Mr. Roger Evans, regional Permits Administrator, NYS DEC Region 1, states that new mines are not permitted in Southampton's Town Code.

Nov. 4, 2018: Expiration date for Sand Land’s mining permit renewal, issued by the DEC on Nov. 5, 2013.

There is compelling evidence for the Noyac Civic Council’s concern about the operations at the Sand Land Mine.

- The Suffolk County Health Dept. released a report in 2016, “**The Horse Block Road Study**” states that “**high levels of contaminants, carcinogens and pesticides have been found in the groundwater beneath 11 Vegetative/Organic Waste Management (VOWM) Sites.**” This report also states that the “**same chemical fingerprint was detected ...**” and “significantly validates that the Horseblock Road findings are not unique to the Horseblock Road site, and that VOWM operations can have significant adverse impacts on groundwater.” Sand Land has been continuing operations in this capacity even under a Temporary Restraining Order.
- The surface water samples taken from football field size pools at the Sand Land Mine contained DEET, Chlordane, radioactive nuclei, pesticides, heavy metals and carcinogens. Sand Land is located above our sole-source aquifer, our water supply on the East End.
- **On September 10, 2018**, the DEC notified the Mine that:
 1. Waste processing on the site is **ILLEGAL** under Town Code and supported by Court ruling (See Certificate of Occupancy).
 2. The mine is out of sand (See DEC Sept. 11, 2018 Modification of Permit letter).
 3. The operations at the site have already contaminated our groundwater (See *SCHD Investigation of the Impacts to Groundwater Quality from Compost/Vegetative Organic Waste Management Facilities in Suffolk County*, June 29, 2018 report)
 4. The facility's operations threaten the drinking water in a State-designated **Special Groundwater Overlay District**.

March, 2019 The Commissioner’s “path to closure” is not a path to closure because in this letter the Mine was given permission to mine sand 40 feet deeper and closer to our aquifer. This allows for contaminants to be released 40 feet closer to our groundwater. Mining here is practically a funnel for contaminants into our aquifer. The more they get to bring in, the more they dig deeper, the more potential to further contaminate our water supply.

The January 2020 application also asks for: “ In addition, this modification removes the provision allowing vegetative waste to be brought to the site for reclamation purposes. All future reclamation will be done using loam that already exists on the site.” The material on the site (including the so-called “loam”) contributes to the presence of nitrates, and heavy metals well above the groundwater and drinking water standards. Reclamation has not been done effectively. What reclamation plan has the Mine used? The sides of the mine collapse in a heavy rain. Invasive plants like mugworts are growing along the sides and do not hold the sides of the mine. Deer and other animals have difficulty climbing up the sides. This is not effective reclamation.

The NCC questions the State Environmental Quality Review (SEQR) Determination that has been issued by DEC. It states that the “Project is an Unlisted Action and will not have a significant impact on the environment. A Negative Declaration is on file. A coordinated review was not performed.” Did the DEC look at the contaminants found in the aquifer? Obviously not. Did DEC look at the impacts of the materials that are being brought on site before deciding to allow this expansion of the Mine’s operations? It did not. The DEC is ignoring the Suffolk County Health Department’s water test results. The SCDH is the gold standard for water testing, yet the DEC attempts to discredit the

results, when previously the DEC cited those results in its Sept. 11, 2018 letter. The SEQR review also states, “Four groundwater monitoring wells exist at the site to monitor any changes in ground water quality originating from the mine site.” These 4 wells are grossly inadequate and are not located where the contamination was found by the 14 SCDH’s wells. (Note: These 14 SCDH wells were installed after a court order was obtained and then promptly removed by Sand Land. Why were they removed?) **With the contamination found, monitoring wells and lycemeters MUST be installed immediately and permanently to constantly test what is seeping into our aquifer.**

The **excessive dust** emanating from the site is not healthy for residents and all those who pass through the area. The DEC is not addressing that issue also.

In the words of our NYS Assemblyman Fred Thiele, Jr., “Sand Land is a proven polluter and lawbreaker. The Suffolk County Dept. of Health Services issued a report conclusively demonstrating the groundwater under the mine is contaminated with pollutants associated the activities conducted at the Mine. The State courts have found that Sand Land has not complied with the Southampton Town zoning code. The state DEC acknowledges that state mining regulations have been previously violated resulting in a consent order and penalties.”

So why is the DEC now flip-flopping on allowing this company to apply for another permit modification to continue and expand its ILLEGAL operations? How can this company mine sand when there is “deminimus sand”?

Clean water is our economy, our life, our future, and a fragile resource that undoubtedly deserves the utmost precedence and care. How long will it take this plume of pollution to reach the bottom of our aquifer and then spread all over the Town and the East End. How long before the contaminants reach our bays and estuaries? Giving the Sand Land Mine another permit is at odds with the environmental protection mission entrusted to the DEC. No further expansion of this pre-existing, non-conforming facility should be allowed in our most important recharge are. Please deny this application and give us due process with a public hearing.

Sincerely,

Elena Loreto
President Noyac Civic Council

Attachment: Petition to Demand Clean Drinking Water: 1,155 signatures to date.
<https://www.change.org/demand-clean-water>

Cc/Town Supervisor Jay Schneiderman
Congressman Lee Zeldin
Assemblyman Fred Thiele, Jr.
Legislator Bridget Fleming
State Senator Ken LaValle
Gov. Andrew Cuomo
County Exec. Bellone
Health Commissioner James Tomarken
GEE President Robert DeLuca
CCE Adrienne Esposito
Southampton Town Civic and CAC Chair Andrea Spilka

Demand Clean Drinking Water!



 [Noyac Civic Council](#) started this petition to [NYS DEC Region 1 Headquarters Mary A. Mackinnon](#)

The public wants to know what the DEC is doing to protect our groundwater and clean up found contamination.

We, the undersigned, DEMAND that the NYS DEC:

- **Deny the January, 2020 Sand Land Mine's application*** *[to modify its existing permit to allow importation of crushed stone, crushed concrete aggregate, compost]* because it is illegal, in violation of the law, the Town Code, and three Appellate Court rulings. ([click here to read application](#))
- **Deny bringing these materials on site** because it violates the DEC's own promise that these materials would all be removed from the site permanently.
- **Immediately perform quarterly groundwater testing** via Suffolk County Dept. of Health (SCDH) on the site.
- **Hold a Public Hearing and the immediate and complete release of ALL groundwater testing done on the site.**

1,155 have signed. Let's get to 1,500!



 Kevin McAllister signed 6 minutes ago

 Mike Anthony signed 41 minutes ago




NYS DEC: Demand Clean Water!

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