



TOWN OF SWAMPSCOTT  
SELECT BOARD REGULAR SESSION MINUTES  
JANUARY 25, 2023 – 5:30 P.M.  
VIRTUALLY

**SELECT BOARD MEMBERS PRESENT:** NEAL DUFFY, MARY ELLEN FLETCHER, DAVID GRISHMAN, KATIE PHELAN, PETER SPELLIOS

**MEMBERS ABSENT:** NONE

**OTHER TOWN OFFICIALS PRESENT:** SEAN FITZGERALD, TOWN ADMINISTRATOR, JOHN PICARIELLO, ERAC CHAIR

**OTHER:** NONE

**A. NEW & OLD BUSINESS:**

**1. AGGREGATE INDUSTRIES (AI) EARTH REMOVAL PERMIT PUBLIC HEARING:**

UPON **MOTION**, DULY MADE BY DAVID GRISHMAN, SECONDED BY PETER SPELLIOS, IT WAS UNANIMOUSLY **VOTED** TO OPEN THE PUBLIC HEARING FOR AGGREGATE INDUSTRIES' 2021/2022 EARTH REMOVAL PERMIT EXTENSION AT 5:33 P.M.: ALL IN FAVOR: YES. ANY OPPOSED: NO. MOTION CARRIES.

MR. DUFFY SPOKE ABOUT AI'S PERMIT WHICH IS EXPIRING AT THE END OF JANUARY AS WELL AS THE LITIGATION BETWEEN AGGREGATE & THE TOWN. THE PLAN TONIGHT IS TO EXTEND THE PERMIT TO JUNE 30, 2023.

AARON D. ROSENBERG, SHEEHAN PHINNEY, ATTORNEY FOR AI: REITERATED THAT AI HAS BEEN WILLING TO TALK TO THE TOWN ABOUT THE CONDITIONS ON THE PERMIT SINCE FEBRUARY 2022. NOTHING SAID WILL AFFECT THE LITIGATION. THAT MEETING HASN'T HAPPENED AND HE HASN'T HEARD BACK FROM ATTY. SIMMS. AI CONTINUES TO ENGAGE WITH ERAC ON EVERYTHING RELATING TO THE QUARRY, INCLUDING ATTENDING MEETINGS & ANSWERING ALL OF THEIR QUESTIONS.

UPON **MOTION**, DULY MADE BY PETER SPELLIOS, SECONDED BY DAVID GRISHMAN, IT WAS UNANIMOUSLY **VOTED** TO CLOSE THE PUBLIC HEARING FOR AGGREGATE INDUSTRIES' 2021/2022 EARTH REMOVAL PERMIT EXTENSION AT 5:39 P.M.: ALL IN FAVOR: YES. ANY OPPOSED: NO. MOTION CARRIES.

UPON **MOTION**, DULY MADE BY PETER SPELLIOS, SECONDED BY DAVID GRISHMAN, IT WAS UNANIMOUSLY **VOTED** TO APPROVE AN EXTENSION OF AGGREGATE INDUSTRIES' 2021/2022 EARTH REMOVAL PERMIT. THE PERMIT SHALL EXPIRE ON JUNE 30, 2023, WITH THE UNDERSTANDING THAT THERE IS NO CHANGE IN THE EXISTING PERMIT EXCEPT FOR THE EXPIRATION DATE: ALL IN FAVOR: YES. ANY OPPOSED: NO. MOTION CARRIES.

UPON **MOTION**, DULY MADE BY DAVID GRISHMAN, SECONDED BY PETER SPELLIOS, IT WAS UNANIMOUSLY **VOTED** TO APPROVE JAY PERKINS, PE, GEOTECHNICAL ENGINEER WITH BRIERLEY ASSOCIATES, AS THE CONSULTANT IN AGGREGATE INDUSTRIES' ANNUAL BLAST REVIEW: ALL IN FAVOR: YES. ANY OPPOSED: NO. MOTION CARRIES.

UPON **MOTION**, DULY MADE BY DAVID GRISHMAN, SECONDED BY PETER SPELLIOS, IT WAS UNANIMOUSLY **VOTED**: TO ADJOURN AT 5:41 P.M.: ALL IN FAVOR: YES. ANY OPPOSED: NO. MOTION CARRIES.

TRUE ATTEST,

*Dianne Marchese*

DIANNE MARCHESE, ADMINISTRATIVE ASSISTANT TO THE TOWN ADMINISTRATOR & SELECT BOARD

APPROVED BY THE SELECT BOARD 2/1/23

ATTACHMENTS:

AGGREGATE INDUSTRIES 2021/2022 EARTH REMOVAL PERMIT

TOWN OF SWAMPSCOTT, MASSACHUSETTS  
EXTENSION OF EARTH REMOVAL PERMIT  
FOR  
AGGREGATE INDUSTRIES NORTHEAST REGION, INC.

January 28, 2023 - June 30, 2023

The Select Board of the Town of Swampscott (“the Town”) pursuant to the Town Earth Removal By-Law, Article XIII, and the recommendations of the Earth Removal Advisory Committee (“ERAC”), and all other applicable powers and authority vested in the Select Board, hereby grant this Earth Removal Permit (“Permit”) to Aggregate Industries Northeast Region, Inc. (“AI”) for operations occurring at its quarry located in Swampscott, Massachusetts (the “Quarry”), for the period from January 28, 2023 to June 30, 2023, upon the terms and conditions set forth herein. This Permit incorporates by reference AI’s permit application and materials submitted therewith, but only to the extent that such application and materials are consistent with the terms and conditions of this Permit.

All documentation that is required to be submitted to the ERAC shall be forwarded to the Select Board’s Office. All submitted documents shall be posted on the Town Website and shall be available for public viewing at the Swampscott Town Hall by contacting the Town’s Office of Community Development.

1.     Excavation Area. The area of proposed excavation shall be limited to the areas designated on the plan submitted by AI entitled “2021-2022 Development Plan of Land in Salem & Swampscott, MA,” dated March 8, 2021, and “Quarry Cross-Section Plan in Salem, MA,” dated March 23, 2021, both prepared for Aggregate Industries by Hancock Survey Associates, 185 Centre Street, Danvers, MA 01923. If the areas designated for excavation are modified during the period of the current permit, AI shall provide updated plans to ERAC. After review by ERAC and approval the Select Board, the areas of proposed excavation shall thereafter be limited to the modified areas designated on the updated plans for the remaining period of the permit. If actual excavation exceeds the areas designated on the original or modified plans, AI shall notify ERAC as soon as possible but no later than two days after the event. Any excavation outside an area designated shall result in the immediate cessation of work in that outside area and a public hearing before the Select Board.

2.     Street Sweeping. AI shall street sweep, clean all dirt and debris from the Danvers Road bridge to the driving range, all quarry roadways, the Danvers Road bridge on Essex Street to the Lynn/Swampscott line and the Danvers Road bridge to Alvin Road at least once every week, or more often if needed per request of ERAC or the Swampscott Town Administrator. Sidewalks along the above-mentioned roads shall be maintained clean of stones and dirt spillage. Freezing weather will waive this sweeping requirement but shall not relieve AI of its requirement to keep

the aforementioned areas cleaned of dirt and debris spillage. Sweeping is expected to be curb to curb unless a parked car is in the way.

3. Dust.

AI shall operate within local, state and federal standards concerning safe levels of dust and shall use reasonable efforts to reduce dust emanating from the quarry and its roads to a minimum, including but not limited to:

- a. AI shall operate the automated wheelwash at all times, weather and maintenance permitting, and all vehicles (exempting passenger vehicles and pick-up trucks) shall pass through the wheelwash prior to exiting the Quarry. Should maintenance be required on the wheelwash, the Select Board and ERAC shall be notified. If during the periods that the wheelwash is required to be operational it becomes mechanically disabled for an extended period (4 or more hours in any day) AI should use its best efforts to provide a substitute spraying of vehicles exiting the Quarry until such time as the wheelwash becomes operational again; and
- b. AI shall investigate and submit to ERAC and the Select Board a plan for improved dust control at entranceway to quarry. Such plan shall be submitted with AI's application for the next permit and a requirement to implement such plan shall be included as a requirement of that permit.

4. Particulate (Air) Monitoring.

To maintain compliance with any applicable local, state and federal air pollution control requirements, including Massachusetts Air Pollution Control Regulations, 310 CMR 7.00, upon direction of the Town, perimeter particulate monitoring and analytical testing pursuant to established and accepted protocols shall be conducted by an independent, professionally trained air quality consultant to test for concentrations of suspended particulates at a minimum of four appropriate perimeter locations (one upwind of the quarrying and other sand/gravel operations, one downwind, and two at crosswinds) at the Quarry. The consultant shall determine the predominant wind directions at the Quarry on an annual basis and develop a wind rose diagram that is presented in the annual permit application to ERAC and the Select Board. The consultant shall be chosen by the Select Board at its sole discretion with input from ERAC. The Select Board may solicit recommendation from AI. AI shall fund a G.L. c. 44, 53G1/2 account to pay for the consultant and testing.

The Fugitive Dust (PM<sub>10</sub>) tests shall be conducted three times during the permit's term (once during the month of November, once in the spring, and once in the summer) during peak operational periods between the hours of 6 A.M. and 10 P.M, with prior notice to the Board of Health, Select Board, and ERAC. The Heavy Metals tests shall be conducted once a year. Testing protocol and frequency for subsequent years will be established by the Board of Health based on the results of the first- full year of testing.

The particulate samples shall be sampled for and submitted for analytical testing of the following: (1) Fugitive Dust (PM<sub>10</sub>) and (2) Heavy Metals; including: antimony, arsenic,

beryllium, cadmium, chromium, cobalt, copper, lead, mercury, manganese, nickel, selenium and zinc. Testing for both will be in accordance with the 40 CFR 50, Appendix J FRM methodologies. The particulate testing results shall be summarized in a table and compared to National Ambient Air Quality Standard (NAAQS). Test results that have concentrations in excess of the selected occupational or residential exposure standards shall mandate corrective changes by the Applicant to reduce such levels below the standards. All corrective changes must be accomplished within 90 days of the receipt of the results, unless a longer period is approved by Select Board with input from ERAC, and a supplemental report is to be submitted within 30 days of the implementation of the corrective measures.

All particulate testing records shall be maintained by AI and shall be submitted to ERAC and the Select Board within 14 days of completion as well as provided in the annual permit application submitted to the ERAC and the Select Board in accordance with this Permit, and shall be available for public viewing at Town Hall and on the Town Website.

Upon receipt of new information, and after review by ERAC and the Select Board, and consultation with AI, the Select Board may require reasonable dust sampling and testing in addition to the air monitoring requirements above. Depending on test results, testing frequency can be reviewed.

#### 5. Noise.

AI shall operate within local, state and federal standards concerning safe levels of noise and shall use reasonable efforts to reduce noise emanating from the quarry to a minimum. In order to accomplish this, AI shall establish and implement the following:

a. Noise Management Plan – AI shall prepare an ongoing noise management plan that includes: (1) the applicable local, state and federal noise standards; (2) the actions AI will take if such noise standards are exceeded; and (3) activities that are unacceptable and not allowed because they are expected to exceed the noise levels. The Noise Management Plan shall document the remedial actions taken by the AI when applicable standards are exceeded as well as establish a plan for further reducing noise levels at neighboring properties. The Noise Management Plan shall also include a process for addressing neighborhood complaints of high noise levels. This Noise Management Plan shall be approved by ERAC.

b. Noise Testing –To evaluate noise levels produced by quarry operations an independent, professionally trained air quality consultant will conduct testing three times annually (once in the spring, once in the summer and once in November, with each occurring during full operations, and with advance notice to ERAC and the Select Board). During such testing, noise shall be monitored continuously for a period of at least 24 hours during representative quarry operations. The results of testing may warrant, upon approval by ERAC and the Select Board, less testing in future permits. The consultant shall be chosen by the Select Board at its sole discretion with input from ERAC. The Select Board may solicit recommendation from AI. AI shall fund a G.L. c. 44, 53G1/2 account to pay for the consultant and testing.

c. Noise Report - AI shall report the noise testing data, results, and recommendations to ERAC and the Select Board within 10 business days of receipt of the report.

Upon receipt of documented noise complaints, and after review by ERAC and the Select Board, and consultation with AI, the Select Board may, during the term of this Permit, require additional noise testing and abatement to address the specific noise complaints.

6. Fences. AI shall maintain a perimeter fence around the exterior of the Quarry to protect the safety of the surrounding neighbors and prevent public access to the rim of the quarry. AI shall maintain the integrity of its perimeter fence and patrol the fence as needed, no less than once every month, and make repairs within 48 hours of identifying or receiving notice that a portion of the fence has been breached. Further, AI should maintain the areas such that there shall not be access under any fencing.

7. Indemnity. AI agrees to hold the Town harmless for any damages arising from the Earth Removal Operation. In addition, AI will provide a Certificate of Insurance for at least one million dollars, single limit, naming the Town as an additional insured. AI shall defend, indemnify and hold harmless the Town and its officers, agents, and all employees from and against claims arising directly or indirectly from the Earth Removal Operation. Further, AI shall defend, indemnify and hold harmless the Town with respect to any damages, expenses, or claims arising from or in connection with any of the work performed or to be performed under this Permit. This shall not be construed as a limitation of the AI's liability under this Permit or as otherwise provided by law.

8. Trucks and Access Routes and Methods.

- a. All vehicles exiting the facilities excluding passenger vehicles and pickup trucks that are hauling material shall be tarped as required by Massachusetts regulations.
- b. All trucks carrying material from the Quarry shall be instructed by AI to seek the most expeditious route as practical in avoiding residential streets and neighborhoods to their destination from the Quarry.

9. Hours of Operation. The following hours of operation are conditioned upon the continued commitment of AI to institute noise abatement improvements and general overall improvement in the operation of the business. Said hours of operation shall be strictly adhered to during the term of this Permit.

- a. Primary Crushing Plant. The primary crushing plant may crush stone between the hours of 7:00 A. M. and 9:00 P. M. Monday through Friday. Saturday crushing hours will be 7:30 A. M. to 4:00 P. M. Loaders, trucks and other motor vehicles associated with this plant shall not operate in the quarry before the 7:00 A. M. and 7:30 A. M. starting times. During the period from Memorial Day to Labor Day over the term covered by this Permit, the hours of operation shall be limited to 7:00 AM to 6:00 PM Monday through Friday

- b. Secondary Crushing Plant. The secondary crushing plant may crush stone between the hours of 7:00 A. M. and 9:00 P. M. Monday through Friday. Saturday crushing hours will be between 7:30 A. M. and 4:30 P. M.; except, that during the period from Memorial Day to Labor Day covered by this Permit, the hours of operation shall be limited to 7:00 AM to 6:00 PM Monday through Friday.
- c. Drilling Operations. Drilling operations may be conducted between the hours of 7:00 A. M. and 7:00 P. M. Monday through Friday. Saturday drilling hours will be between 7:30 A. M. and 4:00 P. M.
- d. Blasting Operations. All blasts must be scheduled to be shot between the hours of 10:00 A. M. and 2:00 P. M. Monday through Friday to avoid thermal inversions. Weather and safety considerations may supersede this time frame. Blasting shall not occur on severely overcast days unless early weather forecasts had indicated favorable conditions.
- e. Quarry Stockpiling Operations. The Quarry Stockpiling and moving of materials may be conducted between 6:00 A. M. and 10:00 P. M. Monday through Friday. Saturday hours for stockpiling will be between 7:30 A. M. and 4:30 P. M.
- f. Customer Sales. The sale of materials and loading of trucks that exit the Quarry shall be between the hours of 6:00 A. M. and 10:00 P. M. Monday through Friday. Saturday hours for sales shall be between 7:00 A. M. and 4:30 P. M. Trucks will not proceed beyond the employee entrance prior to 6:00 A. M. on weekdays and 7:00 A. M. on weekends. AI shall limit operations after 5:30 P.M. Monday through Friday to service contracts for Governmental Agencies on public projects that require serving those contracts after 5:00 P.M. may be permitted. On such occasions where customer sales will occur after 5:30 P.M., AI shall restrict the use of Essex Street by said trucks. Via electronic mail correspondence, and phone AI will notify the Town Administrator and the Chairman of the ERAC not less than twenty-four hours in advance of any such occasion and will provide information on which public projects require the sale of materials after 5:00 P.M. and the volume of truck traffic and will maintain logs for these trucks based on an hourly basis. The day-to-day impact of the after 5:00 P.M. sales and trucking operations shall be monitored by the ERAC and reported to the permit granting authority (the Select Board).
- g. Manufactured Sand Plant. The Manufactured Sand Plant (MSP) may operate between the hours of 7:00 A.M., and 10:00 P.M., Monday through Friday, Saturday operating hours of 7:30 A.M., and 4:30 P.M. However, the MSP may operate longer hours upon request to, and written approval and monitoring by the ERAC, provided the ERAC is satisfied that such extended operating hours shall not be disruptive to the neighbor's quiet enjoyment of their property. Should the ERAC at any time during the approved extended operating hours permitted hereby, determine through the review of neighborhood complaints or based upon ERAC's own observations, that such operating hours are disruptive to the neighbors quiet enjoyment, the ERAC in its sole discretion after a meeting, shall order through its Chairman by telephone, facsimile, or in writing that said extended hours are revoked, then AI shall immediately upon receipt of

notification cease and desist operating the MSP during the extended hours. In all instances of the request by AI for such extended hours, ERAC shall notify the Select Board at least seventy-two (72) hours prior to the granting to any such extension of operating hours.

- h. **Sunday and Holiday Hours.** No Sunday or Holiday Hours are permitted except as provided in subparagraph 9.i. or upon written approval from the Select Board or its designee. The term “Holidays” includes the following: New Year’s Day, January 1; Martin Luther King Day, (3rd Monday of January); President’s Day, (3rd Monday of February); Patriot’s Day, (3rd Monday of April); Memorial Day Observed, (4th Monday of May); Independence Day, July 4; Labor Day, (1st Monday in September); Columbus Day, (2nd Monday in October); Veteran’s Day, November 11; Thanksgiving Day, (4th Thursday in November); and Christmas Day, December 25. If a Holiday falls on a Saturday or Sunday, then the Holiday will be observed in accordance with Massachusetts law. AI may designate the Friday after Thanksgiving as a Holiday in place of a listed Holiday upon written notice to the Select Board prior to working on the listed Holiday.
- i. **Quiet Time.** No trucks or equipment larger than  $\frac{3}{4}$  ton are allowed in the quarry past the bin area from 10:00 p. M. To 6:00 a.m. It is agreed and understood that this is the neighbors’ quiet time. All equipment and production plants may undergo warming-up, cooling down, oiling, greasing, preventative maintenance, and general repairs outside of the permitted hours; however, if it is determined that the related noise has become unreasonable, this provision shall be subject to interim revisions.
- j. **Crushing Plants.** The Primary Crushing Plant and/or Secondary Crushing Plant may operate longer hours during the period from Memorial Day to Labor Day upon completion of noise mitigations improvements such as:
  - a. acoustically enclosing the two HP-400 crushers;
  - b. acoustically enclosing the 7-foot crusher and all chute sections above it;
  - c. completing alternative noise mitigation improvements which have been submitted to, and approved by the ERAC, and filed with the Select Board; or
  - d. completing a noise study using protocols agreed to by ERAC and AI, and filed with the Select Board.

Upon completion of such noise mitigation improvements, the Primary Crushing Plant and/or Secondary Crushing Plant may operate longer hours upon request to, and written approval and monitoring by the ERAC, provided the ERAC is satisfied that such extended operating hours shall not be disruptive to the neighbors’ quiet enjoyment of their property. Should the ERAC at any time during the approved extended operating hours permitted hereby, determine through the review of neighborhood complaints or based upon ERAC’s own observations, that such operating hours are disruptive to the neighbors quiet enjoyment, the ERAC in its sole discretion after a meeting, shall order through its Chairman by telephone, facsimile, or in writing that said extended hours are revoked, then AI shall immediately upon receipt of notification cease and desist operating the Primary Crushing Plant, and/or Secondary Crushing Plant, during the extended hours.

In all instances of the request by AI for such extended hours, ERAC shall notify the Select Board at least seventy-two (72) hours prior to the granting to any such extension of operating hours.

10. Blasting. All Blasting will be performed in accordance with 527 CMR 1.0 Massachusetts Comprehensive Fire Prevention Code, referred to as the Code and adopts and incorporates the provisions of the National Fire Protection Association (NFPA) 495 Explosives Materials Code and all other applicable local, state and federal regulations and requirements. In the event of any conflict, the stricter requirement shall govern. Blasting occurring in Salem but impacting Swampscott shall be subject to this permit
  - a. AI will be limited to 50 blasts per year, and not more than two in any one week.; however, it may submit a request, for ERAC review and Select Board approval, to perform an additional blast based upon market demand. Approval of such request shall not be unreasonably withheld;
  - b. AI will ensure that the blasting company maintains a Blaster's Log that includes all listed requirements 1 thru 18 of 527 CMR 1.0:65.9.14.1.3 for each blast;
  - c. Blast hole diameters shall not exceed 4" for blasts;
  - d. Blast patterns shall be designed to direct ground vibration energy away from the nearest residential areas, whenever possible;
  - e. In consideration of potential human annoyance, ERAC has adopted 527 CMR 1.0:65.9.13 Alternative Allowable Vibration Levels with AI to ensure that the ground vibrations limits with a maximum intensity of motion in the vertical, longitudinal and transverse directions (PPV), measured in the ground at any building or other structure that shall not exceed 0.5 inches per second at any frequency of motion Should a blast have vibration results above 0.5"/s, AI shall alert within ERAC 48 hours, and AI shall have the blasting company perform a formal review to identify the reasons for the higher vibration and to recommend improvement actions.
  - f. Blast designs shall be engineered to achieve ground vibrations having a DOMINANT frequency of equal to or greater than 30 Hz;
  - g. AI will maintain the air-overpressure to not exceed 130 dB(L) at any occupied structure. Air-overpressure monitoring shall take place at the nearest residential or business structures susceptible to damage or claims of annoyance. Measurements of blast-induced air-overpressure shall be done in accordance with ISEE - Field Practice Guidelines for Blasting Seismographs 2015;
  - h. Flyrock Control – AI shall implement methods and procedures as required to protect abutting public roadways, residential/commercial properties and the general public from flyrock. AI must be prepared to place blast mats and completely cover the blast area to prevent such occurrence. As per 527 CMR 1.0: 65.9.8.4, blasting mats shall be required if



the material to be blasted lies within 100 feet of a highway, an inhabited building or structure not under the control of the project;

- i. In addition to 527 CMR 1.0:65.9.8.4 thru 12, AI shall implement the following site safety and security procedures as necessary depending on the location of the blast:
  1. Lightening detection;
  2. Worker safety meetings prior to each blast;
  3. Fire Department, at the expense of the AI on site during every blast;
  4. Provide designated access points and safe areas and sentry locations around blast area;
  5. Charged Hole Area: posted, guarded and barricaded;
  6. Warning Signals: three (5 minutes), two (1 minute), one (all clear);
  7. Closest Street: closed to vehicle and pedestrian traffic;
  8. Shot Cast Control (flyrock): matting and blast rock berms, if necessary; and
  9. Handle misfires in accordance with I.M.E. Safety Library Publication 17.
  
- j. Blasts that exceed the maximum allowable ground vibration limits or air-blast limit as establish in this permit, or eject flyrock beyond the designated safe zone and or property line shall be immediately reported to ERAC and the Fire Department. If the vibration limits or air overpressure limits are exceeded, AI shall, prior to the next blast, forward to ERAC and the Fire Department a written statement describing the cause of the exceedance and present blast design modifications that will prevent an exceedance on future blasts, suspension and/or fines in accordance with G.L. c. 40, § 21(17);

11. Seismograph Monitoring and Reporting. AI is required to submit to the Town weekly seismograph report readings which may be posted on the Town's Website. The ERAC shall review with AI the selection and monitoring of the seismograph reading vendor.

AI shall use at least four seismographs to monitor each blast. Placement, set-up and use of seismograph monitoring equipment will be as specified by the manufacturer and delineated in the ISEE Field Practice Guidelines for Blasting Seismographs, 2015 and also referenced in CMR1.0: 65 NFPA 495 11.1.4. The operator shall describe the precise location of the seismograph relative to the nearest house or structure, the precise distance to the closest blast hole, field conditions, and setup procedures in the monitoring record for each blast. One seismograph shall be placed 50 Nichols Street; a second seismograph shall be placed at 13 Weatherly Drive. A third seismograph shall be placed at 451 Essex Street. A fourth seismograph shall be placed at 1 Red Jacket Lane. The location of these seismographs may be relocated and/or one additional seismograph may be added if requested by residents or required by the Town, the location to be determined prior to the blast by the appropriate representatives of the Town and AI. Any change in seismograph location(s) shall be made upon consultation with the appropriate representatives of the Town.

Independent Consultant - An Independent Blasting Consultant, as approved by ERAC and/or Fire Department personnel, who shall, on an annual basis, review the seismograph records from the preceding year and make design recommendations to maintain vibration levels below required limits, and minimize the impact from vibrations and air blasts on the surrounding neighborhood, during the upcoming year based on the locations at which AI intends to blast. At the beginning of each calendar year of blasting, representatives of AI, the licensed Blaster, and the Independent Consultant shall meet with the Swampscott Fire Department to review the quarry's blasting plans for the upcoming year. The consultant shall be chosen by the Select Board at its sole discretion with input from ERAC. The Select Board may solicit recommendation from AI. AI shall fund a G.L. c. 44, 53G1/2 account to pay for the consultant and testing.

Report- The Independent Blasting Consultant retained by AI shall prepare a report that will be included in the Annual Report submitted pursuant to this Permit. The report shall, at a minimum, include a summary table of all pertinent blast design and monitoring data from each blast performed during the previous year. The report shall also include a summary graph of the peak particle velocity versus frequency in a form approved by the Fire Department for all blasts, and include the vibration limits given in these conditions. The report shall describe the blast design factors that were successful and those that were not successful in achieving compliance with ground vibration and air-blast limits. If ground vibrations or airblast levels exceed the applicable limits, the report shall describe the cause of the violation and blast design modifications that were used to prevent violations in future blast events. If flyrock occurred, the report shall describe the design modifications that were used to prevent future incidents. The report shall also evaluate each blast for which a written complaint was filed with Town. For each such blast, the report shall identify the main factors in the blast design that could have caused the complaint, and provide blast design recommendations to reduce the likelihood of similar complaints from future blast events.

12. Suspension of Blasting - Blasting operations may be suspended by order of the Fire Department in the event of a flyrock occurrence and by Select Board upon recommendation of ERAC or the Fire Department for any of the following reasons:
  - a. Air-overpressure and ground vibration levels exceed limits established under this permit;
  - b. Blasting endangers the stability of or causes damage to adjacent structures, slopes or utilities;
  - c. Failure of AI to adhere to the submitted and accepted blast plan; or
  - d. Any other reasons as determined by the Fire Department and Blasting Consultant.

Blasting operations shall not resume until the ERAC has approved the AI's revised blasting plan with modifications correcting the conditions causing the suspension. Additionally, fines may be imposed in accordance with G.L. c 40, §21(17).

13. Federal Test Results. AI shall provide the ERAC with copies of all test

results and reports from the FEDERAL MINE SAFETY and HEALTH ADMINISTRATION that are currently conducted at the Quarry. Copies of all tests are to be forwarded to the ERAC and will be posted on the Town website.

14. Water Discharge. AI shall provide the ERAC and the Board of Health with copies of all results of the monitoring presently being performed pursuant to its current federally issued National Pollutant Discharge Elimination System permit. Copies of the monitoring reports are to be forwarded to the ERAC and will be posted on the Town website.

15. Buffer Zone. With AI's submission of its next permit application, AI shall include an updated map of the greenbelt buffer that shows all undisturbed land owned or occupied by AI. AI shall maintain the greenbelt buffer as a natural buffer for safety and to buffer noise and dust emanating from earth removal operations. AI granted an easement to the Town of Swampscott for the purposes of passive and active recreation for a parcel of land within the Greenbelt Buffer. In no event shall the Buffer decrease in size.

16. Emergency Contact Personnel. AI shall provide ERAC, the Swampscott Fire Department and the Select Board with the names and telephone numbers of two representatives that can be contact in the event of a problem or when otherwise deemed necessary. ERAC shall be promptly notified of any changes to the designated AI representatives.

17. Closure Planning. In compliance with the previous permit, AI prepared and provided to the Select Board in December 2018 a "Scope of Work" for development of long-term plan to close the quarry ("Closure Plan"). The "Scope of Work" provides for review of the existing site operating conditions and the potential reuse options and fill alternatives every five years until such time as it is determined the life expectancy of the Quarry is such that a Quarry Closure Plan is needed. When it is determined that a Quarry Closure Plan is needed, Community Development and Zoning issues in the two municipalities will need to be assessed and addressed by the parties. This assessment will be reviewed by AI and will assist in determining the final Quarry Closure Plan. AI will utilize planning and engineering professionals as needed to develop the Quarry Closure Plan, a process that is anticipated to take 12 to 18 months. Representatives of AI, upon reasonable notice, and at times convenient to the parties, shall meet to discuss and revise as necessary the "Scope of Work" and/or the resulting Closure Plan.

Prior to the implementation of the Quarry Closure Plan, and within 120 days after the issuance of this permit, AI shall deliver a surety bond or a Letter of Credit to the Town in the amount of \$ 500,000 to insure that, in any event, the existing operation will be sufficiently and adequately closed with all equipment removed and the area made safe upon the cessation of use. Any closure of the quarry shall be at AI's sole cost and expense, in accordance with all applicable laws, and in a safe and environmentally controlled process to manage long-term safety, security, and maintenance of the Property. This obligation shall survive the termination of this Permit

18. Official Visits. The ERAC, as well as other Town Representatives shall be allowed access to all parts of the AI property for all reasonable or necessary purposes after providing reasonable notice to AI, unless immediate access is needed in response to an emergency. All Town Representatives will report to the Scale House and/or the Quarry office upon entering the property.

19. Expiration and Renewal. This Permit shall expire at 12:00 midnight on June 30, 2022. If AI intends to seek a renewal of this Permit, its application together with the appropriate supporting data must be submitted to the ERAC not later than March 31, 2022. AI must be in substantial compliance with this Permit before a new permit or an extension or renewal of this Permit will be granted. The Permit application supporting documentation shall include, at a minimum, the following:

- a. A topographic survey plan of the Quarry prepared by a Registered Land Surveyor including the current elevations at the various points of depth in the Quarry;
- b. A proposed plan for the upcoming year which will project the area of the Quarry reasonably anticipated by AI to be subject to blasting, drilling, and excavation for the upcoming year;
- c. A map showing property lines, names and addresses of all abutting property owners within three hundred (300) feet of the property line, including those across any streets;
- d. A detailed description of any unresolved complaints made by residents during the previous year and AI's planned response to such complaints;
- e. Air Quality Tests and other monitoring required to be performed by the terms of this Permit;
- f. An updated aerial photograph of the Quarry; and
- g. A list of company Holidays for the term of the permit to be included as an appendix to the permit;

20. Surety Bond. AI shall provide a surety bond in the amount of \$100,000.00 to insure compliance with the terms, conditions, limitations and safeguards of this Permit, and to indemnify the Town for any harm to any well, road, wetland or other resource caused by AI's operations including without limitation for the equipment used on the premises and all ancillary activities. The requirement of a surety bond shall not be deemed to be the Town's exclusive remedy in the event of any breach of this Permit by AI nor in the event of any intentional wrongdoing or any negligent act or omission by AI or by any person or entity for whose conduct AI may be held responsible.

21. Permit Fee. A fee in the amount of \$500.00 shall be paid by AI for the administration of

this Permit and the Earth Removal By-Law on which it is based. This fee may be reduced at the sole discretion of the Select Board.

22. Landscaping. AI is required to maintain and replace, as necessary, any and all landscaping and plantings in all areas where landscaping and plantings are used for screening of the Quarry from public view, including but not limited to the perimeter of the Quarry along Danvers Road.
23. Inspections of Property. AI shall conduct quarterly visual surveys of all of AI properties, including without limitation the areas in the Greenbelt Buffer, and will remove any trash, or other dumped materials and maintain the Greenbelt Buffer property in its present condition.
24. Annual Meeting with Residents. AI shall meet not less than once annually, in the month of March or thereabouts, for the purpose of discussing issues relating to operations of the Quarry with residents.
25. Pre-Blast Surveys. By August 1, 2021, AI shall send an information packet that provides claim information and an offer for a pre-blast survey similar to the one the company sent on February 5, 2020 to the addresses listed in that letter.
26. Damage Claim Report. In the event that a claim of damage is filed with the Fire Department, AI, or a subcontractor, AI shall review the blast design and monitoring records and prepare a summary of findings report. All damage claims shall also be filed with ERAC and the Select Board. The report shall contain all relevant information relating to the blast, including but not limited to, a graph sufficient to measure and evaluate a blasting exposure at specific locations for all blasts, in a form approved by the Fire Department, and includes the vibration limits given in these conditions. A separate graph shall be made for each residence that files a written claim of damage. If insufficient data are available at a given residence to make such a graph, AI shall prepare graphs of peak particle velocity versus scaled distance and air-blast overpressure versus scaled distance and use them to estimate probable vibration levels and air-blast overpressure level at the residence. A copy of this report and all findings shall be provided to the claimant, the Fire Department, ERAC, and the Select Board. AI shall send copies of all Claim Reports (referenced below) and supporting materials to ERAC within 14 days of receipt. AI shall also provide all responses to any claim to ERAC contemporaneously when sending to the Claimant and/or Insurance Company. AI's annual permit application shall include a list of claims made in the previous year, the number of claims granted (with details) and the number of claims denied (with details).
27. Damage Claims. AI shall maintain a record of each blast-related claim of property damage that is filed with the Fire Department, AI, or a subcontractor and the current status of the claim. The record of each claim shall include a written summary of each visit made to the property to evaluate the claim, all blast vibration measurements made at the property to evaluate the claim, evaluation by the blaster's insurance company or their adjuster, and all correspondence between the blaster's insurance company (and/or adjuster) and the property owner. Damage Claims may be filed at any time and any claimant may have access to AI's

blasting records. Claimants shall submit any claim by using the Claim Report established by ERAC and include all required documents as stated on the Claim Report.

28. Violations. In addition to any specific noted violations and remedies herein, the Board, if it concludes that there has been a violation of this permit, shall send to the permit holder or other offender, by hand delivery or certified mail to the address stated on the initial application, a notice ordering a cessation of the improper activities. In the event that the permit holder persists in such violations, the Board may notify the permit holder by mail or posting as stated above, of a hearing to be held not less than four (4) days thereafter to show cause why said permit should not be revoked, and following said hearing, may in its discretion, revoke or amend the permit. Additionally, the Board may impose penalties for violations in accordance with G.L. c. 40, § 21(17).

**SIGNATURE PAGE TO FOLLOW.**

SWAMPSCOTT SELECT BOARD

\_\_\_\_\_  
Laurence Neal Duffy, Chair

\_\_\_\_\_  
Catherine Phelan

\_\_\_\_\_  
David Grishman, Vice Chair

\_\_\_\_\_  
Peter Spellios

\_\_\_\_\_  
Mary Ellen Fletcher

The BOARD OF HEALTH concurs with the terms and conditions of this Permit and will cooperate with the Select Board in its enforcement.

\_\_\_\_\_  
Marianne Speranza-Hartmann, Chairman

\_\_\_\_\_  
Peter Sheckman

\_\_\_\_\_  
Emily Cilley