

Guidelines for Commercial Bluestone Mining on Watershed Agricultural Council (WAC) Conservation Easements

The following guidelines are established by WAC to create standards for the development of Commercial Bluestone Mining on properties encumbered by a Watershed Agricultural Council (WAC) Conservation Easement (CE). The Deed of Conservation Easement is the controlling legal document. These guidelines represent WAC's interpretation of the CE's terms and conditions related to the Commercial Mining of Bluestone.

1. The Deed of Conservation Easement General Definitions, Conditions, Prohibitions and Easement Committee Definitions for Bluestone Mining.

A. WAC's current model Deed of Conservation Easement contains the following definitions and clauses pertaining to Bluestone Mining. If other versions of WAC's Deed of Conservation Easement have different definitions and clauses pertaining to Bluestone Mining, that version's definitions and clauses serve as the controlling legal language:

1) **Bluestone Extraction Plan** A plan that provides for the identification and application of resource specific managerial and/or structural Best Management Practices designed to mitigate potential adverse environmental impacts of commercial bluestone mining.

2) **Mining** Except as may be reasonably necessary to carry out the uses permitted on the Property under the terms of this Easement, the exploration for, or development and extraction of, soil, sand, gravel, rock, oil, natural gas, fuel or any other mineral substance by any surface mining method or any other method is prohibited with the exception of bluestone extraction undertaken with written approval of the Grantee.

Prior to commencing any commercial bluestone mining, Grantor, at their sole cost, shall submit a Bluestone Extraction Plan following the guidelines described in the City's Water Quality Protection Guidelines for Bluestone Quarrying or such successor standard approved by Grantee. Prior to commencing any commercial bluestone mining, such plan shall be reviewed and approved by Grantee.

3) **Acceptable Development Area (ADA)** The area(s) identified on the Conservation Easement Survey, in which single family dwelling(s) and associated Accessory Buildings and Improvements, Farm Support Housing, and buildings and improvements for Rural Enterprises may be constructed. Agricultural Buildings and Improvements, farm operations, and farming practices are permitted within the ADA pursuant to Sections 3.a and 3.b above and the terms of this Conservation Easement. However, no more than 10 commercial campsites shall be allowed in an ADA.

4) **Farm Area (FA)** The residual area of the Property that is within the Agricultural Conservation Easement Area, excluding the Acceptable Development Area(s) and the Resource Protection Area(s), identified on the Conservation Easement Survey, in which Agricultural Buildings and Improvements, farm operations and farming practices are permitted pursuant to Section 3.a above, Section 4.b, and the terms of this Conservation Easement.

5) **Resource Protection Area (RPA)** The area identified on the Conservation Easement Survey, which contains unique or special natural features such as streams, wetlands or slopes and supporting buffer lands in which no permanent buildings or improvements, except for Incidental Agricultural Buildings and Improvements may be built. Fences are allowed anywhere within the RPA. Grazing and cultivation is permitted subject to Section 3.a above within those portions of an RPA which lie in the Agricultural Conservation Easement Area. However, the portion of the RPA within twenty-five (25) feet of the top of the bank of a watercourse shall not be plowed, cultivated, or tilled except to reestablish naturally disturbed vegetation. Trees and shrubs along streams and waterways on the Property shall be maintained so far as practicable to assist in achieving long-term water quality standards through nutrient absorption, sedimentation control from runoff and stream channel and bank stability.

6) **Agricultural Conservation Easement Area (ACEA)** Within the area identified as ACEA on the Conservation Easement Survey, Grantor has the right to produce crops, livestock and livestock products, to clear land for cultivation or pasture and conduct farm operations as defined under Section 301 of the New York State Agriculture and Markets Law, as amended, which shall be consistent with a Whole Farm Plan, as well as the right to engage in all other uses permitted by this Easement

7) **Forest Conservation Easement Area (FCEA)** Within the area identified as FCEA on the Conservation Easement Survey, Grantor has the right to produce timber and other related forest products, including, but not limited to, firewood, maple syrup, Christmas trees, ginseng, and mushrooms as well as the right to engage in all other uses permitted by this Easement. The confinement or pasturing of livestock, the production of orchards, field crops of any kind or forage for livestock is prohibited within the FCEA. No buildings, except Incidental Agricultural Buildings and Improvements, and Recreational Buildings and Improvements pursuant to Section 4, may be constructed in the FCEA.

B. WAC further defines the meaning of the following definitions found in the Deed of Conservation Easement:

1) WAC defines Commercial Bluestone Mining as the exploration for, development or extraction and removal of bluestone from an easement encumbered property.

2. General Restrictions for Commercial Bluestone Mining

A. A complete Bluestone Mining Plan attached as Appendix "A" to these guidelines must be submitted to the Easement Committee for review and approval prior to the commencement of any Commercial Bluestone Mining.

B. For any proposed Commercial Bluestone Mining that requires a Mined Land Reclamation Permit or Bluestone Exploration Authorization Permit under NYS Law, landowners may submit to WAC for review and approval, the NYS permit plans in lieu of the Appendix "A" Bluestone Mining Plan.

C. Any activities that would need to be conducted in conjunction with the proposed Commercial Bluestone Mining that would require additional Reserved Rights plans such as a Forest Harvest Plans, Water Course and Stream Work or Rights of Way must be submitted with the Bluestone Mining Plan for review and approval by WAC prior to commencing any Commercial Bluestone Mining or other proposed activity.

D. In the event that any of the terms or conditions of any approved WAC Bluestone Mining Plan are not being adhered to by the landowner or activities not identified in the plan are creating an adverse water quality impact that significantly diminishes water quality, WAC staff may require that mining operations cease until such terms and conditions or activities are addressed in a manner that is consistent with the terms and conditions of the Conservation Easement.

E. Soil, Sand, Gravel, rock and other mineral substances may not be removed from the easement encumbered property for use or utilization on unencumbered portions (out parcels or excluded areas) of a property.

3. The Process for Requesting and the Standard of Approval for Conducting Commercial Bluestone Mining on WAC Conservation Easement Encumbered Properties

A. The current Deed of Conservation Easement defines the process and standard of approval for requests related to conducting Commercial Bluestone Mining as follows:

1. Prior to commencing any proposed action, including Commercial Forestry, where Grantor is required to obtain Grantee's approval hereunder, Grantor shall request such approval in writing and shall provide Grantee with information and plans as may be necessary for Grantee to evaluate such request
2. Grantee reserves the right to request additional information as may be required for the evaluation.
3. Grantor's request shall be deemed approved if no written response is provided by Grantee within 45 days of the receipt of the request for approval.
4. Written response from the Grantee may include, but is not limited to, a requirement that Grantor submits to Grantee additional information to evaluate the request.
5. Grantee may approve the request, approve with conditions, or deny the request.
6. Grantee's approval shall be conditioned so that the approval is consistent with the Conservation Purposes of this Easement and will not substantially diminish or impair the agricultural, forestry, or the water quality values of the Property.

4. Requests to Conduct Commercial Bluestone Mining on WAC Conservation Easement Encumbered Property

A. Requests must include the following information:

- 1) Written request to activate a reserved right from landowner stating intent for opening a Commercial Bluestone Mine.

2) Completed Bluestone Mining Plan , Appendix "A" or NYS Mined Land Reclamation Permit plan or Bluestone Exploration Authorization Permit plan.

3) Maps required under Bluestone Mining Plan.

5. Standard of Review for Requests to Conduct Commercial Bluestone Mining on WAC Easement Encumbered Properties

A. Plans submitted by landowners to engage in Commercial Bluestone Mining will be reviewed by the Easement Committee against the standards found in sections C through G below and require unanimous consent by the WAC Easement Committee for approval.

B. The WAC Bluestone Mining Plan, attached as Appendix "A" to these guidelines consists of the following sections:

1. Landowner Information
2. Permit Information
3. Goals and Objectives
4. Job Size and Scheduling
5. Map Requirements
6. Soils Information
7. Quarry Access Haul Roads
8. Watercourse Crossing
9. Watercourse Best Management Practices
10. Mining Method
11. Storage, Stabilization and Disposition of Excavated Materials
12. Site Stabilization and Reclamation
13. Signatures
14. WAC Approvals of Bluestone Mining Plan

C. Standards for the following Sections of the Bluestone Mining Plan are as follows:

1) Permit Information (Section 2)

- a. If a New York State DEC Mined Land Reclamation Permit or NYS DEC Bluestone Exploration Authorization is required to mine and has been issued to a landowner , landowners of a WAC Conservation Easement Encumbered property who wish to engage in Bluestone Exploration or Extraction may submit a Mined Land Reclamation Permit plan or Bluestone Exploration Authorization Permit plan to the Easement Committee for review and approval in lieu of the Bluestone Mining Plan prior to conducting any Bluestone Exploration or Mining.
- b. If it is determined by the NYS DEC that no NYS DEC permit is required, landowners of WAC Easement Encumbered properties who wish to engage in the exploration or extraction of Bluestone must still have a Bluestone Mining Plan approved by WAC in order to engage in Commercial Bluestone Mining.

2) Goals and Objectives (Section 3)

a. In addition to outlining the landowners' goals and objectives, landowners should explain how water quality objectives of the easement will be met and how reclamation activities will be achieved.

3) Job Size and Scheduling (Section 4)

- a. Any open Bluestone Mines must be in good standing and being mined in accordance with an approved WAC Bluestone Plan and State Permits if landowners wish to open an additional Bluestone Mine on their property.
- b. Any Bluestone Mine that is no longer active that was approved by WAC must be reclaimed to satisfy the terms and condition of the easement and these guidelines before a new bluestone mine can be reviewed and considered for approval by WAC.
- c. Total acreage that may be affected by Bluestone mining on a property should not exceed 4 acres any given time.

4) Map Requirements (Section 5)

- a. Map features may be combined onto one map (Mining Plan and Soils Map)

5) Quarry Access Roads (Section 7)

- a. Any BMPs that will be required to construct new road will be required to alter existing roads shall be listed in Section 9 Water Quality Best Management Practices

6) Water Crossing (Section 8)

- a. All water features potentially affected by the proposed Bluestone Mining activity will be identified in the Table in Section 8 of the Bluestone Mining Plan and utilize the symbols in the Table legend.

7) Water Quality Best Management Practices (Section 9)

- a. Any water crossing identified in the Table in Section 8 must have a Best Management Practice (BMP) prescribed, if necessary, in the Table in Section 9 of the Bluestone Mining Plan.
- b. If DEC Stream Permit or WAC Stream Work Reserved Right is required, the permit or WAC approval must be obtained before any Bluestone Mining is conducted.
- c. Any BMPs prescribed shall be maintained as necessary during the entire period of the approved plan.

8) Mining Methods (Section 10)

- a. All methods of mining should be listed in sequence of activities utilizing the terms provided in Section 10.
- b. Approved Duration of plan should not exceed two (2) years

9) Storage, Stabilization and Disposition of Excavated Materials (Section 11)

- a. Table for Storage and Disposition will/shall reference mining methods as described in Section 10 and depicted on Map.
- b. Stabilization may include additional BMPs to those prescribed in Section 9 as determined by WAC staff on site if site conditions change.

10) Site Stabilization and Reclamation (Section 12)

- a. Slopes shall be graded to shallowest achievable standard consistent with topography

- b. Remaining Stockpile and overburden shall be placed in the quarry area , graded toward the open face or existing slope contour to the shallowest achievable gradient.
- c. Top soils shall be graded last over any overburden or stockpiles.
- d. Seed and Mulch shall be applied after grading.
- e. All roads identified in plan must be graded and stabilized where necessary
- f. All temporary BMPs must be removed.

D. Conservation Purposes Clause of Conservation Easement: “to protect the water quality of the New York City watersheds, and to protect agricultural and forestry lands by limiting the form, location, and density of development and promoting good stewardship by the implementation of Whole Farm Plans”.

E. Standard of Approval Clause : Grantee’s approval shall be conditioned so that the approval is consistent with the Conservation Purposes of this Easement and will not substantially diminish or impair the agricultural, forestry, or the water quality values of the Property.

F. Additionally, the interpretation of the Conservation Purposes shall be consistent with the laws and polices identified in paragraphs C through H of the recitals in the Model Conservation Easement listed below:

1) Article 14, Section 4 of the New York State Constitution states that "The policy of the state shall be to conserve and protect its natural resources and scenic beauty and encourage the development and improvement of its agricultural lands for the production of food and other agricultural products"

2)Article 25-AA of the New York Agriculture and Markets Law authorizes the establishment of agricultural districts and states: "The socio economic vitality of agriculture in this state is essential to the economic stability and growth of many local communities and the State as a whole. It is, therefore, the declared policy of the State to conserve, protect and encourage the development and improvement of its agricultural land for production of food and other agricultural products. It is also the declared policy of the State to conserve and protect agricultural lands as valued natural and ecological resources which provide needed open spaces for clean air sheds, as well as for aesthetic purposes.

3) The New York Environmental Conservation Law, Article 49, Title 3, authorizes conservation easements which are intended to: "implement the state policy of conserving, preserving and protecting environmental assets and natural and manmade resources, the preservation of open spaces, the preservation, development and improvement of agricultural and forest lands".

4)The Ad Hoc Task Force of Agriculture and New York City Watershed Regulations Policy Group issued recommendations which resulted in the formation of the Watershed Agricultural Council and the development of the Whole Farm Planning / Best Management Practices Program designed to meet the watershed's water quality objectives and sustain and improve the economic viability of watershed farms.

5) The Constitution and By-Laws of The Watershed Agricultural Council of the New York City Watersheds, Inc., as amended, includes among its objectives and guiding principles the protection of the New York City water supply, the maintenance of the economic viability of agricultural and forest enterprises and the acquisition of easements to protect sensitive lands, provide economic incentives to farmers for pollution prevention and allow for inter-generational transfer of farmlands and operations.

6) The New York City Watershed Memorandum of Agreement dated January 21, 1997 authorizes an agricultural easement program and provides "funding for the acquisition of Watershed Agricultural Easements and for Watershed Conservation Easements on non-agricultural lands under common ownership with farms from Property owners who have Whole Farm Plans approved by WAC".

G. Consistency with the Conservation Purposes, Standard of Approval Clause and the laws and policies identified above and interpreted and applied by WAC to requests from grantors to conduct Commercial Bluestone Mining require review and approval of the following:

- 1) Review and Approval by WAC of a complete Bluestone Mining Plan (Appendix "A") or NYS Mined Land Reclamation Permit plan or Bluestone Exploration Authorization Permit plan. Content of plan will be reviewed against standards listed in Section 5 C of these Guidelines.
- 2) Does the proposed Commercial Bluestone Plan meet the requirements of Sections 5C through 5G of this guidance document? If not, identify any and all deficiencies.
- 3) Are the proposed mitigation measures sufficient to prevent substantial diminishment or impairment of agricultural productivity or water quality? Are additional measures needed?

6. Notification to Landowner of Approval or Denial of Grantor Request by Easement Committee.

- A. WAC staff shall submit a letter to Grantor no later than 5 business days after Committee motion is rendered notifying Grantor of Committee's decision regarding such request.
- B. Letter to Grantor shall include a copy of the motion and vote on motion.
- C. Letter to Grantor shall outline any additional requirements if motion is approved with contingencies or conditions or if denied, set forth in detail a site specific basis for such denial.

Appendix "A"

Watershed Agricultural Council Bluestone Mining Plan

1. Landowner Information

Name: _____

Mailing Address: _____

Property ID Number : _____

Date: _____

2. Permit Information

Is there a NYS DEC Bluestone Exploration Authorization for this project?

Not needed Yes

If yes, date of current application? _____

Is there a Current DEC Mined Land Reclamation Permit for this project? Not Needed Yes

If yes, date of application _____

**Including a copy of the application will assist WAC in the review of your project.*

3. Goals and Objectives

What are your overall goals and objectives for the property with respect to this project? Describe natural features, physical condition, drainage, vegetation, surrounding land use:

4. Job Size and Scheduling

Is there a Quarryman supervising this project?

No Yes, see below:

Name of Quarryman : _____

Address: _____

Phone: _____

Is there a mining contract with a Bluestone mining company or quarryman?

No Yes, see below:

Name: _____

Address: _____

Phone: _____

What is the term of the contract? _____

What is the Contract start date? _____

What is the Contract completion date? _____

Total acre involving this project: Includes the areas where overburden material is or will be removed; areas where overburden is or will be stored; areas where by product waste is or will be dumped; areas where Bluestone is or will be extracted from the rock bed; and all other area disturbed or to be disturbed through excavation, stockpiling, and/or quarrying. This does not include quarry access and haul roads, except in the immediate vicinity of the excavation or stockpiles. _____ Total Acres.

1. **Limits of proposed Quarry Area** to be affected shall be staked or flagged or marked at all corners, vertices at a minimum of 100 foot intervals and be clearly visible and easily identifiable . WAC staff may also utilize GPS to establish boundary of proposed quarry in conjunction with stakes or flags.

a. Number of stakes/flags/ Markers Utilized _____

b. Approximate location of markers identified on map - Marked as "F" on map

2. **Estimated quantity of Bluestone** to be extracted annually : _____

5. Map requirements

At a minimum, two site-specific maps are required: 1) the **Bluestone Mining Plan Map** and 2) a **Soils Map**. Additional maps necessary to explain the proposed operation shall also be attached to this Plan. Below are items that should be included in maps, the more information that can be provided, the better WAC can review the proposal:

	Mining Plan Map		Soils Map		Other Maps	
	Yes	No	Yes	No	Yes	No
Title Block and Legend	Yes	No	Yes	No	Yes	No
Scale at least 1" = 500'	Yes	No	Yes	No	Yes	No
Contour intervals shown not exceeding 20'	Yes	No	Yes	No	Yes	No
Boundary of affected land shown	Yes	No	Yes	No	Yes	No
Existing and proposed roads shown	Yes	No	Yes	No	Yes	No
Watercourses and Wetlands within 300' of proposed quarry area shown	Yes	No	Yes	No	Yes	No
Proposed stockpile areas shown	Yes	No	Yes	No	Yes	No
Final proposed surface configuration	Yes	No	Yes	No	Yes	No

Any required BMPs for roads must be included in Section 9, Water Quality BMPs

What is the total length (in feet) of the Road used to transport Bluestone from the quarry to a public road: _____

Will any Quarry Rubble be transported off-site: Yes No

8. Watercourse Crossing

Indicate Crossing Location on Map →	C1	C2	C3	C4	C5	C6
Drainage Type (1)						
Duration of Flow (2)						
Existing Crossing (3)						
Proposed Crossing (4)						
Drainage Bottom (5)						
Stream Bank Type (5)						
Bank Height (feet)						

(Show in the Bluestone Mining Plan Map and the Soils Map using C1,C2,C3, etc.)

.(1) Drainage Type: ST stream; SP spring; SE seep

.(2) Duration of Flow: PM permanent; IN intermittent;

.(3) Existing Crossing: NO none; PB permanent bridge; PC permanent culvert; OT other

(4) Proposed Crossing: TB* temporary bridge; PB permanent bridge; TC* temporary culvert PC* permanent culvert; OT other

* indicate bridge and culvert size (e.g. length, width and diameter)

.(5) Type of Bank or Bottom: RO rock; GR gravel; MU mud; SM soil mixture; OT other

9. Water Course Best Management Practices

Describe Best Management Practices (BMP) to be taken near Watercourses to reduce or eliminate water quality impacts. BMPs must correlate with water features identified on table in Section 8 " Water Course Crossings" :

Water Course BMPs

Indicate on Map	Filter Type (1)	Slopes	Type of BMP	Comments
C1/BMP 1				
C2/BMP 2				
C3/BMP 3				
C4/BMP 4				
C5/BMP 5				
C6/BMP 6				

(1) Filter Type: SS stream side; WL wetland; SP spring; SE seep; VP vernal pool; OT other

Is a DEC Stream Crossing Permit required? No Yes

If "Yes", please attach or indicate when the Permit will be applied for. Before WAC can issue final approval for this project, a copy of the permit must be on file. An additional Reserved Right request for stream work may be required and submitted with this application.

10. Mining Method

Provide a written description of the following:

2. Phases of Exploration, Cuts and Excavations (describe sequence and details of the proposed excavation such as Removal Vegetation, Strip and Stockpile top soils, Strip and Stockpile Overburden, Locate face for stone quarrying, Stockpile of cut stone, Removal of any woody biomass).

(1)

(2)

(3)

(4)

(5)

(6)

(7)

(Attach additional pages as necessary to fully describe the quarrying method proposed)

3. Will there be any rock blasting? No Yes If yes explain:

4. Bluestone Preparation (describe activities planned):

(Attach additional pages as necessary to fully describe the Bluestone preparation methods proposed)

5. What steps will be taken for dust control during the course of the quarrying?:

6. What steps will be taken for Wash Water Control during Quarrying?

11. Storage, Stabilization and Disposition of Excavated Materials

FROM*	TO*	NATURE OF MATERIAL**	ESTIMATED VOLUME	PROPOSED STABILIZATION

* Key these columns to Bluestone Mining Plan Map (indicate A,B,C,, etc.),

** Nature of Material: WO wood; ST stumps; TO topsoil; SU subsoil; QR quarry rubble; BP Bluestone product; OT other.

12. Site Stabilization and Reclamation

Please describe in the following table all the steps planned in order to accomplish final site stabilization and reclamation. Will there be sufficient materials on site for reclamation of Mine site?

Activity	Description	Will be Successful If...

13. Signatures

I attest and certify that the information in the Bluestone Mining Plan is true and accurate to the best of my knowledge and that I am familiar with and will be bound by all applicable Federal, State, and local laws and rules and regulations. I agree to abide by the provisions of the Bluestone Mining Plan and any reasonable conditions that WAC may require for its approval. I also agree to advise WAC at least two weeks in advance of any harvest and at least two weeks before the project is complete.

WAC Easement Landowner(s): _____

Date: _____ **WAC Easement Landowner(s):**

Date: _____

WAC Representative : _____

Date: _____

14. WAC Approval of Bluestone Mining Plan

1. *Approved by WAC Easement Committee as written*

Start Date: _____

End Date : (Date approval expires): _____

2. *Approved by WAC Easement Committee with conditions*

Date approval expires: _____

Conditions:

3. *Not approved*

Reasons not approved:

WAC Representative Signature: _____

Date: _____

WAC Representative Name: _____

WAC Representative Phone Number: _____

Fax: _____ e-mail: _____

WAC APPROVAL OF EXTENSION AND OR AMENDMENT OF BLUESTONE MINING PLAN

1. Extension

- Approved Date extension expires: _____

WAC Representative: _____

Date: _____

2. Amendment

- Date Approved By the Easement Committee _____

Date amendment expires: _____

WAC Representative: _____

Date: _____

Terms of Amendment:

