



# CONTINENTAL PLACER INC.

11 Winners Circle • Albany, New York 12205  
(518) 458-9203 fax (518) 458-9206  
www.continentalplacer.com



September 24, 2013

Steve Army, MLRS II  
New York State Department of Environmental Conservation  
6274 East Avon-Lima Road  
Avon, New York 14414

**RE: Frontier Stone LLC, Proposed Shelby Quarry  
Town of Shelby, Orleans County  
DEC Application No. 8-3436-00033/00001**

*via UPS Ground*

Steve:

The following is our responses (three copies) to the Department's September 12, 2013 list of comments/questions concerning the Frontier Stone, Shelby Quarry DEIS.

**Comment 1:** A tax map should be submitted which identifies all parcels and current owners that will be impacted by dewatering along Sour Springs Road, and may be impacted along South Wood Road in the vicinity of the proposed quarry. Also, please provide complete copies of all documents evidencing legal commitments Frontier Stone has made to address those impacts and plans to make those arrangements for properties where no commitments are presently in place.

**Response:** A tax map is appended which identifies individual tax parcels along Sour Springs Road and South Wood Road. The names of residential owners who have potential to be impacted by the proposed project have been labeled on the map. A document (option agreement) concerning landowners on Sour Springs Road is appended. In regard to the residence on South Wood Road, Frontier Stone has made a commitment to construct a groundwater recharge slot-cut for that parcel (see attached Mining Plan Map).

**Comment 2:** The slot cut should be extended the entire length of the northern mine limits adjacent to Fletcher Chapel Rd. A second slot cut should also be identified along the eastern boundary to mitigate potential impacts along South Wood Rd. If the second slot cut is not proposed, alternative mitigation/landowner agreements will be necessary.

**Response:** As illustrated on the Mining Plan Map, slot cuts have been proposed for the Fletcher Chapel Road area and for the residence along South Wood Road.

**Comment 3:** How will the slot cut be excavated/constructed? Will the 2:1 side sloped be vegetated, or will riprap extend from the rock bench to the water line? The narrative indicates that the water elevation in the slot cut will be maintained at an elevation of approximately 624 feet. How will this be accomplished? Will a control structure be utilized?

**Response:** The slot cut will be excavated in the overburden by excavator and the overburden will be used to construct perimeter berms. The rock will be excavated by standard drill and blast methods. The riprap will extend from the rock cut to the water line. The 2:1 side slope will be vegetated with the following mix.

- Perennial Rye Grass (20 pounds per acre)
- Creeping Red Fescue (10 pounds per acre)
- Alfalfa (8 pounds per acre)
- Birdsfoot Trefoil (5 pounds per acre)
- Sweet Clover (10 pounds per acre)
- Oats and Wheat (30 pounds per acre)

The water level in the slot cut will be maintained by pumping from excavation areas in Phase 1 and (or) 2.

**Comment 4:** Describe the timing of construction of the slot cut as it relates to impacts, drawdown and monitoring well data. What will trigger the installation?

**Response:** The timing of the installation of the drop cut will be determined based on drawdown of the ground water observed in the water level data obtained from monitoring wells between the mine and the residential wells of concern. The existing water level data for the site indicate that the average seasonal fluctuation is 6.28 feet (ft.). This fluctuation is based on the four wells that have both seasonal high and low water level data. The slot cut construction will be triggered when the seasonal high has been drawn 6 ft. below its average seasonal high and is determined to be mine-related. The trigger level will be established by the bi-monthly monitoring during the first two years and quarterly monitoring thereafter from existing monitoring wells and additional wells to be added during the initiation of Phase 1 and Phase 2 mining. This water level data, in conjunction with precipitation data, will differentiate whether the 6 ft. of water level decline is mine related or a drought cycle related phenomenon.

**Comment 5:** The plan view shows the cut to be approximately 75 feet in width, however, this does not account for the side slopes and overall footprint of the structure on the map. The cross section shows the width of the top of the cut and slopes to be approximately 190 feet.

**Response:** The overall width size of the excavation, if one includes the overburden "cut", will be roughly 190 feet. The plan view map has been revised accordingly to show this.

**Comment 6:** A narrative discussion/description needs to explain how the slot cut will function, how recharge will be achieved, pumping rates, hydrogeologic support, etc. More information is needed on how and why this will work, along with how this will address/mitigate impacts caused by dewatering.

**Response:** The slot cut's function is to maintain the water table near its current level along the affected mine perimeter. The current ground water flow, in the semi-confined to confined aquifer that is the primary potable water supply for the area, is into the Phase 2 and Phase 3 mine areas from the east, west and north, and out of the mine area to the south. The objective of maintaining the current water table level at the slot cut is to preserve the ground water flow toward, and into, the mine from the north and east, if necessary. This, in effect, will maintain the ground water flow gradients, directions and levels at the residential wells on those sides of the mine.

The recharge from the slot cut is achieved by excavating 10 to 12 ft. into the top of the rock. The examination of the core from the five holes at the site (1-01 through 5-01) revealed that the water bearing fractures in the rock are concentrated in the top few feet of the rock. This fractured zone ranged from a minimum of 12.1 ft. of the top of the rock in hole 2-05 to a maximum of 19.8 ft. in hole 4-05. Excavating the rock cut to a depth of 10 to 12 ft. will be effective in facilitating direct recharge to the fractures and maintaining the water level in the rock.

The water used to maintain the target level in the slot cut will be pumped from the quarry. The water will be pumped at whatever rate is necessary to maintain a target water level in the rock in the slot cut as determined from water level monitoring data. The quarry water will consist of direct precipitation combined with ground water flowing in from the four quarry faces. Some of this water will also be recycled water previously discharged to the rock cut. As a result, these sources of water will be greater than the volume that will be needed to maintain the desired water level.

**Comment 7: The potential for groundwater quality impacts caused by pump induced recharge needs to be discussed.**

Response: The water placed in the rock cut will consist of ground water and direct precipitation collected in the quarry sump; consequently, this water will not be contaminated. The water that enters the rock cut will enter the rock fractures in the rock cut floor and walls and flow toward the open quarry in the same manner that flow occurs now within the aquifer. Ground water flow patterns and directions will be unaltered from current patterns; consequently, water added to the slot cut will not reach residential wells. This water will discharge to the quarry where it will either be recycled back to the rock cut, discharged to Phase 1, or discharged to onsite drainage that flows southward toward the wildlife refuge. The water that enters the rock cut will not result in ground water quality impacts and will result in ground water quality that is similar to that which occurs around aggregate mine excavations and other manmade and natural surface water bodies that are in direct contact with ground water.

**Comment 8: Traffic – The revised text provided is sufficiently clear to explain the traffic volumes expected from the project. Please ensure that the relevant sections of the DEIS are revised to include the same information.**

Response: The relevant sections of the DEIS will be revised to include the same information.

**Comment 9: Wildlife – The proposed revision sufficiently discloses current information concerning the observation of an osprey nest on the power line corridor that intersects the site.**

Response: No comment.

**Comment 10: Water Withdrawal Application – The water withdrawal application will have to be revised as follows:**

- a. Section II of the Water Conservation Program Form will require each “source” to be identified, along with its type, status, capacity, etc. For purposes of this type of operation, a source would include an individual pump or well.
- b. Information is needed in Section III of the Water Conservation Program Form to identify how the volume of dewatering discharges will be measured and recorded. This information will also be needed by the Department for purposes beyond water withdrawal permitting requirements.
- c. When items concerning the technical issues identified above are addressed, the application forms would need to be signed by the applicant.
- d. Division of Water staff is continuing a technical review of the draft water withdrawal applications materials. If there is technical information identified that would be needed to determine that the water withdrawal application is complete, you will be advised as soon as such information is identified.

Response a: A revised Section II portion of the Water Conservation Form has been appended. Obviously, nothing exists at present so a pump would be proposed, not existing.

Response b: Section III of the form has been revised and it is appended.

Response c: When the DEIS is complete, all application forms will be signed by the applicant with the submittal of the complete document.

Response d: No comment.

**Comment 12: Freshwater wetlands – Based on the facts, assumptions, analysis and conclusions stated in the Terrestrial Environmental Specialists, Inc. report dated January, 2013, and because the off-site wetland, state-designated Freshwater Wetland MD-3, appears to have the capacity to accept the dewatering discharge within the United State Fish and Wildlife Service’s management regime, we are not requiring an Article 24 permit at this time. We reserve the right to do so at a later date during the course of the review of the pending applications or otherwise. We retain the ability to evaluate off-site wetland impacts within the scope of our authority under the other regulatory programs administered by the Department. This includes SEQRA, the MLRL, the SPDES program and the water withdrawal program under ECL Article 15. This position should not be interpreted to mean that we have accepted or agree with your contention that the**

**Department lacks jurisdiction to regulate activities, occurring more than 100 feet from regulated wetlands, that may impact regulated wetlands and adjacent areas.**

Response: No comment.

I trust this will conclude comments concerning this proposed project. If you would like to discuss any aspect, please give me a call.

Best regards,



John R. Hellert  
Senior Geologist

cc: G. Brown

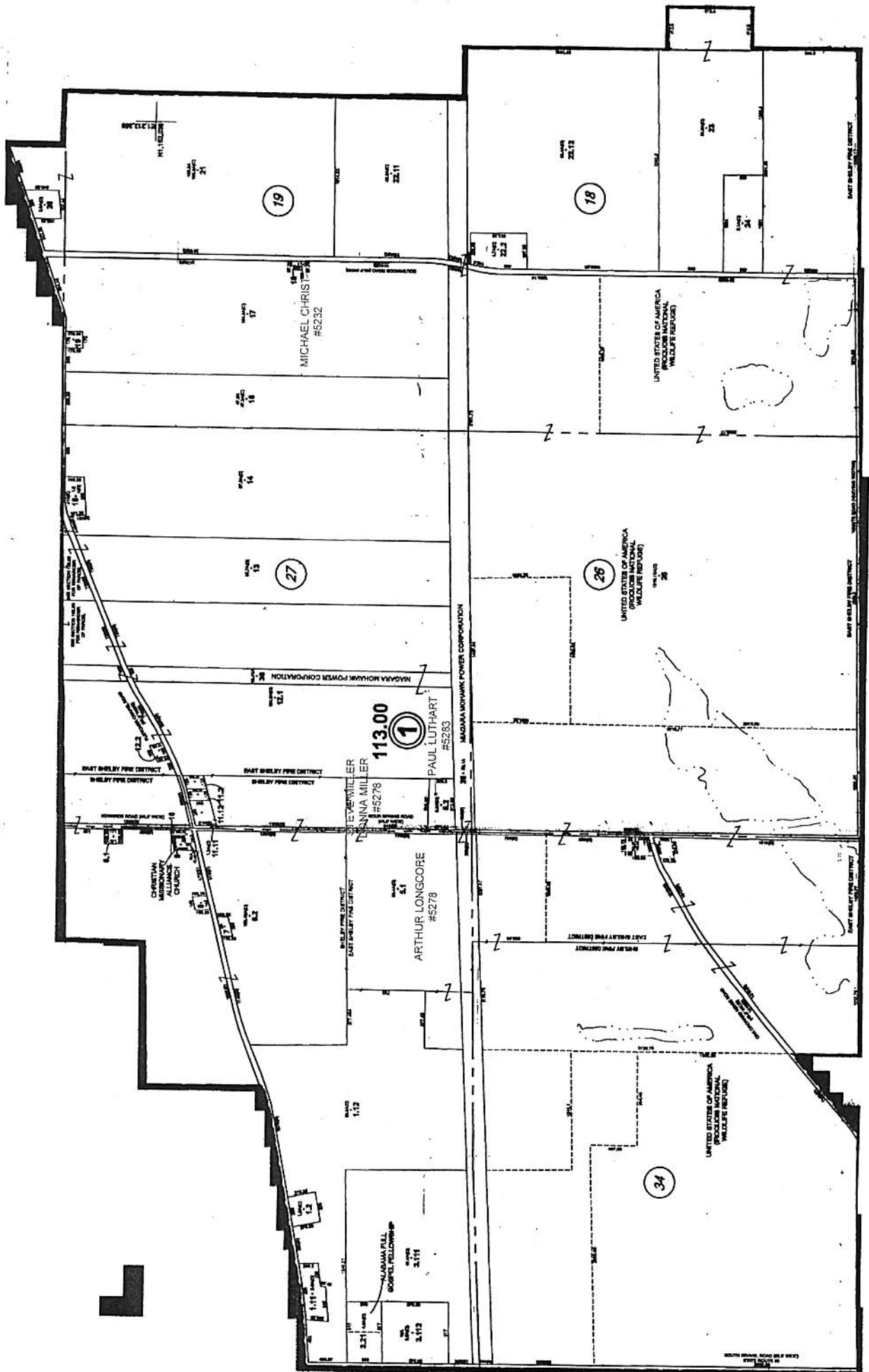
JRH/acf

## **APPENDIX**

- 1. Tax Map**
- 2. Option Agreements**
- 3. Mining Plan Map**
- 4. Section II Water Conservation Form**
- 5. Section III Water Sources and Metering Form**

**Appendix 1**

**Tax Map**



19

MICHAEL CHRISTENSEN  
#5232

18

27

113.00  
①  
PAUL LUTHART  
#5283

26

EVEMILLER  
ANNAMILLER  
#5278

ARTHUR LONGCORE  
#5278

34

MADAMA FULL  
COUNCIL FELLOWSHIP  
#5211

CHRISTIAN  
MISSIONARY  
CHURCH

UNITED STATES OF AMERICA  
(PROLOGIS NATIONAL  
WILDLIFE REFUGE)

UNITED STATES OF AMERICA  
(PROLOGIS NATIONAL  
WILDLIFE REFUGE)

UNITED STATES OF AMERICA  
(PROLOGIS NATIONAL  
WILDLIFE REFUGE)

SCALE 1" = 200'

**Appendix 2**  
**Option Agreements**



THIS IS THE OPTION CONTRACT FOR REAL PROPERTY REFERRED TO IN AN  
OPTION AGREEMENT BETWEEN THE SAME PARTIES SIGNED THIS SAME DAY.  
THIS CONTRACT WILL BECOME EFFECTIVE AND BINDING UPON THE PARTIES  
UPON THE BUYER GIVING TIMELY WRITTEN NOTICE OF ELECTION TO PURCHASE  
AS PROVIDED IN SAID OPTION AGREEMENT.

OPTION CONTRACT FOR REAL PROPERTY

BUYER : Frontier Stone LLC

SELLER : Arthur Longcore  
Donna Miller  
Steven Miller

PREMISES: Vacant land on the east side of Sour Spring Road in the Town of Shelby, being a strip of land with 200 feet of frontage off the north side of land of the sellers as shown on the attached map.

PRICE: The price is to be paid by bank draft or certified check at time of closing.

POSSESSION: Possession will be given at closing.

ADJUSTMENTS: Real property taxes will be adjusted to closing date.

SURVEY: Any survey buyer may desire shall be at expense of buyer.

DEED PROVISION FOR WATER WELL: Any deed given by sellers pursuant to this contract will contain the following:

If a stone quarry is operated on nearby land, and if a water well or wells supplying the premises known as No. 5278 Sour Springs Road, or the premises known as No. 5283 Sour Springs Road, shall fail due to a lowered water table, the grantee, and its successors and assigns and

lessees, shall be responsible for drilling the existing well deeper or drilling a new well so as to provide adequate water supply or installing a water supply line connecting both said premises to the municipal water main on Fletcher Chapel Road.

**TITLE DOCUMENTS:** At least 15 days prior to closing seller will mail to the office of buyer attorney a 60 year guaranteed abstract of title with guaranteed tax and federal searches, all of which shall be dated or redated after the date of this contract.

Seller will deliver a warranty deed with lien covenant conveying a good and marketable title subject to utility easements, and subject to restrictive covenants or record common to the area and zoning ordinances provided said covenants and ordinances are not violated. Seller to pay for deed tax stamps.

If buyer shall raise objection to title or improvements which, if valid, would render the title unmarketable, then if either party shall within a reasonable time cure the objection, or if either party shall secure a commitment for title insurance of marketability, or such other insurance as is acceptable to purchaser, this contract shall continue in effect. Otherwise either party may cancel this contract and any deposit shall be returned. Seller shall pay the cost of such title insurance. An oil, gas or mineral lease shall not be basis for objection to title.

**CLOSING:** This transaction shall be closed at the County Clerk Office 60 days after the giving by buyer of notice of exercise of the said option as provided in said option agreement.

**ENTIRE AGREEMENT:** This contract is the record of the entire agreement and may be changed only by written agreement. Oral agreements will not be binding.

IN WITNESS WHEREOF the parties have signed this instrument o  
the date opposite their signatures.

BUYER:

Frontier Stone LLC

by *Charles J. Loiacano* Date: 1/27/06  
*CHARLES J. LOIACANO*

SELLERS:

*Arthur Longcore* Date: 1/27/06  
Arthur Longcore, Seller

*Donna Miller* Date: 1/27/06  
Donna Miller, Seller

*Steven Miller* Date: 1-27-06  
Steven Miller, Seller

STATE OF NEW YORK )  
SS.:  
COUNTY OF ORLEANS )

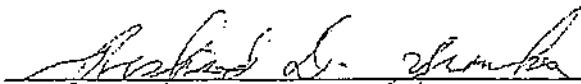
On this 27TH day of JANUARY in the year 2006 before me, the undersigned, a Notary Public in and for said State, personally appeared CHARLES J. LEHMAN personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

  
Notary Public

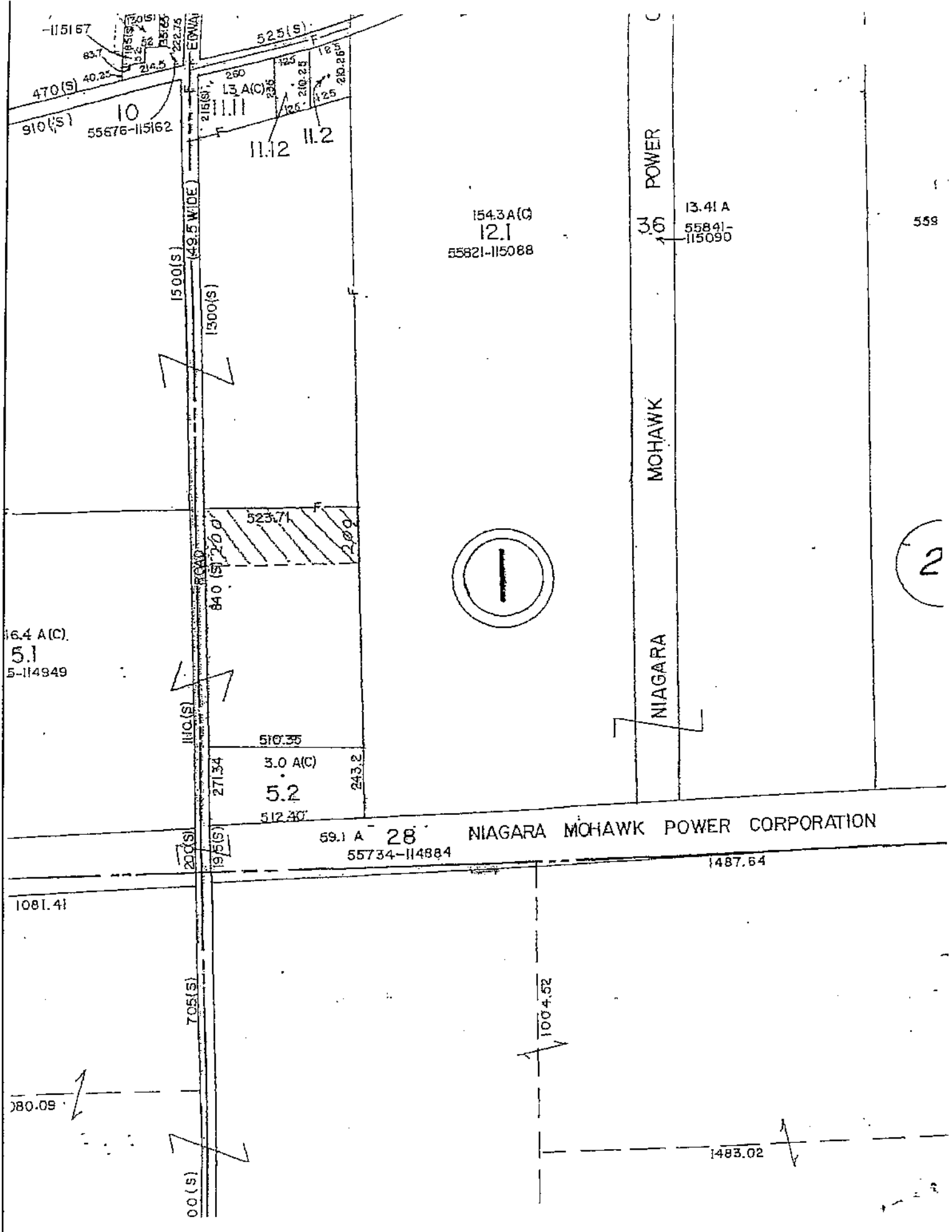
STATE OF NEW YORK )  
SS.:  
COUNTY OF GENESSEE )

RICHARD D. YUNKER  
Notary Public, State of New York  
Qualified in Genesee County  
My Commission Expires Sept. 30, 2006

On this 27TH day of JANUARY in the year 2006 before me, the undersigned, a Notary Public in and for said State, personally appeared ARTHUR LONGCORE, STEVEN MILLER & DONNA MILLER personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

  
Notary Public

RICHARD D. YUNKER  
Notary Public, State of New York  
Qualified in Genesee County  
My Commission Expires Sept. 30, 2006



115167  
 470(S)  
 910(S)  
 55676-115162  
 10

525(S)  
 13 A(C)  
 11.11  
 11.12  
 11.2

154.3 A(C)  
 12.1  
 55821-115088

POWER

3.6

13.41 A  
 55841-115090

559

1500(S)  
 (49.5 WIDE)

1300(S)

840(S)  
 200'

523.71

16.4 A(C)  
 5.1  
 5-114949

110(S)

510.35

271.34

3.0 A(C)

5.2

512.30'

59.1 A 28  
 55734-114884

NIAGARA MOHAWK POWER CORPORATION

MOHAWK

NIAGARA



1081.41

705(S)

1004.52

380.09

00(S)

1483.02

1487.64

OPTION EXTENSION AGREEMENT

THIS OPTION EXTENSION AGREEMENT (this "Extension Agreement"), made this <sup>12<sup>th</sup></sup> day of ~~January~~ <sup>March</sup>, 2012, is made by and between Frontier Stone LLC, a New York limited liability company having an address of 4172 East Lake Road, Wilson, New York 14172 ("Buyer"), and Donna Miller and Steven Miller, individuals having an address of 5278 Sour Springs Road, Medina, New York 14103 ("Sellers").

WITNESSETH, THAT:

WHEREAS, Buyer and Sellers, together with Arthur Longcore as an additional seller, entered into an Option Agreement last executed on January 27, 2006 (the "Option Agreement"), affecting certain lands in the Town of Shelby, Orleans County, New York, as more fully described in the Option Agreement (the "Property"); and

WHEREAS, the Option Agreement provides, in part, that Buyer shall have the option to purchase the Property upon the terms and conditions set forth in that certain Option Contract for Real Property (the "Contract") executed by Buyer, Sellers and Arthur Longcore simultaneously with the execution of the Option Agreement; and

WHEREAS, Arthur Longcore, one of the sellers named in the Option Agreement and Option Contract, is now deceased; and

WHEREAS, the parties hereto desire that the Option Agreement and Contract each be reaffirmed in their entirety and that certain time periods under the Option Agreement be extended as set forth herein.

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto mutually covenant and agree as follows:

1. Buyer and Sellers agree that the paragraph of the Option Agreement entitled "EXTENSION OF TIME FOR EXERCISING THIS OPTION" is hereby deleted in its entirety and replaced with the following:

EXTENSION OF TIME FOR EXERCISING THIS OPTION: The Buyer may extend the time to exercise the option for up to eleven (11) additional periods of one year each by delivering written notice to Sellers (or any one or more of them) together with payment of an extension fee of: Unless otherwise agreed to by Buyer and Sellers in writing, the option may not be extended beyond January 26, 2018.

*Handwritten signatures:*  
D.M.  
S.M.

2. Buyer and Sellers acknowledge and agree that, as of the date of this Extension Agreement, Buyer has previously exercised the first six (6) of its eleven (11) permitted extensions of the Option Agreement, which previous extensions have extended the Option Agreement through January 26, 2013 (the "Initial Expiration Date"). The purpose of this

Extension Agreement is to provide Buyer with five (5) additional extension periods of one year each beyond the Initial Expiration Date.

3. Sellers hereby represent, covenant and agree as follows: (a) they are the only rightful owners of the Property and hereby warrant title to the Property, notwithstanding and in full recognition of the death of Arthur Longcore; (b) they have full power and authority and are the only persons necessary or appropriate to enter into this Extension Agreement with Buyer and to convey the Property in accordance with the terms of the Contract; and (c) Sellers have entered into no other contracts or agreements in connection with the Property or which may compromise Buyer's ability to exercise its option to purchase the Property in accordance with the terms of the Contract.

4. All of the terms, covenants and conditions of the Option Agreement and the Contract shall continue in full force and effect, and the same are hereby reaffirmed, remade and rewritten, except to the extent that any such terms, covenants or conditions are amended, replaced or rescinded by this Extension Agreement. If there are any inconsistencies or conflicts between the terms, conditions, covenants and provisions of this Extension Agreement and the Option Agreement, this Extension Agreement shall in all respects govern and prevail.

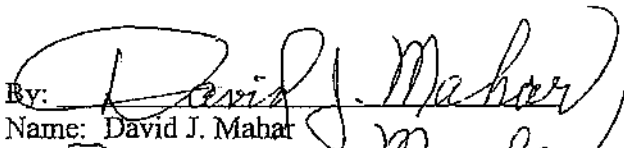
5. Unless specifically defined herein or the context clearly requires a different meaning, the capitalized words and phrases used herein shall have the meanings ascribed to them in the Option Agreement.

6. This Extension Agreement may be executed in separate counterparts, each of which shall constitute an original and all of which together shall constitute a single Extension Agreement.

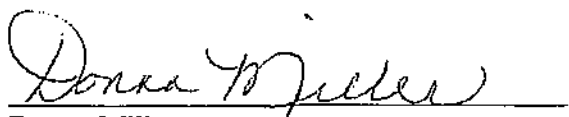
7. This Extension Agreement shall be, binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.


IN WITNESS WHEREOF, the parties hereto have executed this Extension Agreement as of the day and year first above written.

Buyer:  
FRONTIER STONE LLC

By:   
Name: David J. Mahar  
Title: Managing Member

Sellers:

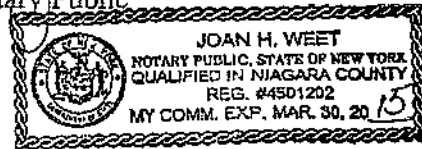
  
Donna Miller

  
Steven Miller

STATE OF NEW YORK )  
 ) SS.  
COUNTY OF )

On the 12<sup>th</sup> day of March in the year 2012, before me, the undersigned, personally appeared David J. Mahar, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

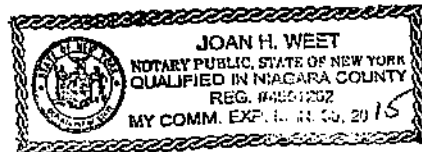
Joan H. Weet  
Notary Public



STATE OF NEW YORK )  
 ) SS.  
COUNTY OF )

On the 24<sup>th</sup> day of February in the year 2012, before me, the undersigned, personally appeared Steven Miller, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

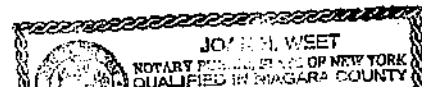
Joan H. Weet  
Notary Public



STATE OF NEW YORK )  
 ) SS.  
COUNTY OF )

On the 24<sup>th</sup> day of February in the year 2012, before me, the undersigned, personally appeared Donna Miller, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Joan H. Weet  
Notary Public





**Appendix 3**  
**Mining Plan Map**

**Appendix 4**

**Section II Water Conservation Form**



**Appendix 5**

**Section III Water Sources and Metering Form**

### III. WATER SOURCES AND METERING

For unmetered systems, please provide your best estimates for water production and/or consumption.

Are all sources of supply (including major interconnections) equipped with master meters? No
How often are they read? NA
How often are they calibrated? NA
Are there secondary meters located within the facility or system? No If yes, how many? NA
Describe secondary metering system if applicable: NA

Water Production for Calendar Year	
Total metered water production: Estimated at 139 mg	gallons per year
Average day production (total/days of use): Estimated at 380,808	gallons per day
Maximum day production (largest single day): Estimated at 555,264	gallons per day

What are your future goals and schedule for water metering?  
Metering will be estimated and reported as required by the site's SPDES from the quarry sump operation records.

**Best Management Practices:**

- \* 100% metering of all sources of water withdrawal.
- \* Source and secondary meters must be tested and calibrated annually.