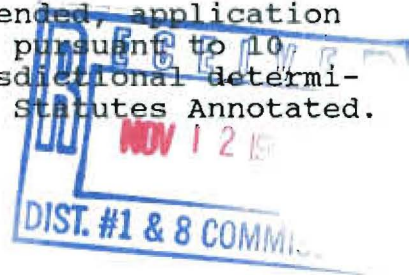


QUARRY #46

ACT 250 file number 1-5-49 dated received _____
APPLICATION FOR .[] complete [] incomplete init. _____
SLATE QUARRY .date completed _____
REGISTRATION .coordinator or clerk signature: 10 V.S.A. Chapter 151.

.....OFFICE USE ONLY.....

Pursuant to 10 V.S.A. §6001 et seq (Act 250), as amended, application is hereby made for registration as a "slate quarry" pursuant to 10 V.S.A. §6001 (25) and 6081(1), and for a final jurisdictional determination under subsection 6007(c) of Title 10 Vermont Statutes Annotated.



NAMES:

1. Applicant(s) Name: **Newmont Slate Co., Inc.**
Address: **Rt 149, Box 625**
West Pawlet VT 05775

Phone: **(802) 645-0203**

Legal form: [] individual [] partnership (attach list of partners)
[**X**] corporation: date formed: place formed: **Pawlet, VT**
date reg. in Vt: **08/24/94** [] municipal gov't [] state gov't
Legal interest in land: [] ownership in fee simple [] lease agmt
[] contract to purchase [] other:

2. Landowner(s) Name: **Charles J. Hudy & John M. Williams**
Address: **Rt 149, Box 625**
West Pawlet VT 05775

Phone: **(802) 645-0203**

3. Mineral Rights Owner Name: **Charles J. Hudy & John M. Williams**
Address: **Rt 149, Box 625**
West Pawlet VT 05775

Phone: **(802) 645-0203**

4. Leasehold Rights Owner Name: **N/A**
Address:

Phone:

5. Contact Person: **Charles J. Hudy & John M. Williams**
Address: **Rt 149, Box 625**
West Pawlet VT 05775

Phone: **(802) 645-0203**

LAND:

6. Total acres owned or controlled by applicant and landowner at project site: **73**

7. Deed(s): Grantee's name as recorded: **Hudy, Charles, J. & Williams, John, M.**
Recorded in book(s) **58** page(s) **108-10**
on date(s) **07/06/95**
Town **Pawlet** County **Rutland**

QUARRY DESCRIPTION:

8. Applicant represents that dimensional stone (Note 1) was commercially extracted from this hole on or prior to June 1, 1970 as follows: **Rising & Nelson Slate Co., Inc. extracted dimensional stone starting in the early 1920's through 1984.**

Quarry Hole #1:

9. Federal Mine Identification Number (Note 2): **4300020**
10. Mine Name: **Newmont Slate Co. Inc. (Quarry #4)**
11. Directions to the Mine (mileage - direction from nearest town, city, and landmark). Note: Submit tax map, aerial photo, sketch or site plan to show quarry hole location. **See map.**
12. Mine Location Address (city, county, state, zip code): **West Pawlet, Rutland County, Vermont 05775**
13. Commodity (type of slate product to be extracted): **Slate roofing shingles, tile, flag stone (stepping stones).**
14. Existing on-site operations:

Describe existing buildings (square footage, purpose, location shown on sketch) which are or were located on the premises prior to April 1, 1995.

Electrical building - 117 sq. feet
Finishing building - 1650 sq. feet
Processing & storage building - 2030 sq. feet
Storage building - 165 sq. feet

Pre-existing buildings (Rising & Nelson) SEE ATTACHED SKETCH:

Engine houses	(3) 25' X 25'	1875 sq. ft.
Trimming/splitting shanties	(19) 16' X 16'	4864 sq. ft.
Compressor building	(1) 20' X 30'	600 sq. ft.
Combined office, storage & compressor building	(1) 20' X 40'	800 sq. ft.
Storage building	(1) 16' X 12'	192 sq. ft.

If a building has been constructed on the tract since April 1, 1995, please contact the District Coordinator to determine whether an Act 250 permit is required.

Quarry Hole #2: (See Note 3)

15. Checklist of required documentation to be submitted with this application:

[X] Identity and Location of Quarry Hole(s) (tax map, aerial photo, site plan or sketch).

[X] Current list of names and addresses of all adjoining property owners (Note 4) whose fee simple ownership of property shares a property boundary with the quarry tract or whose lands are adjacent and separated only by a river, stream, or public highway.

SIGNATURES:

16. I hereby swear that the information provided above or attached to this registration is true and accurate to the best of my knowledge.

Signature of applicant(s): Charles J. Hardy Date: 11/08/96

17. I hereby authorize the processing of this application for the above project on land(s) that I own control, or have significant property interest in.

Signature of landowner(s): _____ Date: _____

DISTRIBUTION:

18. Submit the original and four copies to the District Coordinator.

19. Submit additional copies to the Municipality, Municipal Planning Commission, Regional Planning Commission, and to any adjoining municipalities and planning commissions.

Note 1: "Dimensional Stone" refers to slate that is processed into regularly shaped blocks according to specifications.

Note 2: Contact U.S. Dept. of Labor and Mine Safety and Health Administration Phone (518) 436-8970/

Note 3: For additional holes on the same tract, identify the hole(s) on the maps, photos and/or sketch provided in #11 above.

Note 4: Abutting owners may only object to issues relating to pre-existing use and registration. If a particular quarry hole is contested, registration may proceed with uncontested quarry holes located on the same parcel.

Approved by the Board on November 29, 1995

f:\users\joe\newmont\quarry3.app

Newmont Slate Co., Inc. - Quarry #4

Current adjoining property owners

Mr. & Mrs. Erwin Winot
RR 1
West Pawlet VT 05775

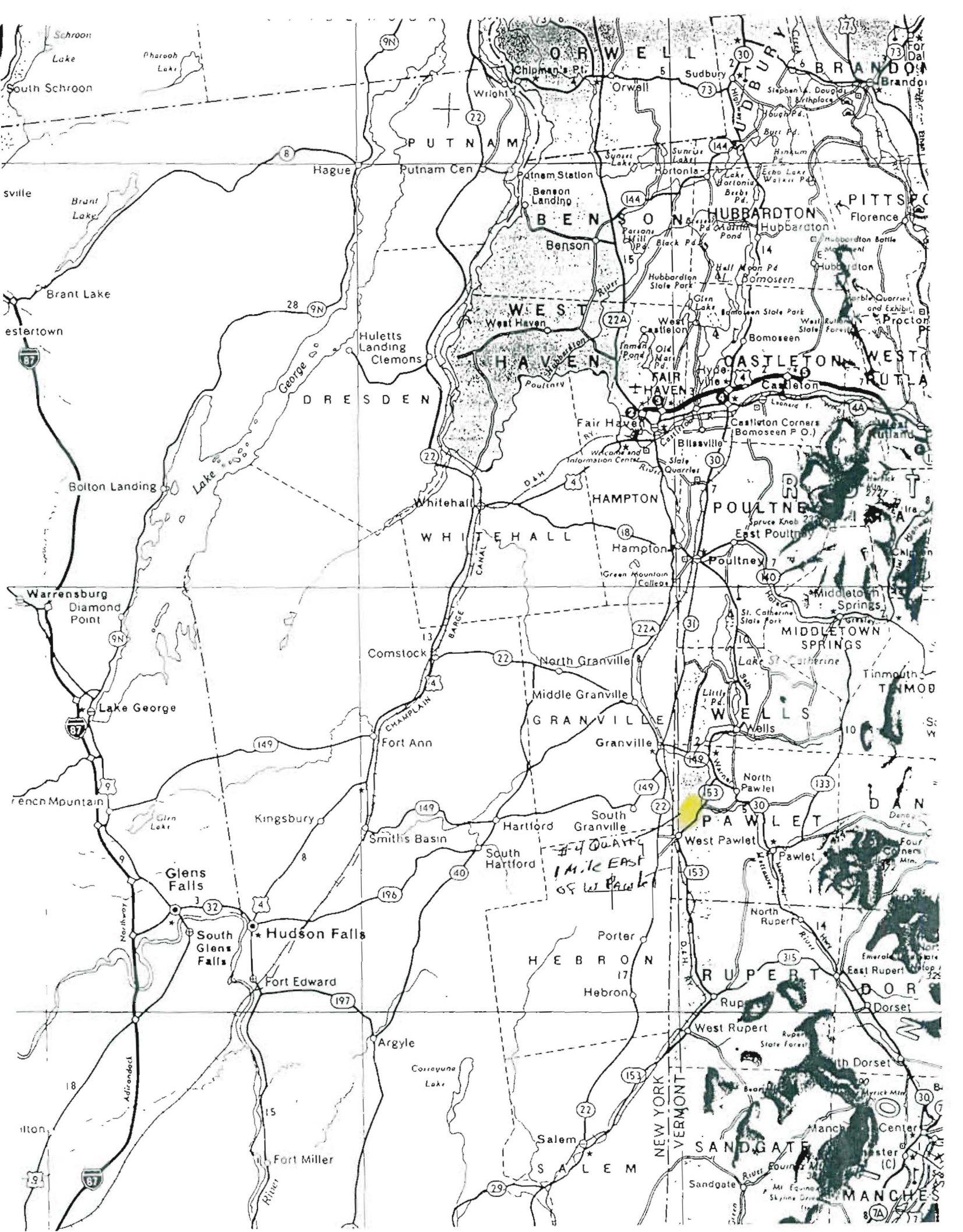
Mr. & Mrs. Ronald Taylor
RR 1
West Pawlet VT 05775

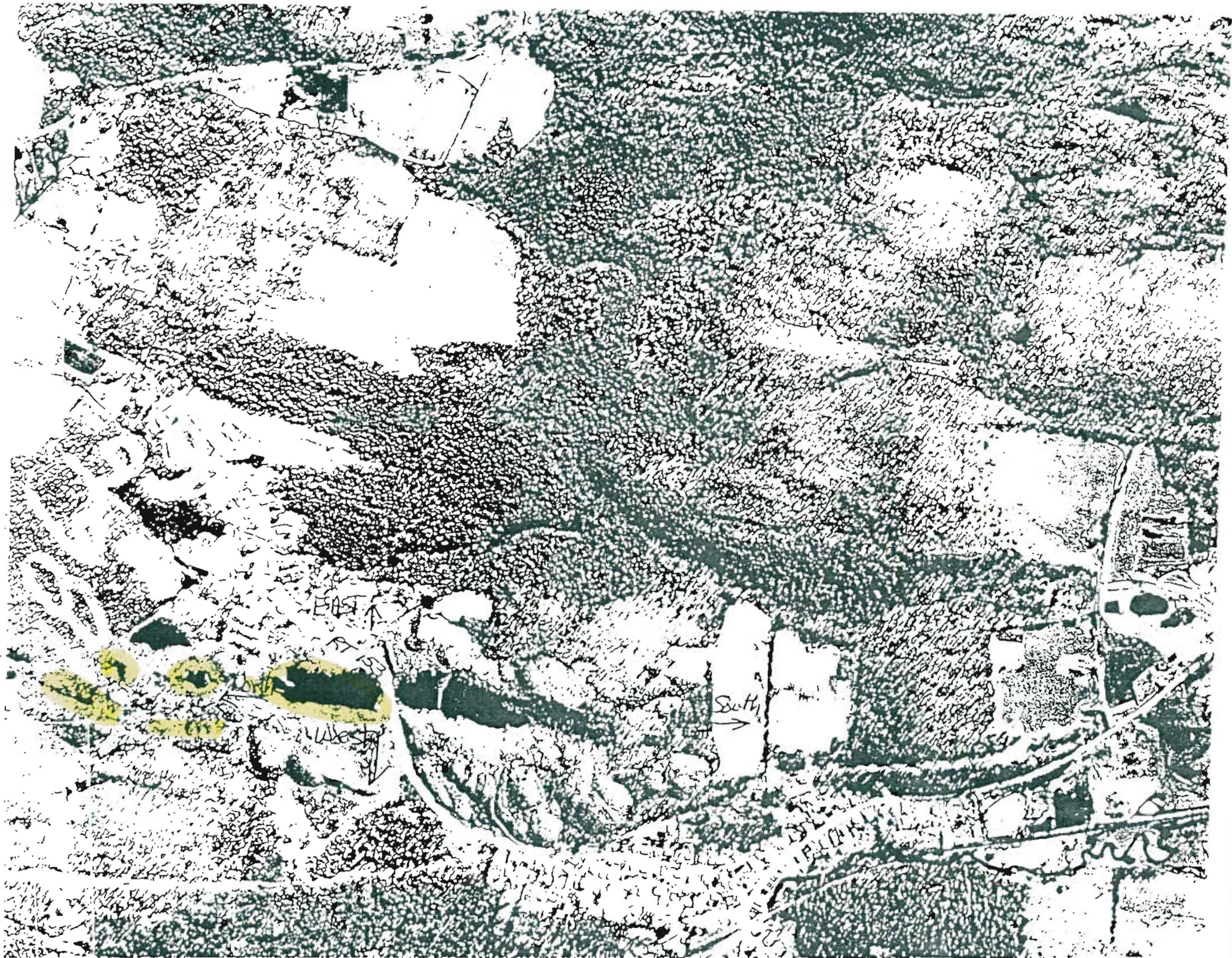
Mr. & Mrs. Robert Siekieiski
Box 156
West Pawlet VT 05775

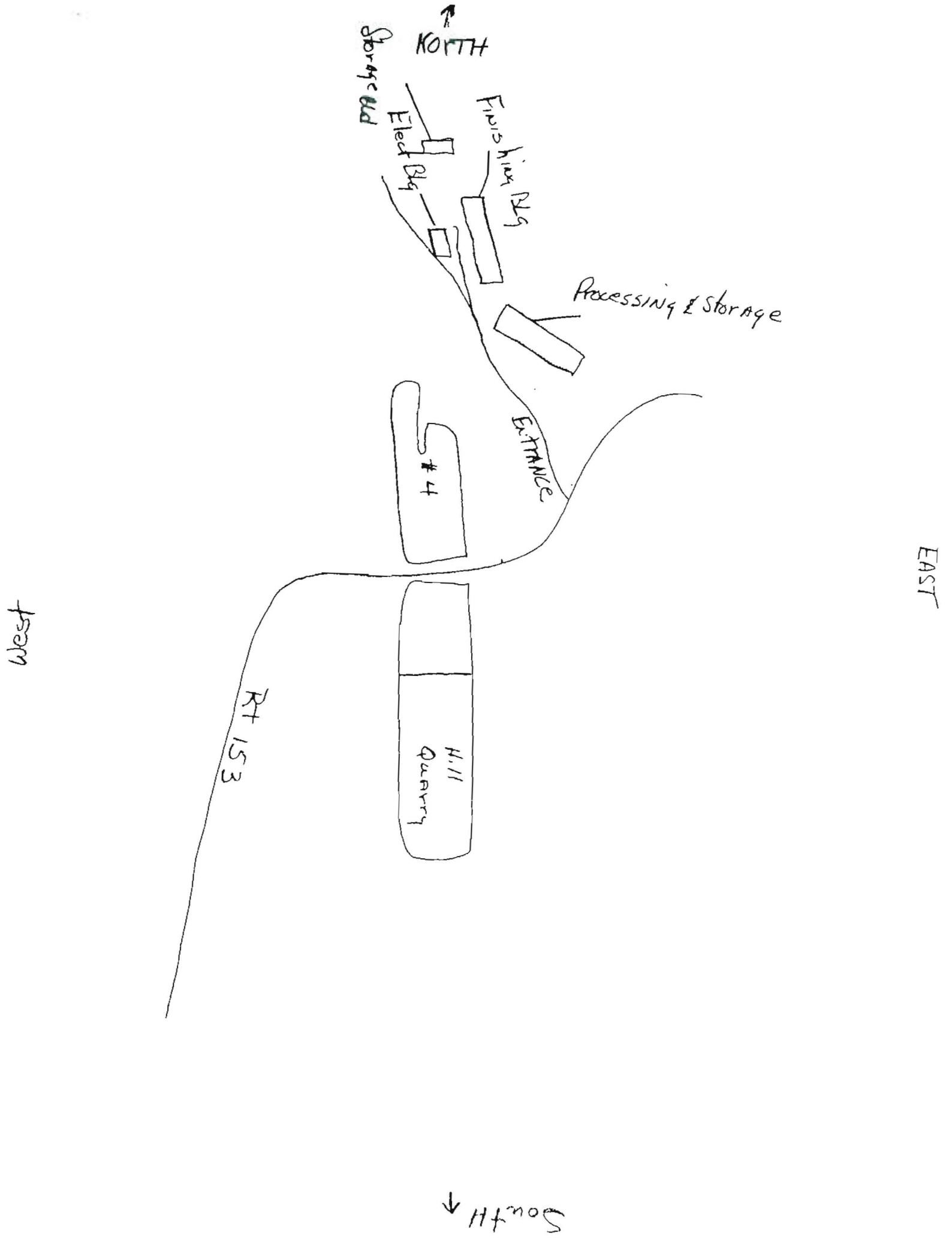
Mr. Robert Somers
275 Kellehar Road
Dorset VT 05251

Town of Pawlet
Pawlet VT 05761

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Newmont Slate Co., Inc.

OFFICE:
(802) 645-0203
FAX:
(802) 645-0851

ROUTE 149, WEST PAWLET, VERMONT 05775

QUARRY SITES:
South Poultney, VT
(802) 287-5733
West Pawlet, VT
(802) 645-0203

February 5, 1997

Dear Mr. Burke

Enclosed you will find the information that was requested in your letter of January 24, 1997.

All state quarry registration applications remain as submitted.

Sincerely,
Newmont Slate Co. Inc.
Charles Rudy - Pres
John Willard - V. PRES



VERMONT
GREY-BLACK

Quarries located in South Poultney & West Pawlet, Vermont



GREENS

Newmont Slate Co., Inc.

OFFICE:
(802) 645-0203
FAX:
(802) 645-0851

ROUTE 149, WEST PAWLET, VERMONT 05775

QUARRY SITES:
South Poultney, VT
(802) 287-5733
West Pawlet, VT
(802) 645-0203

Hear Mr. Burke

- 1 - Early development of the West Pawlet quarry.
- 2 - Buildings that once were at the sites
- 3 - Aerial view of buildings at the West Pawlet site
- 4 - Picture showing the buildings at the West Pawlet site



VERMONT
GREY-BLACK

Quarries located in South Poultney & West Pawlet, Vermont



GREENS



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①

WEST PAWLET, VT.

- 1 Welch Presbyterian Church.
- 2 Welch Congregational Church.
- 3 Baptist Church.
- 4 Church of Christ.
- 5 Academy.
- 6 D. & H. R. R. Station.
- 7 S. D. Dennison's Slate Quarry.
- 8 Rising & Nelson's Slate Quarry, No. 4.
- 9 W. H. Hughes' Slate Quarries.
- 10 Rising & Nelson's Slate Quarry, No. 8.



2



④



STATE OF VERMONT
District Environmental Commission #1 and #8
440 Asa Bloomer State Office Building
Rutland, VT 05701-5903
Telephone: (802) 786-5920
Fax: (802)786-5915
January 24, 1997

Newmont Slate Co., Inc.
O'Brien Quarry #4
Route 149 Box 625
West Pawlet, VT 05775

Dear Mr. Hudy & Mr. Williams:

Your slate quarry registration application(s) indicated the presence of buildings existing on the premises prior to April 1, 1995. In order to document the pre-existing structures or their remains, we are requesting photographs of such existing buildings be submitted to this office at the address above, no later than **February 7, 1997**. We are aware that the condition of the buildings will vary and that in some situations only foundations remain. The photographs may be color or black and white. We appreciate your cooperation and prompt response. Questions may be addressed to the above address and telephone number.

Sincerely,

A handwritten signature in cursive script, appearing to read "Leslie Jones".

Leslie Jones
Legal Intern



117 sq. Ft.



1650 sq. Ft.



165 sq. Ft.



2030 sq. Ft.



STATE OF VERMONT
Districts #1 & 8 Environmental Commissions
440 Asa Bloomer State Office Building
Rutland, VT 05701-5903
Tel: (802)786-5920
Fax: (802)786-5915
February 27, 1997

Charles J. Hudy
John M. Williams
Newmont Slate Company, Inc.
Route 149, Box 625
West Pawlet, Vermont 05775

Subject: Jurisdictional Opinion #1-S-49; Five Quarry Holes and Nine Buildings on a ±73 Acre Tract Located North of Route 153 in the Town of West Pawlet, Vermont

Dear Charles J. Hudy and John M. Williams:

Pursuant to 10 V.S.A. §§6001(25), 6007(c), 6081(j), and 6081(l)(1), you submitted a slate quarry registration application and request for an Act 250 jurisdictional opinion on November 8, 1996.

I. Background

In 1993, the Vermont Legislature enacted new legislation (H.871§ 37 entitled "Slate Quarry Regulatory Review") which served to provide a temporary exemption from Act 250 for substantial or material changes to existing slate quarries provided that such changes were not "extreme changes" under the statute. See § 37 of H.871 supra.

In 1995, the Vermont Legislature enacted Act 30, adding subsections (j) through (l) to 10 V.S.A. § 6081 (Permits required; exemptions) of the Act 250 statute ("Act 30"). Among other things, Act 30 established a slate quarry registration program whereby quarries which are properly registered are deemed to be active (not abandoned) and exempt from Act 250 for enumerated "ancillary activities" (i.e. "Drilling, crushing, grinding, sizing, washing, drying, sawing and cutting stone, blasting, trimming, punching, splitting and gauging, and use of buildings and use

and construction of equipment exclusively to carry out the above activities. Buildings that existed on April 1, 1995, or any replacements to those buildings, shall be considered ancillary." 10 V.S.A. § 6081 (k)(1).

The Act, effective April 13, 1995, further provided that the amendments to section 6081 of Act 250 shall be retroactive to June 1, 1970. Act 30, § 4.

II. Summary of Opinion

Having completed my review of your registration form (with enclosures), I conclude that the subject quarry holes and nine existing buildings constitute a preexisting development, are not abandoned, and are not currently subject to a requirement for an Act 250 Land Use Permit. Accordingly, no Act 250 permit is currently required for the subject #4 Quarry as described in more detail below.

The construction of a new building or buildings (other than replacement of the existing buildings), or the opening up of a new quarry hole will require a land use permit under 10 V.S.A. §6001 *et seq* (Act 250).

III. Documents and Facts

In forming this opinion, I relied upon the accuracy of the following factual representations and documents:

1. Slate Quarry Registration form filed by Charles J. Hudy and John M. Williams dated November 8, 1996.
2. A site map showing the location of the quarry.
3. A list of adjoining property owners.
4. An aerial photograph showing five quarry holes.
5. Four photographs showing one 117 sq. ft. electrical building; one 1650 sq. ft. finishing building; one 2030 sq. ft. processing and storage building; and one 165 sq. ft. storage building.
6. An aerial photograph showing one 25' x 25' engine house; one 16' x 16' trimming/splitting shanty; one 20' x 30' compressor building; one 16' x 12' storage building; and one 12' x 14' storage building.

7. Federal Mine Safety and Health Administration Identification #4300020.

IV. Conclusions

Based upon the information submitted, I conclude that there is sufficient evidence that the subject quarry holes preexisted Act 250 (June 1, 1970) and are not abandoned. 10 V.S.A. §6081(j). Moreover, I conclude that nine buildings on the tract, constructed prior to April 1, 1995, are exempt as "ancillary activities" under 10 V.S.A. §6081(k)(1). Although the registration document indicated the existence of several additional outbuildings, I find the evidence of ancillary buildings to be sufficient only with respect to the nine buildings cited above. Applicant stated that only the nine buildings cited above remained, in part or whole, on April 1, 1995.¹ Therefore, only the nine existing buildings described above meet the statutory requirements of 10 V.S.A. §681(k)(1).² Pursuant to 10 V.S.A. §6081(l)(5), operation of and changes to the subject quarry will not require a land use permit under 10 V.S.A. §6001 *et seq* (Act 250) provided that the changes do not involve the creation of a new quarry hole or holes or the construction of new buildings on the tract.

V. Reconsideration or Appeal

This is a jurisdictional opinion and interested parties may file a request to the District Coordinator, at the address above, to reconsider the opinion, or may file an appeal to the State Environmental Board, pursuant to 10 V.S.A. §6007(c). A jurisdictional opinion of a district coordinator shall be subject to a request for reconsideration or it may be appealed to the board by the applicant, by individuals or entities who may be affected by the outcome of the opinion, or by parties that would be entitled to notice under section 6084, if jurisdiction were determined to exist. **An appeal from a jurisdictional opinion must be filed within 30 days of the mailing of the opinion to the person appealing. Failure to appeal within the prescribed period shall render the jurisdictional opinion the final determination with respect to jurisdiction under this chapter unless the opinion has not been properly served on parties that would be entitled to notice under section 6084, if jurisdiction were determined to exist, and on persons and entities which may be affected by the outcome of the decision, according to the rules of the board.** Any appeal shall be by means of a petition for declaratory ruling, and must be accompanied by a \$25.00 filing fee.

¹ Per a February 18, 1997 meeting with Charles Hudy.

² "Buildings that existed on April 1, 1995, or any replacements to those buildings, shall be considered ancillary." 10 V.S.A. § 6081(k)(1).

Jurisdictional Opinion #1-S-49
February 27, 1997
Page 4

The filing should be directed to the Environmental Board, National Life Records Center Building, Drawer 20, Montpelier, Vermont 05620-3201.

VI. Recordation

This jurisdictional opinion becomes a final determination at the conclusion of the thirty day appeal period explained above. Pursuant to 10 V.S.A. §6081(1)(4) the final determination regarding a slate quarry registration under subsection 6007(c) of this title shall be recorded in the municipal land records by, and at the expense of, the registrant - along with an accurate site plan of the parcel depicting the site specific information contained in the registration documents.

Sincerely,

A handwritten signature in black ink, appearing to read "W. Burke", written in a cursive style.

William T. Burke
District Coordinator

Enclosure: (1) Certificate of Service

CERTIFICATE OF SERVICE

I, Carmelita L. Brown, hereby certify that I sent a copy of the foregoing Jurisdictional Opinion #1-S-49, on February 27, 1997, by U.S. Mail, postage prepaid, to the following:

Newmont Slate Co., Inc.
Charles J. Hudy
John M. Williams
Rt 149 Box 625
West Pawlet, VT 05775

Laurence Becker
State Geologist
Center Building
103 South Main Street
Waterbury, VT 05671-0301

Ashley D. Waite
Town of Pawlet Selectmen
P.O. Box 117
Pawlet, VT 05761-0117

Mr. & Mrs. Erwin Winot
RR 1
West Pawlet, VT 05775

Thomas Nelson
Pawlet Town Planning Commission
P.O. Box 68
West Pawlet, VT 05775-0068

Mr. & Mrs. Ronald Taylor
RR 1
West Pawlet, VT 05775

Joanne Waite
Pawlet Town Clerk
P.O. Box 128
Pawlet VT 05761-0128

Mr. & Mrs. Robert Siekieski
Box 156
West Pawlet, VT 05775

Rutland Regional Commission
P.O. Box 965
Rutland, VT 05702

Robert Somers
275 Kellehar Road
Dorset, VT 05251

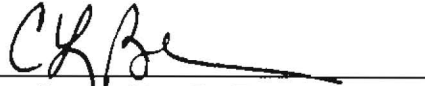
Andrew Raubvogel, Esq.
Land Use Attorney
103 South Main Street
Waterbury, VT 05676

Town of Pawlet
Pawlet, VT 05761

Dated at Rutland, Vermont, this 27th day of February, 1997.

FOR YOUR INFORMATION ONLY

Mike Music
Supervisory Mine Safety & Health Insp.
P.O. Box 248
Glenmont, NY 12077-0248

By 
Carmelita L. Brown
District Office Chief Clerk