



TOWN OF AMENIA TOWN BOARD

4988 Route 22, AMENIA, NY 12501
(845) 373-8860 www.ameniany.gov

Resolution No. 52 of 2025

RE: AUTHORIZING SETTLEMENT OF STATE COURT AND FEDERAL COURT PROCEEDINGS COMMENCED BY KENT HOLLOW INC.

WHEREAS, there is now pending in the Dutchess County Supreme Court (the "State Court"), a special proceeding and declaratory judgment action entitled "Kent Hollow Inc. v. CEO Segleken and the Town of Amenia Zoning Board of Appeals ("ZBA"), Index No. 2019-52815 ("the State Court Action"); and

WHEREAS, there is also now pending in the Southern District of New York an action entitled "Kent Hollow Inc. v. the Town of Amenia, CEO Segelken, the Town of Amenia ZBA et al., Civil Action No. 7:21-cv-02638-CS ("the Federal Action"); and

WHEREAS, those actions arise out of a Notice of Violation issued by the Town's Code Enforcement Official, dated May 1, 2017, based on Kent Hollow's February 10, 2017 application to DEC seeking a soil mining permit to undertake soil mining activities on property that was not located in the Town's Soil Mining Overlay zoning district, and therefore proposing to conduct those activities in a zoning district where they were not a permitted use; and

WHEREAS, Kent Hollow appealed that Notice directly to the ZBA; and

WHEREAS, following extensive review of that application and supporting materials, the ZBA held a public hearing on the appeal; and

WHEREAS, after closing the hearing and further appearances before the ZBA, the ZBA ultimately denied Kent Hollow's appeal, finding that Kent Hollow had failed to meet its burden of proof to demonstrate that it had established and maintained a non-conforming mining use on its property that would allow the mining activities proposed in its application to the DEC for a mining

permit that would allow up to 55,000 yards of material a year to be removed during the 25 year duration of Kent Hollow's contemplated soil mining operation; and

WHEREAS, Kent Hollow brought an Article 78 proceeding in Supreme Court to challenge that determination; and

WHEREAS, at the urging of the State Court, the parties undertook extensive settlement discussions, which were facilitated by the Court, to resolve the dispute; and

WHEREAS, the parties engaged in extensive negotiations that resulted in Kent Hollow agreeing to substantial concessions, including reducing the maximum amount of materials that could be taken in a calendar year for commercial sale and for Kent Hollow's use to 24,000 yards, placing restrictions on the days of the week and hours of when the proposed mine would be open for commercial sales, closing the mine to the sale of material when the annual limit of 15,000 yards was reached, agreeing not to conduct soil mining activities on holidays or weekends, and a number of other measures that would avoid, minimize or mitigate the impact of those activities; and

WHEREAS, during that time, Kent Hollow brought an action in Federal Court, to preserve its claim to constitutional violations: specifically, Kent Hollow asserted a claim for damages in excess of \$7,000,000 against the Town of Amenia, the ZBA, the Town's Code Enforcement Officer, and against various individuals it asserted had conflicts of interest; and

WHEREAS, the claim for \$7,000,000 in damages resulted in the Town's insurance provider appointing Special Counsel to represent the Town defendants in the Federal Court action; and

WHEREAS, the parties in that action advised the Federal Court that constructive settlement discussions were underway in the State Court action and appeared likely to resolve the dispute, the Federal Court dismissed the action, with leave to restore it to the Court's calendar if the settlement did not take place; and

WHEREAS, although the settlement discussions in State Court were constructive, they ultimately were not successful and, the parties advised Supreme Court that it did not appear they would be able to settle; and

WHEREAS, Supreme Court thereafter issued a decision on March 6, 2024, finding that a member of the ZBA had participated in the proceeding despite having a conflict of interest, and consequently the Court annulled the ZBA determination and directed that ZBA hear any new appeal by Kent Hollow on a de novo record; and

WHEREAS, as a result of the State Court's decision, the Federal Court restored the action to its calendar, ordered the parties to attend a hearing on May 26, 2024 with their counsel, and directed the parties and counsel to meet before that hearing and attempt to resolve the dispute; and

WHEREAS, at the hearing, Judge Seibel urged the Town to renew its effort to settle the dispute, emphasizing the cost that the Town would incur in preparing for and conducting a trial if the action needed to be resolved by trial, as well as the Town's exposure to the possibility of substantial damages if Kent Hollow was able to prove its claims; and

WHEREAS, the parties renewed their settlement discussions with the assistance and guidance of the Federal and State Courts, and eventually proposed a stipulation to the State Court in which the State Court would review the evidence that Kent Hollow put before the ZBA, including a number of determinations made by Town officials in connection with previous DEC soil mining permit applications between 1975 and 1989 that stated there was a non-conforming use on the property, and determine whether Kent Hollow had sufficiently established its claim to a non-conforming use of the nature and scope presented in its 2017 DEC application to conduct soil mining operation on 33 acres of its property; and

WHEREAS, the State Court has agreed to do so, and will So Order that Stipulation of Settlement, which is annexed hereto and made part of this Resolution; and

WHEREAS, by entering into the Stipulation, the Town Board is acknowledging the aforesaid determinations of the Court, as well as the restrictions that Kent Hollow has agreed to,

which will result in a substantial reduction in the maximum amount of material that can be removed per calendar year, restricting the number of days and hours of the day that the proposed mine would be open for commercial sales, closing the mine to the sale of material when the annual limit of 15,000 yards was reached, not conducting soil mining activities on holidays or weekends, and a number of other measures that would avoid, minimize or mitigate the impact of those activities; and

WHEREAS, the Board is also considering that any mining application that Kent Hollow makes to DEC following this stipulation will be considered by DEC as a new permit application, and will be subject to full SEQRA review, following which the Town Board anticipates any mining permit will be subject to appropriate conditions imposed and enforced by DEC to avoid or mitigate any impacts on adjoining properties identified in the course of that review, including a mining plan that limits the maximum area of active mining and provides measures to address potential noise and dust impact, similar to the conditions imposed on other mining permits in the Town; and

WHEREAS, while the Town Board is not an involved agency for purposes of SEQRA review, as it does not issue permits or approvals for the SEQRA action, it notes Kent Hollow has agreed to measures to avoid such impacts, has expressed its willingness to work with the Town to address any new issues or concerns that may arise in the course of DEC's environmental review, and has acknowledged that the Town has reserved the right to comment to DEC as an interested agency on any new issues or concerns; and

WHEREAS, the Town Board has also been advised by counsel that as the appeal to the ZBA that gave rise to the litigation that this stipulation of settlement resolves was a Type II action, and this stipulation of settlement is being So Ordered by a court of competent jurisdiction, this stipulation is properly considered a Type II action requiring no further SEQRA review; and

WHEREAS, notwithstanding that conclusion, the Town Board has considered that this stipulation does not allow or authorize any action that would have an environmental impact; it only allows Kent Hollow to pursue its application to DEC, and that DEC had previously conducted a

full environmental review of a prior application that incorporated mitigation measure that allowed DEC to issue a negative declaration on November 10, 2016; and

WHEREAS, the Board notes that such future application would be subject to the operational restrictions identified in the Stipulation, which would further avoid, minimize or mitigate environmental impacts, and that Kent Hollow has represented its willingness to work constructively with the Town to resolve any unanticipated concerns that might arise during the permitting process; and

WHEREAS, the Town Attorney and Special Counsel have reviewed and recommended the proposed terms of settlement set forth in the Stipulation of Settlement; and

WHEREAS, Kent Hollow has agreed by the terms of settlement to discontinue both the State Court and the Federal Court actions; and

WHEREAS, Kent Hollow has agreed to restrict its proposed soil mining operations to the thirty-three acres of its property proposed in its 2017 DEC permit application, to limit the annual amount of materials that will be sold to no more than 15,000 yards a calendar year, to restrict the days and hours of operation of that operation, and to further limit the amount of material it may take in any month from the property for its own use to 750 yards, with no soil mining activities on weekends, holidays or after sunset, and has further agreed that any DEC permit shall be subject to the aforesaid restrictions; and

WHEREAS, the Kent Hollow soil mining operation is anticipated to be consistent with the mining plan proposed in its 2017 DEC application, with a phased plan of active mining activities occurring over the twenty (25) year life of the Proposed Mine, with phases being limited to five (5) acres at any given time, and Kent Hollow reclaiming mined areas during each phase when two (2) acres have reached final grades and are not required for mining activities; and

WHEREAS, the Town Board has reviewed the Stipulation of Settlement and finds that its terms are acceptable and further finds and determines that the Stipulation is just, reasonable and to the interest of the Town.

NOW, THEREFORE, BE IT RESOLVED, as follows:

1. The recitations set forth above are incorporated in this Resolution as if fully set forth and adopted herein.
2. The Town Board hereby finds and determines that the action before it is a Type II SEQRA action, and no further SEQRA compliance is required.
3. The Town Board of the Town of Amenia hereby approves the Stipulation of Settlement of the aforesaid State Court and Federal Court actions, which Stipulation is annexed hereto on behalf of the Town of Amenia.
4. The Deputy Town Supervisor and Special Counsel to the Town of Amenia are hereby authorized to take all actions that are necessary and appropriate to effectuate the terms of this Resolution, including executing and filing the Stipulation of Settlement and any documents required to discontinue the State Court or Federal Court actions.

Motioned By: C/Ahearn

Seconded By: C/Rebillard

The foregoing resolution was voted upon with all councilwomen/councilmen voting as follows:

Supervisor Blackman	Recused
Councilman Rebillard	Aye
Deputy Supervisor Hamm	Aye
Councilwoman Ahearn	Aye

Dated: Amenia, New York
April 24, 2025


ERICKA HOWARD, DEPUTY TOWN CLERK