

AGREEMENT FOR THE TRANSFER OF EXCAVATED MATERIALS

For the mutual considerations set forth below, the New York State Canal Corporation (“NYSCC”) and the New York State Department of Environmental Conservation (“NYSDEC”) recite and agree as follows:

1. NYSCC has jurisdiction over the State’s Canal System, as defined in New York State Canal Law, and is responsible for efficiently maintaining the Canal System to ensure it remains in good condition.
2. Pursuant to that responsibility, NYSCC prepares annual dredge plans identifying locations to be dredged within the Canal System and submits them to NYSDEC for review and approval.
3. NYSCC’s dredging activities and the disposal of the dredged materials are authorized under, and subject to the conditions within, a Water Quality Certification (“WQC”) issued by NYSDEC (NYSDEC ID: 0-9999-00272) (“Dredge Permit”).
4. In accordance with the Dredge Permit and NYSCC’s annual dredge plans, NYSCC disposes of dredged materials at various upland disposal sites along and within the vicinity of the canal.
5. At issue in this Agreement is the future use and ownership of certain excavated dredge material located within NYSCC’s Upland Disposal Site (“UDS”) 4-26.
6. NYSDEC has requested to remove 432,500+/- of the excavated dredge material from UDS 4-26 (hereafter “the Material”) and, upon removal, assume ownership of the Material for reuse at its sole discretion.
7. NYSCC endeavors to preserve upland disposal site capacity at UDS 4-26 by transferring ownership of the Material to NYSDEC and allowing for NYSDEC to remove and reuse the Material at its discretion.
8. NYSCC’s transfer to NYSDEC would preserve capacity for future excavated dredge material at UDS 4-26 and avoid the substantial cost of removing and transporting the Material from UDS 4-26 to a recycling or landfill facility.
9. NYSDEC is uniquely positioned to reuse the Material in a manner that benefits the public welfare, and is also willing to indemnify, defend, and hold harmless NYSCC pursuant to paragraph 12 of this agreement.
10. In consideration for the indemnity set forth below, NYSCC consents and agrees that, upon issuance and adherence to NYSCC occupancy and work permits, NYSDEC may enter Canal property and take ownership of the Material, and all interests therein, “AS IS, WHERE IS,” subject to the following conditions:
 - a. Prior to assuming ownership of the Material, NYSDEC will issue a Beneficial Use Determination for the Material pursuant to 6 NYCRR Part 360.
 - b. NYSDEC will be exclusively responsible for obtaining and adhering to any additional federal, state, and local permits needed to remove and reuse the Material.
 - c. NYSDEC’s decision to begin removal of the Material will constitute NYSCC’s compliance with conditions 24 and 30 of the Dredge Permit.

- d. This Agreement is conditioned upon the Parties first satisfying their SEQRA obligations prior to engaging in any physical alteration at UDS 4-26. NYSDEC will serve as lead agency for conducting the environmental review required by the State Environmental Quality Review Act for the actions described in this Agreement. If NYSDEC determines the activities within this Agreement to be an Unlisted action, it will conduct a coordinated review and include NYSCC as an involved agency. NYSDEC will provide documentation of its SEQRA determination prior to removing the Material.
 - e. NYSDEC agrees to accept the Material "AS IS, WHERE IS," and will have sole ownership of and responsibility for the Material.
 - f. NYSCC does not in any way warrant the fitness of the Material for any particular use and disclaims any other representations or warranties, express or implied, including, but not limited to, the quality, quantity, character, performance, or condition of the Material.
11. To the maximum extent permitted by applicable law, particularly the New York State Court of Claims Act and Section 17 of the New York State Public Officers Law, NYSDEC hereby agrees to indemnify and hold harmless NYSCC, including its officials and employees, against any and all causes of actions in law or equity arising directly from the negligence of NYSDEC or its employees, to the extent attributable to said negligence, connected to the transfer of the Material or the performance of any work under this agreement. In accordance with New York State Finance Law Section 41, said responsibility of NYSDEC is limited to the availability of lawful appropriations. NYSDEC, for and on behalf of its employees, hereby releases NYSCC from any liability directly arising from the transfer of the Material or the performance of any work under this agreement, to the extent said liability is directly attributable to the negligence of the NYSDEC or its employees. It is further understood and agreed that in the performance of the purpose aforesaid, the NYSDEC is an independent contractor, and its servants and employees shall at no time be considered employees of NYSCC. In addition to NYSDEC's obligation to defend and indemnify NYSCC pursuant to paragraph 12 of this agreement, but not in substitution thereof, NYSDEC will arrange for each of its contractors to procure and maintain during the entire term of this agreement comprehensive general liability insurance coverage, in an amount of at least \$1,000,000 per occurrence and naming NYSCC as an additional insured thereunder, for the transfer of the Material or the performance of any work under this agreement. Each of NYSDEC's contractors transporting dredge material will procure and maintain during the entire term of this agreement business automobile insurance coverage, in an amount of at least \$1,000,000 per occurrences and naming NYSCC as an additional insured. NYSDEC's contractors shall also provide NYSCC with proof of workers' compensation insurance coverage. NYSDEC will provide NYSCC with the identity of any contractors that will be working on the transfer of the Material and copies of the insurance certificates, additional insured endorsements, waiver of subrogation endorsement and evidence of workers' compensation from the contractors.

12. The Material must be removed within two (2) years of this agreement being fully executed, and NYSDEC must also adhere to all conditions in the forthcoming occupancy permit.

Dated: 01/14/2026

For the New York State Department of Environmental Conservation

Andrew Guglielmi

Andrew Guglielmi (Jan 14, 2026 10:15:04 EST)

Signature

Andrew Guglielmi

Name and Title

For the New York State Canal Corporation

John L. Canale

John L. Canale (Jan 6, 2026 13:35:06 EST)

Signature

John L. Canale SVP SSM

Name and Title



MEMORANDUM

TO: Michael Cruden, Director, Remedial Bureau E, Division of Environmental Remediation (DER)

FROM: Brianna Scharf, Project Manager *BLS*

THROUGH: Samantha Salotto, Section Chief *SRS*

RE: BUD No. 633015-4, Beneficial Use Determination for Material at Utica City Dump, 633015, Oneida, Utica

DATE: September 11, 2025

Background: The material was generated by New York State Canal Corporation (NYSCC) by dredging the canal to maintain the canal channel. 432,500 cubic yards (CY) +/- of soil was excavated and stock-piled on site.

Request: The NYSCC needs 432,500 CY +/- of dredged material relocated from their staging area. It is encouraged for the NYSCC to preserve upland disposal site capacity by removing dredge material from disposal sites or by directly reusing dredged material. The New York State Department of Environmental Conservation (NYSDEC) is currently preparing the Utica City Dump site for remediation and could use the material in the preparations. Therefore, it is advantageous for both NYSDEC and NYSCC to beneficially use the material at the Utica City Dump site.

Approval: Based upon the analytical results from samples taken from the material, the material can be used at the Utica City Dump site under a beneficial use determination (BUD). This memo represents the Department's determination that future use as grade or road base during closure activities for the Utica City Dump site, which represents a beneficial use. Since this represents only a minor change to the selected remedy, this memorandum serves as the required documentation required in DER-2.

Conditions: Refer to "Agreement for the Transfer of Excavated Materials" between NYSDEC and NYSCC. Transportation of the material from the staging area to the Utica City Dump beneficial use site will be via barge using the Erie Canal. Barges used in transport of this material shall meet the barge canal corporation, Federal and Local Department of Transportation (DOT) requirements, including but not limited to:

- o Loaded barges will be appropriately manifested and placarded in accordance with appropriate Canal Corporation, Federal, State, local, and NYSDOT requirements (and all other applicable transportation requirements).

The UDS 4-26 material will be staged at the Utica City Dump site for beneficial reuse. Water will be used for dust control as needed. The staged UDS 4-26 material will be placed as soon as possible to execute the construction of the Evapotranspiration (ET) Cover and other items to be constructed. The UDS 4-26 material should not contain any debris or particles greater than 6 inches in diameter and should be staged in a secure area to minimize erosion, ponding, and runoff. If the material is not dried and utilized for construction of the ET Cover within a month of transportation to the site the material will be inspected to confirm that no significant disturbance or erosion of the soil has occurred. Repairs to erosion control devices and regrading if required is the responsibility of NYSDEC.

Approved: *Michael J Cruden* Date: 9/12/2025
Director, Remedial Bureau E

Signature: *John L. Canale*
John L. Canale (Jan 6, 2026 13:35:06 EST)

Email: john.canale@nypa.gov

Title: SVP Strategic Supply Management

Company: New York Power Authority

Signature: *Andrew Guglielmi*
Andrew Guglielmi (Jan 14, 2026 10:15:04 EST)

Email: andrew.guglielmi@dec.ny.gov

Title: Director, Division of Environmental Remediation

Company: NYSDEC