

New York State Department of Environmental Conservation

Division of Environmental Permits, Region 8

6274 East Avon-Lima Road, Avon, New York 14414-9519

Phone: (585) 226-5400 • FAX: (585) 226-2830

Website: www.dec.state.ny.us



Denise M. Sheehan
Commissioner

27 April 2006

John Hellert
Continental Placer, Inc.
26 Computer Drive West
Albany, New York 12205

RECEIVED
MAY 01 2006

Dear Mr. Hellert:

Re: **Notice of Incomplete Application**
DEC 8-3436-00033/00001 MLR 80823
Frontier Stone LLC, Proposed Shelby Quarry
Shelby (T) Orleans County

Department staff have completed a preliminary review of the application materials that you provided for the above noted new mine and we offer the following comments:

Mined Land Use Plan (MLUP):

1. The MLUP lacks useful groundwater information. The well readings include only data from one particular date, with no representation of verified seasonal fluctuations. A complete hydrogeologic assessment is required. The assessment must address how the final lake elevation was determined and the impacts to residential wells, wetlands, wildlife and vegetation. The information should include core logs for the three monitoring wells and any related data.
2. Section 2.4.2 of the MLUP Narrative indicates a 174.1 acre excavation area. The Mine Plan Map indicates a 174.2 acre excavation area. Acreage numbers must be consistent throughout all application materials.
3. The MLUP does not include a Blasting Plan. A comprehensive plan and assessment must be completed in order for blasting to be a permitted method of mining.
4. Additional information must be provided regarding the proposed processing equipment. The maximum processing rate for the crusher and screener must be provided in tons/hour. The necessary air registrations or Air State Facility permit applications should also be included in your resubmittal. In addition to Department staff, help in completing air applications can be obtained from the NYS EFC Small Business Assistance Program at 800-780-7227 or on their website.

The specific water source(s) for the wash plant must be identified. Also, the maximum pumping rate in gallons/minute must be calculated. A schematic must be provided giving detail on the layout of the wash plant's closed circuit system.

5. The Mining Plan Narrative does not provide sufficient information about the berms. Specific berm locations and design details must be provided. This detail must also be provided on the Mining Plan Map.

6. The MLUP does not include a sufficient amount of information regarding dust, noise and visual impacts. A comprehensive assessment of impacts (including a noise study) and control measures must be provided.
7. The MLUP must identify the specific days and hours of operation.
8. A discussion of the feasibility of concurrent reclamation must be provided.
9. Information must be provided on how the final lake elevation was ascertained, and what data were used to make that determination.
10. The reclamation narrative section of the MLUP must include a section explaining that topsoil and overburden will be stripped, stockpiled and replaced separately.

Environmental Assessment

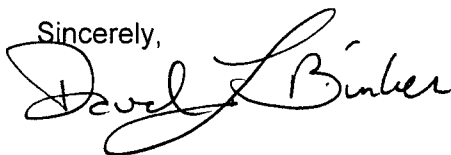
11. The wildlife assessment needs to be significantly expanded and must clearly identify impacts to the nearby Iroquois National Wildlife Refuge. The assessment must include habitat impacts related to blasting, hydrology, noise, dust and any other potential environmental issues.
12. The presence of poorly drained soils and proximity of nearby wetlands suggest the potential for the occurrence of Federal or unmapped State wetlands at this site, and we recommend that a Federal wetland delineation be performed as a part of your analysis. You should contact the US Army Corps of Engineers, Buffalo District Office, 1776 Niagara Street, Buffalo, New York 14207-3199 to identify their jurisdictional interests regarding your project and obtain guidelines for the delineation.
13. The Environmental Assessment Form indicates that the project site does not contain threatened or endangered plants or animals. A cursory review of the Department's database suggests that the endangered (NYS) short-eared owl (*Asio flammeus*) uses the agricultural fields and hedgerows generally north of the Iroquois NWL Refuge for breeding and nesting habitat (2000 report). A more thorough analysis must be provided regarding this species as well as any others that may use this or nearby areas, and that may be impacted by activities occurring at the proposed mining site. Additional information on endangered species can be found at the websites of the NYS Natural Heritage Program and NatureServe Explorer.
14. This site is within an area that may have archaeological significance and the Department will have to make a determination as to whether the project will have a significant impact on historic, pre-historic, or paleontological resources. A Phase 1 Cultural Resources Survey will be needed. When complete, we will consult with the NYS Historic Preservation Office to determine if additional work or mitigation is needed to ensure protection of cultural resources.

27 April 2006

15. Section A.4.a of the EAF indicates that the depth to bedrock is 18 ft. to 38 ft. The cross section on the Reclamation Map shows the depth to bedrock to be 10 ft. to 38 ft. This discrepancy must be corrected.
16. Section A.8 of the EAF shows the depth to groundwater as 4 ft. to 20 ft. This needs to be supported by a hydrogeologic assessment.
17. Section A.16 should specifically reference the Iroquois National Wildlife Refuge.
18. Section B.1.c of the EAF is incorrect. The balance of the project acreage to remain undeveloped should be 53.95 acres, not zero acres.
19. Section B.1.g of the EAF indicates a range of 8-10 vehicle trips per hour. A note is also included stating that it is also dependent on market demand. An estimate of the maximum anticipated number of vehicle trips per hour and the impact to local traffic must be provided for this section. This includes estimates of traffic levels associated with ancillary processing facilities (concrete batch plant, etc).
20. Section B.20 of the EAF must be supported by a noise study.
21. The test included in section B.24 of the EAF must include specific information and design related to the wash plant and the pond(s). The maximum gpm for the plant must be included. The make-up water source must also be clearly identified. Construction details must also be included as it relates to dewatering. If dewatering includes an off site discharge, a more thorough analysis of seasonal discharge volumes and impacts must be provided.
22. The mine plan map shows an easement crossing over the Niagara Mohawk right-of-way. A letter from Niagara Mohawk must be submitted indicating that permission was given to Frontier Stone to use the easement.
23. When calculating the permit term area, it is required that berms be considered affected acreage. According to the Mine Plan Map, it appears that the bermed areas were not included in the proposed 2006-2011 permit term area.
24. The Mine Plan Map should include a color coded key for the total LOM acreage.

Please contact me at 585-226-5401 or email at dlbimber@gw.dec.state.ny.us if you have any question relating to the status of this application or the information discussed in this letter. You can also contact Joe Bucci, Division of Minerals, at 585-226-5471. Thank you for your time and assistance in this matter.

Sincerely,



David L. Bimber
Deputy Regional Permit Administrator
Division of Environmental Permits

Mr. John Hellert
DEC 8-3436-00033/00001 MLR 80823

27 April 2006

cc: Joe Bucci, Division of Minerals
Steve Army, Division of Minerals
Scott Jones, Bureau of Habitat
Heidi Kennedy, Bureau of Wildlife
Diane Kozlowski, USACE, Buffalo District Office
Tom Roster, Iroquois National Wildlife Refuge
Charles Loiacano, Frontier LLC
David Schubel, Town Attorney, Town of Shelby