

# New York State Department of Environmental Conservation

## Division of Environmental Permits, Region 8

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24 January 2007

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

Dear Mr. Hellert:

Re: **Final Scoping Outline**

DEC 8-3436-00033/00001 MLR 80823

Frontier Stone LLC, Proposed Shelby Quarry

Shelby (T) Orleans County

1. I have attached a copy of the Final Scoping Outline for your review and use in preparation of the dEIS for this project. It contains several modifications (noted in italic type in the outline) and additions to the following sections:
  - a. Water Resources, items A, and B (pgs 4 & 5);
  - b. Surface Water, item B (pg 5);
  - c. Air Resources, Noise and Dust, item B (pg 6);
  - d. Blasting. This section has been added to the outline (pg 6).
2. Please review all comments received on the draft scope to ensure that they are addressed in the appropriate section of the dEIS. The dEIS should also include a table that summarizes public and agency comments and where they were addressed in the document. Comments include:
  - a. Those obtained at the Public Scoping Meeting on 27 June 2006 (18 speakers with comments) and letters received at the meeting from David Ashton, Wayne Dickenson, Eugene Outterson, Nick Outterson, Wendi Pencille, and Jerry Velesko;
  - b. Written comments received during the public comment period including:

Letters:

1. 6 July 2006. Joseph A. Grabowski.
2. 10 July 2006. Kenneth L. Printup, Sr. (Letter as an email attachment).
3. 10 July 2006. Tom and Nancy Watson.
4. 11 July 2006. Merle Draper, Supervisor, Town of Shelby.
5. 11 July 2006. Lavern O. Fuller.
6. 11 July 2006. Meaghan Green.
7. 25 July 2006. Steven G. Belk, Director, Iroquois Job Corps Center.
8. 29 July 2006. Celeste and Thomas Morien.
9. 7 August 2006. June Summers, President, Genesee Valley Audubon Society (letter as an email attachment).
10. 10 August 2006. Thomas P. Roster. US Fish & Wildlife, Iroquois National Wildlife Refuge.

24 January 2007

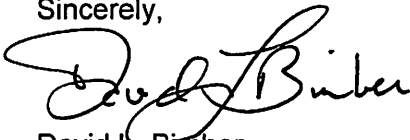
Emails:

11. 11 July 2006. Timothy Davis, Job Corps. Request for additional 30 days extension for public comment
12. 8 August 2006. Gerry Rising w/email forwarded from Jean Takekawa, Nisqually WLR, Olympia, WA.
13. 14 August 2006. Wendi Pencille. Flow modeling request; and
14. 22 August 2006. Wendi Pencille. Follow-up to 14 Aug 06 email.

3. The application remains incomplete pending the submission of the information requested in my 27 April 2006 Notice of Incomplete Application and a determination that the dEIS is adequate.

Please contact me at 585-226-5401 or email at [dlbimber@gw.dec.state.ny.us](mailto:dlbimber@gw.dec.state.ny.us) if you have any question relating to the status of this application, the information discussed in this letter, or the environmental review process. 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

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

# DRAFT ENVIRONMENTAL IMPACT STATEMENT (dEIS) FINAL SCOPING OUTLINE

Frontier Stone, LLC  
Shelby Quarry  
DEC 8-3436-00033/00001  
MLR 80823

*Note: Changes from the Draft Scoping Outline are depicted in italic type.*

**1.0 COVER SHEET.** Type of document (draft, final), title of project, location, name and address of Lead Agency, name and telephone number of Lead Agency contact person, name and address of document preparer and deadline for acceptance of public and agency comments.

## 2.0 TABLE OF CONTENTS

**3.0 INTRODUCTION.** The dEIS will discuss the identified environmental issues for the project. These issues will be presented and discussed, as described below.

- **Project Description.** This section will describe the various elements of the project and their relationship or dependence on each other for the success of the project.
- **Executive Summary.** This summary will present an overview of the project, provide a brief description of the overall proposed action, and list the following:
  - significant beneficial and adverse impacts,
  - alternatives considered,
  - mitigation measures proposed,
  - issues of controversy, and
  - matters to be decided, including a list of each permit or approval required.
- **Purpose And Need For The Proposed Action.** The dEIS will discuss the purpose, need and public benefit of the proposed project.

## 3.1 ENVIRONMENTAL REVIEW PROCESS

- **Uniform Procedures Regulations.** In New York State, processing of environmental permit applications is regulated by 6 NYCRR Part 621, Uniform Procedures Regulations. The intent of the Uniform Procedures Regulations is to ensure timely review of projects requiring multiple environmental permits. Projects subject to the State Environmental Quality Review Act (SEQR) regulations must satisfy these requirements before permit applications reviewed under Part 621 are deemed complete. When the NYSDEC as the lead agency determines that a draft EIS is required by the applicant, the scoping, review and acceptance of the dEIS are considered a prerequisite to a complete permit application.

Table 1.0 provides an overview of the permits and approvals presently anticipated to be necessary for the proposed project, the agencies responsible for the approvals and the applicable law or regulations associated with each approval. This table may be revised as additional information is developed in the course of the scoping process.

- **State Environmental Quality Review.** The SEQR Act and its implementing regulations

require agencies to assess potential environmental impacts of proposed projects during the permitting process. Under SEQR, the primary means of assessment is a dEIS.

A dEIS is intended to function as a disclosure document to reveal information about the expected environmental effects of the proposed action and provide a basis for informed decisions. The dEIS identifies and addresses the potential environmental impacts of a project and reasonable alternatives, if any, and identifies ways to avoid or mitigate any potential adverse impacts to the maximum extent practicable. Also addressed are irreversible and irretrievable commitments of resources, growth inducing aspects, and the use and conservation of energy.

The dEIS must be written to a level of detail to properly assess the impacts identified and which allows an agency to make a reasoned decision on the action. Many of the issues will also be reviewed in accordance with NYS statutory requirements relating, for example, to the mineral resources permit program. In general, the dEIS will follow the content requirements of SEQR, 6 NYCRR Part 617.9(b) Environmental Impact Statement Content.

- **EIS Scoping Process.** The primary goals of scoping are to focus the dEIS on potentially significant adverse impacts and to eliminate consideration of those impacts that are irrelevant or non-significant. The scoping process establishes the content of a dEIS, and the lead agency provides the public the opportunity to participate in that process. The final scoping document will be completed after consideration of all substantive comments from the public and involved agencies.
- **Opportunities For Public Comment.** In addition to seeking public input on its scope, the dEIS, when completed and accepted by NYSDEC, will be made available for public review and comment. A Public Hearing will be held by the NYSDEC to receive public comment on the dEIS. A final EIS will then be prepared to address all substantive comments received. The dEIS and supporting documents must be available in an electronic format and posted on the web to enable public review.

#### **4.0 ENVIRONMENTAL SETTING, SIGNIFICANT ENVIRONMENTAL IMPACTS, AND MITIGATION MEASURES TO MINIMIZE ENVIRONMENTAL IMPACTS.**

The environmental setting of the proposed project will be described. Impacts of the proposed project will be evaluated; for each environmental discipline, the dEIS will discuss present conditions, the environmental impacts anticipated to result from project development, alternatives, and mitigation measures to be incorporated into the project to minimize its impact. If beneficial impacts are identified, they will be described in a similar manner. In general, the dEIS will follow the content requirements of SEQR, Part 617.9(b). This dEIS will focus on identifying environmental issues, their analysis and the evaluation of alternatives related to the construction and operation of a new dolomite/limestone quarry. Specific topics to be addressed are discussed below.

- **Earth and Natural Resources**

**Ecological Resources.** The dEIS will assess the potential impact of mine development and operation on habitats for terrestrial and aquatic ecosystems within and in proximity to the mine site. Plant and animal species and habitat sites will be characterized using available secondary data sources and field reconnaissance. The New York Natural Heritage Program and the US Fish and Wildlife Service will be consulted to identify the presence of any threatened or endangered species or their habitats. The potential impact on resident and migratory wildlife species will be evaluated and discussed. An on-site survey of the mine site will be conducted to quantify any anticipated losses of terrestrial and aquatic habitat.

A. Existing Environmental Setting. The existing flora and resident and migratory fauna currently found within the mine area will be described. Existing conditions shall be assessed through an onsite evaluation. The presence of any endangered or threatened species or significant habitats within the mine site, or in proximity to the mine, will be identified through literature reviews, site surveys and consultation with NYSDEC personnel. If any of the above are found, the size of the population, its range, and a description of its typical habitat shall be provided.

Agricultural soils will be documented and evaluated. The Soil Survey of Orleans County will be reviewed to evaluate the relationship to other prime farm soils and farming operations.

B. Potential Impacts. Impacts to habitat types on the mine site will be studied and reported, including the amount and type of soils and vegetation to be excavated, removed, modified or disturbed. Impacts to agricultural soils and agricultural production will be examined and evaluated. Impacts to wildlife and wildlife habitats should be considered on both the local and watershed/landscape scale.

Of particular concern are the following: (1) those avian species, both migratory and resident/breeding, that use contiguous forest interior habitats and those that use these habitats when they are in proximity to wetland or open water habitats; (2) terrestrial amphibians and reptiles and the terrestrial life stages of semi-aquatic amphibians and reptiles; (3) vertebrate species sensitive to disturbance from human use and occupancy of critical habitats or whose use of critical habitats is reduced due to human disturbance or occupancy of nearby areas and; (4) aquatic and terrestrial life stages of vertebrate and invertebrate species listed as Endangered, Threatened, or of Special Concern.

The level of analyses expected of the applicant will be dependent upon the availability information in existing published scientific and natural history literature, NYS DEC data (where available), status and trends reports, life history accounts, and other appropriate sources of information. In the absence of such information or if such information is inconclusive, the applicant may be required to conduct additional site- and project-specific studies to assess potential impact from the project.

The analyses of potential impacts must include species' use of habitats throughout the year, i.e., courtship, breeding, nesting, insect and herpetofaunal juvenile life stages, avian brood rearing, avian resting/loafing/feeding, wintering/hibernacula, migrating.

1. Potential impacts from all aspects of the project must be investigated at the following scales:
  - a. direct mortality to individual organisms from construction component of project,

- b. destruction of habitat resulting from construction or improvements,
  - c. diminution of habitat suitability or availability resulting from construction, occupancy, and use (habitat fragmentation)
  - d. alterations to habitat that increase its suitability for non-indigenous or invasive exotic species.
2. The above effects must be considered at the following levels:
- a. at the local (project site and immediate vicinity) level,
  - b. in the context of the watershed/landscape ecosystem level and in consideration of the relative uniqueness of the project site,
  - c. at the State population level, especially with regard to those species listed as State Endangered, Threatened, or of Special Concern,
  - d. at the overall population level, for those listed as State or Federally Endangered, Threatened, or of Special Concern.
3. Habitat fragmentation effects:
- a. for avian, reptile, and amphibian species listed above, the impact of the development on habitat availability and quality; terrestrial and terrestrial life stages of semi-aquatic amphibians and reptiles are of particular concern,
  - b. potential for development to result in habitats more favorable to "edge" avian species, at the expense of forest interior species.

The potential for loss of hunting opportunities as a result of mining operations should be examined including a review of impacts to nearby parts of the wildlife Refuge that offer lottery-based hunting for waterfowl.

C. Proposed Mitigation Measures. A reclamation plan will be prepared to indicate how the site will be restored after mining is completed in each phase. Measures to preserve existing wildlife habitat, as appropriate, will be identified and discussed. Loss of wetlands, and loss of wetland function and benefits will be identified and a detailed mitigation plan will be developed to compensate for unavoidable losses of wetlands, and the functions and benefits they provide.

## ➤ **Water Resources**

### **Groundwater**

A. Existing Environmental Setting. Existing groundwater resources within and in proximity of the mine will be identified and described. *A monitoring network consisting of multiple wells will be installed to collect baseline data, render hydrogeologic information through testing, and provide for the long term collection of data throughout the life of the operation. This information, along with information obtained from borings, published geologic literature, site specific information, and on-site testing, will provide the basis for the hydrogeologic assessment. The location of water bearing zones within the geologic unit to be mined, connection between aquifers, depth to groundwater, seasonal fluctuations, direction of groundwater flow, and an accurate characterization of the aquifer system within the proposed excavation area shall be determined. A detailed description of dewatering, and any proposed use of groundwater resources for processing, dust control, or other mine operations will be provided.* If groundwater use is proposed, existing water wells and groundwater users at residences on properties in proximity to the mine site will be identified and inventoried.

**B. Potential Impacts.** Potential impacts that mining may have on groundwater will be identified and discussed, including the potential for impacts to the quality and quantity of groundwater, changes to existing groundwater flow patterns, *and lowering of surrounding groundwater elevations.*

Evaluate potential impacts associated with dewatering and the identification of the area of influence that will be created around the quarry. *This analysis should include an assessment of impacts to nearby wetlands (including the hydrological regime of KN-13), wildlife, water supply wells, etc. caused by the area of influence surrounding the quarry.*

**C. Proposed Mitigation Measures.** A discussion will be provided for the design, construction and operational procedures of the mine that will be utilized to minimize potential impacts to groundwater.

### **Surface water**

**A. Existing Environmental Setting.** Existing surface water resources within and in proximity to the proposed mine will be identified and described. Streams, wetlands, floodplains (if any) and other surface water features will be identified and examined based on DEC classification and field observations. Site drainage patterns will be described and mapped as applicable.

**B. Potential Impacts.** Impacts related to the alteration of the surface water drainage patterns, wetlands, flooding, erosion and sedimentation that may affect surface waters will be estimated. *This shall include the potential for impacts resulting from dewatering activities. Specifically, loss of surface water due to a decline in the regional aquifer system, and flooding due to the groundwater discharge.* The potential for impacts to the quality and quantity of surface water will be evaluated.

**C. Proposed Mitigation Measures.** A storm water plan/erosion control plan will be prepared. Methods to control storm water runoff and the locations of any detention basins will be provided.

Wetland impacts will be avoided to the greatest extent possible and an alternatives analysis and an evaluation of the associated weighing standards required by 6 NYCRR Part 663 will be conducted. The conceptual mitigation plan, if impacts to wetlands are unavoidable, should assess the functions and benefits that the existing wetlands provide and how these functions and benefits will be provided withing the context of a compensatory mitigation plan.

### ➤ **Air Resources, Noise and Dust**

**A. Existing Environmental Setting.** The dEIS will describe the existing air resources within and in proximity of the mine. Impacts associated with the proposed mine operation, including extraction and processing operations, will be identified and evaluated.

Potential receptors will be identified and the existing noise levels and sources identified in the vicinity of the proposed mine. Existing noise levels at the proposed mine site will be described based on available data and noise measurements from nearby residential receptor locations. Noise sources and locations associated with the proposed mining and processing operations will be identified and quantified. A noise analysis will be required that is consistent with the requirements of the Department's noise guidance document DEP-00-1, Assessing and Mitigating Noise Guidance, and will include an identification of sources of noise generation,

potential for adverse impacts to nearby receptors, and mitigation for those impacts.

B. Potential Impacts. Potential impacts associated with the mine operation will be identified and discussed. Processing equipment and processing plant locations will be identified and discussed to the extent possible. It is anticipated that potential air impacts will be related primarily to blowing dust and particulates associated with material handling, processing and trucking operations. The analysis should include the potential and impact of blowing/settling dust offsite. The sources, levels and duration of excavation-related and processing noise that may occur will be identified based on the anticipated mine operation procedures. The impacts of project-generated noise, including that from traffic and other mine site operations, will be compared to existing noise levels at the project site. *Also, the dEIS will assess the potential impact of noise on terrestrial and aquatic wildlife within and in proximity to the mine site. The potential impact on resident and migratory wildlife species will be evaluated and discussed.*

C. Proposed Mitigation Measures. The dEIS will identify and describe mining and processing procedures that will be implemented to mitigate identified potential impacts associated with the project. Proposals for mitigation of long-term impacts and short term impacts will be identified and addressed in the dEIS. Noise impacts associated with mine site operations will be assessed. The dEIS will address noise mitigation measures which will be incorporated into the operation to reduce impacts.

#### ➤ **Blasting**

A. Existing Environmental setting. *The dEIS will contain a blasting plan which will show how the mine operator will meet U.S. Bureau of Mines safe blasting standards as adopted by NYS DEC. This plan will consider the environmental effects of blasting, and will discuss geologic considerations, blast design, drilling operations, explosive loading, blasting confinement, and blasting frequency.*

B. Potential Impacts. *Potential impacts associated with blasting will be identified and discussed, specifically, impacts associated with flyrock, ground vibration, dust, and airblast. Possible impacts to residential, commercial, and public structures will be analyzed. Also, the dEIS will assess the potential impact of blasting on habitats for terrestrial and aquatic ecosystems within and in proximity to the mine site. The potential impact on resident and migratory wildlife species will be evaluated and discussed.*

C. Proposed Mitigation Measures. *The dEIS will identify and describe blasting procedures that will be implemented to mitigate identified potential impacts associated with Blasting. Proposals for mitigation of long-term impacts and short term impacts will be identified and addressed in the dEIS.*

#### ➤ **Traffic and Transportation**

A. Existing Environmental Setting. Existing traffic conditions in the vicinity of the proposed mine will be inventoried. The inventory will consider primary truck routes, key intersections along the routes, traffic volumes, and flow patterns all in relation to the new mine. Incremental increases in traffic volumes associated with the operation within new mining areas will be quantified. The inventory of the existing roadway system will include the composition and volume of current traffic flow, the posted speed limits, and the existing traffic volumes at area intersections in proximity to the mine during daily and peak periods. The traffic data will be



collected from existing reports and data. Additional traffic counts will be performed to supplement available data, where necessary.

B. Potential Impacts. The potential impact of traffic volumes and types relative to the proposed mine will be identified and evaluated. Access to mine areas from local roads adjacent to new mine phases will be identified and evaluated.

C. Proposed Mitigation Measures. The EIS will identify potential mitigation measures that may include road maintenance, signage and other improvements as may be appropriate to maintain the existing level of highway service.

➤ **Visual Resources**

A. Existing Environmental Setting. The dEIS will describe the existing visual environment in the vicinity of the mine. The dEIS will identify aesthetic resources of local and regional significance occurring within the project viewshed. Mitigation measures to reduce visual impacts, where possible, will be identified and evaluated. The existing view shed will be characterized using photographs to illustrate existing conditions. Existing view corridors into the mine site and from within the mine site will be described. Existing or potential obstructions to views shall be noted.

B. Potential Impacts. Potential visual impacts occurring during mining and processing operations, including facility lighting, will be examined using DEC Program Policy DEP-00-2, Assessing and Mitigating Visual Impacts. Potential visual impacts on surrounding areas in proximity to the mine will also be evaluated.

C. Proposed Mitigation Measures. Appropriate mitigation measures will be identified to address both the short-term and long-term impacts on the viewshed. The mining and processing operations will be designed, to the extent practical, to blend with the immediate area.

➤ **Human, Economic and Community Resources**

A. Existing Environmental Setting. The impact of the proposed mine on existing community services will be examined. The dEIS will also assess impacts of the project on the local economy, employment opportunities, revenues, property values in proximity to the mine and support services will be addressed.

Features of the social, built and natural environment that are key to the character of the area as it exists today, and apparent future trends, will be identified. Recent community survey results, to the extent they are applicable and statistically valid, will be utilized in the discussion of community character.

B. Potential Impacts. The demographic, social and economic changes attributable to the project over the operational phases of the mine will be identified and discussed.

C. Proposed Mitigation Measures. Potential mitigation methods and operation procedures will

be identified to evaluate the potential impact the mine may have on the socio-economic conditions, including the delivery of support services.

➤ **Cultural / Archaeological Resources**

A. Existing Environmental Setting. The dEIS will present a summary of any archaeologically and historically sensitive areas in the vicinity of the new mine area. The impact of the proposed project on the existing historic sites and archaeological areas, if any, will be examined. Any existing archaeologically and historically sensitive areas within the mine site will be inventoried and researched. For each phase of mining, the inventory and research will include a Phase IA and, where necessary, a Phase 1B cultural resource investigation to identify potentially significant historic resources. The results of the archaeologic investigations will be included as an appendix to the EIS and archaeologically sensitive areas will be shown on appropriate site plans. The Office of Parks, Recreation and Historic Preservation will be consulted to evaluate project impacts to historic and cultural resources on the project site.

B. Potential Impacts. The impacts of the construction and operation of the new mine on identified archaeological sites will be presented and discussed. The Office of Parks, Recreation and Historic Preservation will be given the opportunity to review the cultural resources report and identify appropriate mitigation measures for the site.

C. Proposed Mitigation Measures. Potential mitigation methods will be identified and discussed with respect to mine site development. This will include a description of the methodology that will be used to ensure the future protection and integrity of archeological and historic sites that may exist at the mine site.

**5.0 ALTERNATIVES TO THE PROPOSED ACTION**

- **No Action Alternative For Mine Site.** Alternatives to the proposed new mine will be evaluated. The evaluation will include a comparison of impacts on the natural resource system, traffic, demand for utilities and community services, employment, and fiscal balance. This alternative will be evaluated based on the assumption that the proposed mine is not constructed.
- **Alternative Sites.** The evaluation of alternative sites owned by, or under option, to the applicant and located in the general project area will include a comparison of impacts on the natural resource system, traffic, and demand for utilities and community services.
- **Alternative Size.** Alternatives that reflect the evaluation of changes in the scale or magnitude of the project will include a comparison of impacts on the natural resource system, traffic, and demand for utilities and community services.
- **Alternative Design and Technology.** The design of the project and operational practices will be evaluated against perceived impacts.
- **Alternative Land Use.** Alternative land uses such as recreation and residential development and their associated impacts will be evaluated.

- **Alternative Development Schedule.** Alternative development schedules associated with an acceleration or slow-down of the proposed extraction rate will be analyzed for their potential to reduce environmental impacts.
- **Irreversible And Irretrievable Commitment Of Resources.** The dEIS will identify those natural and human resources listed in Section 4 that will be consumed, converted or made unavailable for future use.
- **Growth Inducing Aspects.** The dEIS will identify, describe and discuss the potential growth inducing aspects that may occur as a result of the proposed project, including discussions on population, support facilities, and development potential as well as impacts on surrounding properties.
- **Effect On The Use And Conservation Of Energy.** The dEIS will discuss project impacts on the use and conservation of energy. The impacts of the alternatives will also be included in the EIS.

## 6.0 Tables

## 7.0 References

## 8.0 Appendices

Table 1.0 Draft

| <b>State Agencies</b>                                     |   |  |
|---|---|--|
| <b>Agency</b>   | <b>Permit/Interest</b>  | <b>Applicable Law/Regulation</b>                           |
| NYS DEC   | Mining permit<br>Stormwater SPDES permit<br>Air emission permits<br>- processing, anc. manufacturing<br>- electric power generation | ECL 23-2701<br>ECL 17-0801<br>ECL 19-0101<br>ECL 17-1009   |
| NYS DOT   | Curb cut: highway permit(s) (if required)   | Highway Law §52<br>Vehicle and Traffic Law §1220-a         |
| NYS Office of Parks, Recreation and Historic Preservation | Cultural resources, historic preservation review  | Parks, Recreation and Historic Preservation Law Article 14 |
| <b>Federal Agencies</b>                                   |   |  |
| US Army Corps of Engineers                                | Federal Wetland Permit (if required)  |  |
| Mining Safety Health Administration                       | Information<br>Regulates mine safety  | 30 USC 811, 957, 961                                       |
| <b>Local Government</b>                                   |   |  |
| Town of Shelby  | Special Permit for Quarrying and Mining Operations  |  |
| Orleans County  | Highway permit (if needed)  |  |