

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) 226-2466 • FAX: (585) 226-2830

Website: www.dec.ny.gov



Alexander B. Grannis
Commissioner

8 July 2008

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

Received

JUL 17 2008

Dear Mr. Hellert:

Re: **dEIS Review and Comments**
DEC 8-3436-00033/00001 MLR 80823
Frontier Stone LLC, Proposed Shelby Quarry
Shelby (T) Orleans County

Enclosed for your review and inclusion in the dEIS revisions are additional comment letters from Mr. Thomas Roster, Iroquois National Wildlife Refuge Manager, and Mr. David Goehring, NYS DOT Regional Traffic Engineer. As you will recall, I noted in my 13 June 2008 letter that I had requested comment on the dEIS from those agencies. I have not received comments from the USGS, the Orleans County Highway Department, nor the Town of Shelby Highway Department regarding the dEIS. I will forward those comments when available.

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 attached letters. 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, NYS DEC, Division of Minerals
Steve Army, NYS DEC, Division of Minerals
Scott Jones, NYS DEC, Bureau of Habitat
Heidi Kennedy, NYS DEC, Bureau of Wildlife
Diane Kozlowski, USACE, Buffalo District Office
Steven Metivier, USACE, Buffalo District Office
Tom Roster, Iroquois National Wildlife Refuge
Charles Loiacano, Frontier Stone LLC
David Schubel, Town Attorney, Town of Shelby
Edward Houseknecht, Orleans County Highway Department
Michael Fuller, Town of Shelby Highway Superintendent



United States Department of the Interior

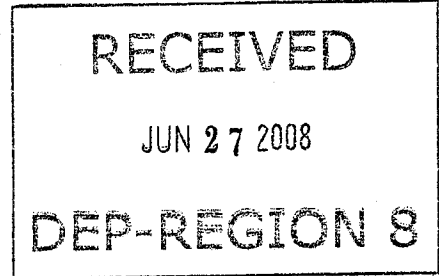
FISH AND WILDLIFE SERVICE

Iroquois National Wildlife Refuge
1101 Casey Road
Basom, NY 14013

June 26, 2008



David L. Bimber
Deputy Regional Permit Administrator
NYSDEC – Region 8
6274 East Avon-Lima Road
Avon, New York 14414 - 9519



RE: Draft Environmental Impact Statement
Frontier Stone, LLC, Shelby Quarry
DEC 8-3436-00033/00001 MLR 80823

Dear Mr. Bimber;

The Iroquois National Wildlife Refuge is in receipt of Draft Environmental Impact Statement (EIS) for a Mined Land Use Plan Mining Permit, Volumes 1, 2, and 3 for Frontier Stone, LLC Proposed Frontier Stone Quarry, Town of Shelby. You have requested that we review to determine whether or not the concerns of the Iroquois NWR have been addressed in the dEIS.

In an April 27, 2006 letter from you to John Hellert, Continental Placer, Inc., item #11 indicated that "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 other potential environmental issues."

We feel the applicant has fallen short on meeting this requirement requested by the Department of Environmental Conservation. We believe this because the applicant states in several areas that there will be no impact on Iroquois NWR refuge resources, yet they offer no supporting evidence to back up these statements. They conducted no studies in the area of the proposed quarry to determine impacts to adjacent habitats and wildlife and it appears that they did not do a review of the literature regarding potential impacts of mining and truck traffic on wildlife and wildlife habitat. The potential impacts to wildlife and Iroquois NWR habitats as well as public recreation are either not mentioned or quickly dismissed with regard to blasting, other mine noise, dust, and road traffic.

There is little or no mention of the potential impacts of water, sediment, and pollutant discharge on Iroquois NWR wetlands and wildlife. Water discharge discussion focuses on storm events and doesn't discuss the constant pumping of groundwater seeping into the quarry and what pollutants may be contained in that pumped water.

TAKE PRIDE
IN AMERICA 

- Several areas of the document state that wildlife on Iroquois NWR will not be impacted by the quarrying operation; Page 106 – “The proposed site totally avoids the Iroquois National Wildlife Refuge and will have no impacts to the vegetation and wildlife there”; Page 163 – “... no significant impacts will occur to wildlife outside the project area”; Volume 3 Section 7A Page 4 – “Mining operations on the site are not expected to affect the wildlife use of adjacent habitats, including those on the Iroquois National Wildlife Refuge”. However, the applicant offers no data to support these claims. Several studies have shown that blasting and traffic can have a significant affect on wildlife populations.
- Page 154 states that “If the project site was not farmed, the only alternative would be residential development...”. This site could also be used as open space and in fact Iroquois NWR has asked the landowner if he would be willing to sell the land to be incorporated into the refuge. The landowner declined.
- Page 139 states that “Where serenity and quiet are especially important, an exterior design level of 57 dBA (L_{eq}) is recommended”. Serenity and quiet are especially important to many refuge visitors. However, the blast guidelines at the top of page 169 that the applicant says it will conform to appear to be well above the 57 dBA level.

Volume 2:

- Page 9, Question 8 of the Environmental Assessment Form asks “Is the proposed action compatible with adjoining/surrounding land uses within ¼ mile?” The applicant selected the answer Yes. We feel that this proposed action could be in conflict with refuge uses and these conflicts have not been adequately addressed in the dEIS.

Volume 3:

Section 6 Vegetation and Wildlife Resources of the Shelby Quarry Site

- The contractor visited the site only two days in winter and two days in summer. We feel this level of survey may be inadequate to accurately determine use by Threatened and Endangered Species, particularly short-eared owls which have been previously seen in the area.
- Vegetation surveys were conducted on November 9, well after the growing season and likely too late in the year to detect all vegetation species.
- The number of species detected during wildlife surveys was relatively low. However, both northern harrier (state threatened) and horned lark (state special concerned) were seen using the project site during wildlife surveys. Therefore, the applicants statement on page 106 of volume 1 that “Field studies confirmed that wildlife of special concern such as the endangered short-eared owl are not found on site, nor was there suitable breeding habitat” is inaccurate. Not only were listed species found, but the level of survey effort was likely inadequate to confirm or deny if any particular species is regularly found at that site.

Section 7 Wetland Delineation Report



STATE OF NEW YORK
DEPARTMENT OF TRANSPORTATION
REGION FOUR
1530 JEFFERSON ROAD
ROCHESTER, NEW YORK 14623
www.nysdot.gov

RECEIVED

JUL 7 2008

DEP-REGION 8

KEVIN B. O'BUCKLEY, P.E.
REGIONAL DIRECTOR

ASTRID C. GLYNN
COMMISSIONER

July 3, 2008

Mr. David Bimber
New York State Department
of Environmental Conservation
6274 East Avon-Lima Road
Avon, NY 14414-9519

Re: Proposed Shelby Quarry
Town of Shelby, Orleans County

Dear Mr. Bimber:

We have completed our review of the June, 2007 Transportation Impact Study for the proposed 215.5 acre dolomite/limestone quarry on Sour Springs Road in the Town of Shelby. Our review concentrated on the Route 63 and Oak Orchard Road intersection.

The existing pavement on Oak Orchard Road approaching Route 63 is in poor condition and the intersection geometry is not adequate to accommodate the design vehicle. Therefore the Oak Orchard Road approach to Route 63 should be reconstructed with a full depth pavement section for a distance of at least 100 feet from the Route 63 lane edgeline. Oak Orchard Road should have one 12 foot lane entering and one 12 foot lane exiting Route 63, with radii based on the design vehicle. Also an eight foot wide full depth shoulder should be included on the east side of Route 63 and begin 50 feet south of the entering radii where it meets the northbound lane edgeline and end 50 feet north of the exiting radii where it meets the northbound lane edgeline.

With the above improvements in place, we agree that this project should not significantly impact Route 63 or its approaches.

A Highway Work Permit is required for all work within State right-of-way, which includes the required work on and approaching Route 63. Please submit detailed plans prepared in accordance with the Region 4 Checklist for Major Highway Work Permits to Mr. Rich Lovelace, Assistant Resident Engineer, at the following address: