

New York State Department of Environmental Conservation

Environmental Permits, Region 8

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Joe Martens
Commissioner

February 15, 2013

Via e-mail (hellert@continentalplacer.com) and U.S. Mail

REC'D FEB 21 2013

John R. Hellert, Senior Geologist
Continental Placer Inc.
11 Winner's Circle
Albany, New York 12205

Re: Frontier Stone LLC, Proposed Shelby Quarry – DEIS Information Request
Town of Shelby, Orleans County
DEC Application No. 8-3436-00033/00001

Dear Mr. Hellert:

The New York State Department of Environmental Conservation (DEC) has reviewed the revised, preliminary Draft Environmental Impact Statement (Draft EIS), which we received on CD-Rom on January 17, 2013.

Based on our review of the revised, preliminary DEIS we have determined that additional revisions are necessary before the document can be accepted for public review and comment. Please address the following items:

1. Air Quality:
 - a. Section 4.1.3 of the revised Draft EIS indicates that the processing equipment will operate under a DEC-issued air permit. However, we were still unable to locate information in the Draft EIS or Mined Land Use Plan that indicates the specific capacities of the proposed processing equipment. Please provide the maximum anticipated capacities of the processing equipment in tons per hour, and any other information relevant to determining potential emissions of regulated contaminants.
 - b. The Draft EIS contains a summary of potential fine particulate matter emissions for purposes of addressing DEC's policy on fine particulate matter (CP-33). However, the potential emissions inventory provided in Section 4.1.3 (Table 14) of the Draft EIS only includes sources from processing equipment. To adequately address the DEC's policy, the particulate matter emissions inventory must also estimate emissions from non-process, fugitive sources (e.g., traffic on unpaved roads, material stockpiles, other areas of exposed soils, etc.). Please revise Section 4.1.3 to add non-process, fugitive particulate matter sources to the emissions inventory. The methods, calculations, and assumptions for emission estimates should also be provided in the appendix of the Draft EIS. If the potential fine particulate matter emissions would exceed the 15 tons/year threshold contained in DEC Policy CP-33, the additional modeling required by the policy would also need to be included in the revised Draft EIS.
2. Traffic: The revised Draft EIS now contains two reports in Appendix 8 related to traffic: one report dated June, 2012, and another report last revised January 2013. These traffic studies provide differing daily and hourly truck volume estimates. In addition, Section 4.2.3 of the Draft EIS discusses a maximum, "worst case" truck traffic volume of 30 trucks per hour. However, the January, 2013 Traffic Study indicates the peak truck traffic volume would be up to 60 trucks per

- hour (entering and exiting combined). The revised Draft EIS should provide an analysis based on accurate and consistent traffic estimates. Accordingly, a maximum of 60 trucks per hour should be reflected in the Draft EIS discussion contained in Sections 1.2.3.5 and 4.2.3, and the conflicting information contained in the June 2012 and January 2013 traffic analyses should be reconciled or combined into a single traffic study for the proposal.
3. Noise: Based on a review of the noise analysis provided in Section 4.2.6 of the Draft EIS, the following items should be addressed:
 - a. Based on the locations of noise receptors provided Figure 11, Tables 13 and 16 appear to have receptor locations S-4 and S-5 switched.
 - b. A figure showing the locations of mine operating scenarios described on page 159 would be helpful.
 - c. The noise source in Table 21 is unclear, and does not appear to reflect the addition of sources under scenarios 1-3, which would appear to be approximately 76 dBA.
 - d. Some of the distances provided in Level 1 calculations in Appendix 9, do not match the distances between receptors and excavation phases provided in Table 16. It is unclear why there is a difference in the distances used. Please clarify.
 - e. It is unclear why an additive source noise level of 75 dBA is used for evaluating potential impacts on the Job Corps Center. This is not consistent with the calculations in Appendix for Scenarios 1-3. In addition, we note that the source noise value for the loader/crusher in evaluating the Job Corps Center (p. 160) is 71 dBA, whereas it is shown as 72 dBA elsewhere in the analysis.
 - f. A figure should be added to the Draft EIS to show the locations, and distances from the mine, of the other receptors discussed on page 161: Job Corps Center, Schoolhouse Marsh, and Ringneck Marsh.
 - g. No data is provided in the Draft EIS or Appendix 9 for ambient noise measurements presented in Table 22. The data records must be provided in Appendix 9 or in the Draft EIS.
 - h. There appears to be an incorrect reference to Table 23 on page 161 of the Draft EIS. It appears that it should reference Table 24 instead.
 4. Cultural Resources: The Department supports the discussion in the revised Draft EIS that reflects the limited nature of the Phase 1B testing performed, and the need for additional Phase 1B archaeological testing and Office of Parks Recreation and Historic Preservation (OPRHP) review for proposed mine phases 2 and 3 prior to any mining activities being conducted in those phases. In addition, the Draft EIS acknowledges that the results of any additional phase 1B testing and review by OPRHP will determine the need for further archaeological investigations for proposed mining phases 2 and 3. However, Section 5.2.7 of the Draft EIS should indicate that, upon consultation with OPRHP and DEC, mitigation measures will be implemented to avoid or mitigate impacts to any sites identified during further archaeological investigations conducted in mining Phases 2 and 3.
 5. Fish and Wildlife: In addition to the above a few miscellaneous, minor corrections and comments regarding fish and wildlife should be addressed at the same time:
 - a. Page 15 of the Draft EIS indicates that operation of the mine would not coincide with deer hunting season. However, early bow season now begins on October 1st in the southern zone, with the regular season beginning the third Saturday of November. If the quarry operates April to November deer hunting will coincide with the quarry operation.
 - b. The September 2012 response letter stated that a typical blast will attenuate to ambient dBA levels at a distance of about 500 feet into the INWR. This information should be included in the discussion on Page 27 and in the summary on page 29 of Appendix 6.

- c. Osprey is listed in Table 3 of Appendix 6, “Wildlife Observations on the Proposed Shelby Quarry Site 2006 – 2010” and in table 5B, “Birds Recorded Per 10-Minute Point Count Adjacent to Oak Orchard Ridge Road and Sour Springs Road”. Because Osprey is a state species of special concern, some discussion should be included regarding this species since it was observed on the site (for instance it should be included when species of special concern are mentioned and discussed). There are currently two active osprey nests on the nearby Ring Neck Marsh.
- d. On page 11 of Appendix 6 it states “there are a total of four known bald eagle nest sites within the INWR and the adjoining Tonawanda Wildlife Management Area.” This should be corrected to state that there are four known bald eagle nests within the INWR and adjoining Tonawanda and Oak Orchard Wildlife Management Areas

The Department has determined that a revised Draft EIS that addresses the above comments is required.. When available, please provide five electronic copies of the revised Draft EIS on DVD or CD-ROM for our review.

We remain available to meet and discuss any of the above items, should you or your client feel that it would be helpful. If you have any questions about this notice, or would like to schedule a meeting to discuss the Draft EIS, please call me at (585) 256-5382. Thank you.

Sincerely,



Scott E. Sheeley
Regional Permit Administrator.

Cc: Steve Army, DEC Region 8
Heidi Kennedy, DEC Region 8
Dixon Rollins, DEC Region 8
Tom Marriott, DEC Region 8
Frontier Stone, LLC