

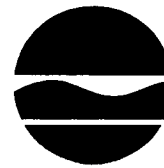
New York State Department of Environmental Conservation

Environmental Permits, Region 8

6274 East Avon-Lima Rd, Avon NY 14414-9516

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

Website: www.dec.ny.gov



Joe Martens
Commissioner

September 12, 2013

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

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

REC'D SEP 16 2013

Re: Frontier Stone LLC, Proposed Shelby Quarry
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 additional information you provided with the draft application materials and additional technical information we received on June 14, 2013 regarding the above-referenced permit application. These materials included draft responses to the items listed in our prior letter dated May 3, 2013 regarding the preliminary Draft Environmental Impact Statement (DEIS), and information discussed at our meeting with you and other project representatives on May 15, 2013.

Based on our review of the information submitted we are providing the following comments:

Hydrology and Groundwater Impacts

Comments 1-7 below have been provided by Steve Army, Division of Mineral Resources, concerning the additional information provided to address potential hydrology and groundwater impacts.

1. A tax map should be submitted which identifies all parcels and current owners that will be impacted by dewatering along Sour Springs Road, and may be impacted along South Wood Road in the vicinity of the proposed quarry. Also, please provide complete copies of all documents evidencing legal commitments Frontier Stone has made to address those impacts and plans to make those arrangements for properties where no commitments are presently in place.
2. The slot cut should be extended the entire length of the northern mine limits adjacent to Fletcher Chapel Rd. A second slot cut should also be identified along the eastern boundary to mitigate potential impacts along South Wood Rd. If the second slot cut is not proposed, alternative mitigation / landowner agreements will be necessary.
3. How will the slot cut be excavated/constructed? Will the 2:1 side sloped be vegetated, or will riprap extend from the rock bench to the water line? The narrative indicates that the water elevation in the slot cut will be maintained at an elevation of approximately 624 feet. How will this be accomplished? Will a control structure be utilized?
4. Describe the timing of construction of the slot cut as it relates to impacts, drawdown, and monitoring well data. What will trigger the installation?

5. The plan view shows the cut to be approximately 75 feet in width, however, this does not account for the side slopes and overall footprint of the structure on the map. The cross section shows the width of the top of the cut and slopes to be approximately 190 feet.
6. A narrative discussion/description needs to explain how the slot cut will function, how recharge will be achieved, pumping rates, hydrogeologic support, etc. More information is needed on how and why this will work, along with how this will address/mitigate impacts caused by dewatering.
7. The potential for groundwater quality impacts caused by pump induced recharge needs to be discussed.

Additional Comments

8. Traffic - The revised text provided is sufficiently clear to explain the traffic volumes expected from the project. Please ensure that the relevant sections of the DEIS are revised to include the same information.
9. Wildlife - The proposed revision sufficiently discloses current information concerning the observation of an osprey nest on the power line corridor that intersects the site.
10. Water Withdrawal Application – The water withdrawal application will have to be revised as follows:
 - a. Section II of the Water Conservation Program Form will require each “source” to be identified, along with its type, status, capacity etc. For purposes of this type of operation, a source would include an individual pump or well.
 - b. Information is needed in Section III of the Water Conservation Program Form to identify how the volume of dewatering discharges will be measured and recorded. This information will also be needed by the Department for purposes beyond water withdrawal permitting requirements.
 - c. When items concerning the technical issues identified above are addressed, the application forms would need to be signed by the applicant.
 - d. Division of Water staff is continuing a technical review of the draft water withdrawal application materials. If there is technical information identified that would be needed to determine that the water withdrawal application is complete, you will be advised as soon as such information is identified.
12. Freshwater wetlands - Based on the facts, assumptions, analysis and conclusions stated in the Terrestrial Environmental Specialists, Inc. report dated January, 2013, and because the off-site wetland, state-designated Freshwater Wetland MD-3, appears to have the capacity to accept the dewatering discharge within the United State Fish and Wildlife Service's management regime, we are not requiring an Article 24 permit at this time. We reserve the right to do so at a later date during the course of the review of the pending applications or otherwise. We retain the ability to evaluate off-site wetland impacts within the scope of our authority under the other regulatory programs administered by the Department. This includes SEQRA, the MLRL, the SPDES program and the water withdrawal program under ECL Article 15. This position should not be interpreted to mean that we have accepted or agree with your contention that the Department lacks jurisdiction to regulate activities, occurring more than 100 feet from regulated wetlands, that may impact regulated wetlands and adjacent areas.

This letter is designed to address items necessary to complete the DEC applications and address additional information that will be need to be included in the DEIS. It is not a permit decision or an endorsement of any alternatives or mitigation scenarios which have been included in your submissions.

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 this application, please call me at (585) 256-5382. Thank you.

Sincerely,



Scott E. Sheeley
Regional Permit Administrator

Cc: Frontier Stone, LLC
Kevin Brown, Esq.
Greg Brown, Esq

Ecc: Leo Bracci, DEC Region 8
Tom Marriott, DEC Region 8
Steve Army, DEC Region 8
Scott Jones, DEC Region 8
Heidi Kennedy, DEC Region 8
Scott Rodabaugh/Dave Pratt, DEC Region 8