


**STAFF DRAFT – NOT APPROVED BY AGENCY**  
**THIS IS A TWO-SIDED DOCUMENT**

 <p>P.O. Box 99, 1133 NYS Route 86 Ray Brook, New York 12977 Tel: (518) 891-4050 www.apa.ny.gov</p>	<p>APA Permit <b>2021-0245</b> <b>DRAFT</b></p>
<p>In the Matter of the Application of</p> <p><b>RUBY MOUNTAIN HOLDINGS, LLC</b> <b>and</b> <b>BARTON MINES CORPORATION, LLC</b></p> <p>for a permit pursuant to § 809 of the Adirondack Park Agency Act</p>	<p>Date Issued: <b>XXXX</b></p> <p>To the County Clerk: Please index this permit in the grantor index under the following names:</p> <ol style="list-style-type: none"><li><b>1. Ruby Mountain Holdings, LLC</b></li><li><b>2. Barton Mines Corporation, LLC</b></li></ol>

**SUMMARY AND AUTHORIZATION**

This permit authorizes the modification and expansion of an existing mineral extraction in an area classified Industrial Use, Resource Management, and Rural Use on the Adirondack Park Land Use and Development Plan Map in the Town of Johnsbury, Warren County and the Town of Indian Lake, Hamilton County.

This authorization shall expire unless recorded in the Warren and Hamilton County Clerk's Offices within 60 days of issuance of a signed and notarized permit. The signed and notarized permit shall be recorded in the names of all parties listed above and in the names of all owners of record of any portion of the project site on the recordation date.

The project shall not be undertaken or continued unless the project authorized herein is in existence within five years of the date the permit is recorded in the County Clerks' Offices. The Agency will consider the project in existence when the permit is recorded in both offices.

The project shall be undertaken in compliance with all conditions stated herein. Failure to comply with this permit is a violation and may subject the permittee, successors, and assigns to civil penalties and other legal proceedings.

This permit does not convey any right to trespass upon the lands or interfere with the riparian rights of others in order to undertake the authorized project, nor does it authorize the impairment of any easement, right, title or interest in real or personal property.

Nothing contained in this permit shall be construed to satisfy any legal obligations of the permittee to comply with all applicable laws and regulations or to obtain any governmental approval or permit from any entity other than the Agency, whether federal, State, regional or local.

## PROJECT SITE

The project site is an 848.6±-acre parcel of land owned by Ruby Mountain Holdings, LLC and Barton Mines Corporation, LLC (together referred to herein as the permittee). The project site is located on Thirteenth Lake Road and Beach Road in the Town of Johnsburg, Warren County, and the Town of Indian Lake, Hamilton County, in an area classified Industrial Use, Resource Management, and Rural Use on the Adirondack Park Land Use and Development Plan Map. The site is identified as the following tax parcels:

- Town of Indian Lake Tax Map Section 67.000, Block 1, Parcel 39;
- Town of Johnsburg Tax Map Section 29, Block 1, Parcels 1, 4 & 5; and
- Town of Johnsburg Tax Map Section 46, Block 1, Parcels 57.1, 58, 61, 62, 63.

The project site is described in the following deeds:

- Richard L. Doyle & Ruth S. Doyle to H. Hudson Barton IV, Thomas C. Lewis, A.D. Barton, Jr., Trustees, dated August 10, 1987 and recorded December 22, 2008 in the Hamilton County Clerk's Office at Book 246, Page 74;
- J. Barton Elliott, Jr., Linda Barton Nicholson & John G. Stevenson, Trustees, to Ruby Mountain Holdings, LLC, dated January 31, 2008 and recorded November 24, 2008 in the Warren County Clerk's Office at Book 3673, Page 37; and
- J. Barton Elliott, Jr., Linda Barton Nicholson & John G. Stevenson, Trustees, to Ruby Mountain Holdings, LLC, dated April 21, 2009 and recorded May 20, 2009 in the Warren County Clerk's Office at Book 3778, Page 194.

The project site is improved by an existing mineral extraction and mineral extraction structures as authorized by Agency permits 79-174, 79-358, 81-20, 81-20A, 81-20B, 81-20C, 87-39, 87-39A, and 87-39B:

- Permits 79-174 and 79-358 authorized mining on a 580±-acre project site comprising Town of Indian Lake tax parcel 67.-1-39 and Town of Johnsburg tax parcels 29.-1-1, 4, and 5, and 46.-1-58 and 63. These permits authorized the construction of a mine support building, a crusher building, a mill building, and two fuel oil storage tanks to be associated with the mineral extraction.

Permits 79-174 and 79-358 set no limits on the size of the life of mine or on the hours of operation of the processing mill or the primary crusher. Permit 79-358 conditioned that there be no blasting during inversions of less than 72 hours and limited the hauling of garnet on Thirteenth Lake Road to the hours of 7am through 10pm. The application for these permits included testimony that there would be "approximately" 3,500 trips annually by contractors buying and removing tailings, with "generally" 3-5 truck trips per day, Monday through Friday. The application also indicated that quarry mining activities would operate from 7am to 3:30pm, Monday through Friday, supplies would be delivered between 7am and 3pm, Monday through Friday, that no development would occur on Resource Management lands within one-eighth mile of the Siamese Ponds Wilderness area, and that mining would proceed downward from an elevation of 2,240 feet to an elevation of 1,860 feet above mean sea level (amsl).

- Permits 81-20, 81-20A, 81-20B, and 81-20C authorized the establishment of an electric transmission line to the project site.
- Permits 87-39 and 87-39A authorized the establishment of two tailings piles on the project site. These piles, referred to as the Tailings Valley pile and the Finger Valley pile, were authorized to be a combined footprint of approximately 60 acres and a height of 2,320 feet each. For the creation of the Finger Valley pile, these permits authorized the dredging and filling of an approximately 1.9-acre portion of a value "2" wetland within one-eighth mile of the Siamese Ponds Wilderness Area.
- Permit 87-39B authorized the applicant's request to use only the Tailings Valley pile, with the pile's footprint expanded to 73 acres and the maximum height lowered to 2,275 feet. Creation of the Finger Valley pile and the associated wetland fill were never undertaken. Permit 87-39B also authorized construction of a dam at Brown Pond Brook, to be maintained as a supplemental sedimentation basin.

In 1988, the applicant obtained Town of Johnsbury tax parcels 46.-1-57.1, 61, and 62, which added an additional 221±-acres to the project site; however, all of the activities authorized by Permit 87-39B were located within the project site for Permits 79-174 and 79-358.

There was no permit term or future Agency review required for the mining activities authorized by permits 79-174, 79-358, 81-20, 81-20A, 81-20B, 81-20C, 87-39, 87-39A, and 87-39B.

Thirteenth Lake Road and Beach Road run from northeast to southwest and form the southeastern border of the project site, except that portions of tax parcels 29.-1-4, 46.-1-57.1, and 46.-1-63 are located south of Thirteenth Lake Road. Thirteenth Brook cuts through these lands, roughly parallel to and just south of Thirteenth Lake Road.

The Siamese Ponds Wilderness Area adjoins the project site to the southwest, northwest, and northeast. Slide Mountain Creek flows from the Wilderness Area into Brown Pond Brook, which runs northwest to southeast to Thirteenth Lake Road and Thirteenth Brook. Access to the existing mineral extraction on these lands is provided by Ruby Mountain Road, a private gravel access road extending northwest from Thirteenth Lake Road and just to the east of Brown Pond Brook.

The project site contains a wetland in the western corner of the site, and a wetland near the northern boundary of the site that is associated with Brown Pond Brook and Slide Mountain Creek. There are also wetlands associated with Thirteenth Brook. Additional wetlands not described herein or depicted on the Project Plans may be located on or adjacent to the project site.

The portions of tax parcels 29.-1-4, 46.-1-57.1, and 46.-1-63 located to the south of Thirteenth Lake Road are designated Rural Use on the Adirondack Park Land Use and Development Plan Map. Additional Rural Use lands are located on tax parcel 29.-1-5, in the far eastern portion of the project site. The remainder of the lands located north of Thirteenth Lake Road and to the northeast of Brown Pond Brook are designated

Industrial Use, while the lands to the southwest of the Brown Pond Brook are designated Resource Management.

Private residential and forested Rural Use lands are located to the east and south of the project site. The Warren-Hamilton County line bisects the northern portion of the Industrial Use land use area of the project site.

### **PROJECT DESCRIPTION**

The project involves implementation of the first five-year permit term for an anticipated 66-year mine plan. The activities anticipated to occur within the five-year permit term require the following proposed changes to the previously-authorized mineral extraction:

1. Expansion of the Tailings Valley pile (referred to herein as the residual minerals pile) from a footprint of 73 acres to a footprint of 88.4 acres, including an approximately 7.5-acre area on the northern portion of Town of Johnsbury tax parcels 46.-1-57.1 and 61 where mining activities have not been previously authorized.
2. Lowering of the quarry floor from an elevation of 1,860 feet to an elevation of 1,790 feet above mean sea level;
3. Increasing the hours of operation for on-site trucking and other on-site mining activities from 7am to 3:30pm, Monday through Friday, to 7am to 4:30pm, Monday through Friday;
4. Increasing the hours for delivering supplies to the site from 7am to 3pm, Monday through Friday, to 7am to 5pm, Monday through Friday; and
5. Increasing the number of off-site truck trips from a maximum of 5 per day to a maximum of 16 per day, with off-site trucking hours reduced from 7am to 10pm, Monday through Friday, to 7am to 5pm, Monday through Friday.

The activities anticipated to occur within the 66-year mine plan require the following proposed changes to the previously-authorized mineral extraction:

1. Expansion of the footprint of the residual mineral pile to a maximum of 128.2 acres, including an expansion of the pile into an approximately 10.5-acre area within one-eighth mile of the Siamese Ponds Wilderness Area along the northern portion of Town of Johnsbury tax parcels 29.-1-1 and 46.-1-58, with the Life of Mine boundary located approximately 325 feet from the property boundary.
2. Lowering of the quarry floor to an elevation of 1,720 feet above mean sea level.
3. Expansion of the height of the residual mineral pile from 2,275 feet to a maximum height of 2,375 feet above mean sea level, with reclamation activities then resulting in a reduction to a final pile height of 2,355 feet above mean sea level.

No new structures are proposed. There are no changes proposed to the existing process or operational capacity, including no changes to the processing mill.

The project site is subject to a NYS Department of Environmental Conservation (NYSDEC) Mined Land Reclamation Permit (Mine File # 50483).

The project is shown on the following maps, plans, and reports (Project Plans):

- A 15-sheet set of site plans titled “Barton Mines Company, LLC,” prepared by H2H Geoscience Engineering, PLLC (now Bowman Consulting, Engineering & Landscape Architecture), sheets with various dates, all received by the Agency on July 16, 2024 (Site Plans);
- An 88-page response letter and project narrative titled “Mine Permit Amendment & Modification,” prepared by Bowman Consulting, Engineering & Landscape Architecture, dated July 15, 2024 and received by the Agency on July 16, 2024 (July 2024 Response Letter & Narrative);
- A 306-page report titled “Sound Study” prepared by Bowman Consulting, Engineering & Landscape Architecture, dated August 29, 2024 and received by the Agency on August 30, 2024 (Noise Impact Assessment);
- A 140-page report titled “Barton Mines Geotechnical Review,” prepared by Bowman Consulting, Engineering & Landscape Architecture, dated August 29, 2024 and received by the Agency on August 30, 2024 (Geotechnical Report);
- A 395-sheet “Stormwater Pollution and Pollution Prevention Plan,” prepared by H2H Geoscience Engineering, PLLC (now Bowman Consulting, Engineering & Landscape Architecture), dated July 2024 and received by the Agency on July 16, 2024 (SWPPP);
- A 161-page report titled “Revegetation Testing Program Monitoring Report,” prepared by Bowman Consulting, Engineering & Landscape Architecture, dated February 23, 2024 and received by the Agency on July 16, 2024 (Revegetation Testing Report);
- A 45-page report titled “Barton Blasting Plan,” prepared by Maine Drilling & Blasting, dated January 12, 2023 and received by the Agency on July 16, 2024 (Blasting Plan); and
- A two-page document titled “Barton Mines Permit Modification Compliance Assurance Monitoring,” no preparer indicated, undated, and received by the Agency on July 16, 2024 (Monitoring Report).

Figure 6 of the Site Plans for the project, titled “Proposed Mine Plan Map End of Phase 1”, is attached as a part of this permit for reference. The original, full-scale maps and plans described in this paragraph are the official plans for the project, with copies available upon request from Adirondack Park Agency headquarters in Ray Brook, New York.

### **AGENCY JURISDICTION**

Condition 1 of Agency Permit 87-39B requires Agency authorization for any new mining activities on Town of Johnsburg tax parcels 46.-1-57.1 and 61.

Conditions A and M of Agency Permit 79-358 require Agency authorization for lowering the quarry floor below an elevation of 1,860 feet above mean sea level.

Condition 1 of Agency Permit 87-39B requires Agency authorization for an expansion of the size of the residual mineral pile to greater than 73 acres in footprint.

Condition 1 of Agency Permit 87-39B requires Agency authorization for an expansion of the maximum height of the residual mineral pile to an elevation greater than 2,275 feet above mean sea level.

Conditions A and M of Agency Permit 79-358 require Agency authorization for the operation of on-site trucking and mining vehicle operations after 3:30pm Monday through Friday.

Conditions A and M of Agency Permit 79-358 require Agency authorization for increasing off-site truck trips to more than 5 per day Monday through Friday.

Pursuant to Section 809(2)(a) of the Adirondack Park Agency Act, a permit is required from the Adirondack Park Agency prior to new land use and development within one-eighth mile of tracts of Forest Preserve land classified as Wilderness.

### **CONDITIONS**

#### **THE PROJECT IS APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:**

1. The project shall not be undertaken until this permit has been recorded in both the Warren and Hamilton County Clerk's Offices.
2. This permit is binding on the permittee, all present and future owners or lessees of the project site, and all persons undertaking all or a portion of the project, for as long as the mineral extraction continues on the site. Copies of this permit and all Project Plans shall be furnished by the permittee to all subsequent owners or lessees of the project site prior to sale or lease, and by the permittee and/or any subsequent owner or lessee to all persons undertaking any development activities authorized herein.
3. In addition to complying with all terms and conditions of this permit, all future activities on the project site shall be undertaken in compliance with the requirements of New York State's Adirondack Park Agency Act, Freshwater Wetlands Act, and the Adirondack Park Agency's implementing regulations [9 NYCRR §§ 570-588].
4. This permit amends and supersedes Agency permits 79-174, 79-358, 81-20, 81-20A, 81-20B, 81-20C, 87-39, 87-39A, and 87-39B. The terms and conditions of Agency permits 79-174, 79-358, 81-20, 81-20A, 81-20B, 81-20C, 87-39, 87-39A, and 87-39B, shall no longer apply to the project site.

5. All deeds conveying all or a portion of the lands subject to this permit shall contain references to this permit as follows: "The lands conveyed are subject to Adirondack Park Agency Permit 2021-0245, issued **XXXX**, the conditions of which are binding upon the heirs, successors and assigns of the grantors and all subsequent grantees."
6. This permit authorizes the continued operation and expansion of the mineral extraction within the Life of Mine area shown and described in the Project Plans. The project shall be undertaken in compliance with and as described in all referenced Project Plans. Any change to the location, dimensions, or other aspect of the mineral extraction on the 848.6-acre project site shall require prior written Agency authorization.
7. The undertaking of any new land use or development outside the Life of Mine area shown on the Site Plans shall require prior written Agency authorization.
8. Any new free-standing or building-mounted outdoor lights on the project site shall require prior written Agency authorization.
9. All signs associated with the mineral extraction on the project site shall comply with the Agency's "Standards for Signs Associated with Projects" [9 NYCRR Part 570, Appendix Q-3].
10. Outside of the Life of Mine area shown on the Site Plans, no trees, shrubs, or other woody stemmed vegetation may be cut, culled, trimmed, pruned or otherwise removed or disturbed on the project site without prior written Agency authorization, except for the removal of dead or diseased vegetation, rotten or damaged trees, or any other vegetation that presents a safety or health hazard.
11. Between April 1 and October 31, no trees shall be removed or disturbed within the Life of Mine area without prior written Agency authorization.
12. The undertaking of any activity involving wetlands shall require a new or amended permit.
13. Blasting shall only occur in compliance with the Blasting Plan and only from Monday through Saturday between the hours of 9am and 4pm. No blasting shall occur on the project site on Sundays or legal holidays or during atmospheric inversions lasting less than 72 hours.
14. Trucking off-site shall only occur Monday through Friday between the hours of 7:00am and 5:00pm without written Agency authorization. There shall be no more than a total of 16 truck trips to and/or from the project site on any day without written Agency authorization.
15. Supplier vehicle trips shall only occur Monday through Friday between the hours of 7am and 5pm.

16. Quarry mining activities (including drilling, rock-breaking, shoveling, and adding to stockpiles) shall only occur Monday through Friday between the hours of 7am and 4:30pm. Quarry mining activities do not include mineral processing operations (operation of the processing mill, the primary crusher, the conveyor, feeding of the crusher and the processing mill, and residual minerals placement).
17. This permit shall expire and all authorized activities shall cease on the project site five years after the date the permit is recorded unless a request for a new permit term is received by the Agency at least one month prior to that date.
18. Reclamation shall occur concurrently as shown on the Site Plans and described in the July 2024 Response Letter & Narrative and in the Revegetation Testing Report. All trees and shrubs shall be planted and maintained as shown on the Site Plans and described in the Project Narrative and Revegetation Testing Report.
19. An annual report shall be provided to the Agency by January 31st of each year. This report shall include a summary of the extent to which all aspects of the project as authorized have been undertaken to date, as well as the number of daily truck trips and number of blasts per month for the preceding year.  
  
The annual report shall also include all residual minerals pile and groundwater monitoring information described in the Monitoring Report.  
  
All notifications and reporting to the NYSDEC shall also be submitted to the Agency, including but not limited to any applications for new permits, renewals, modifications, or transfers.
20. Installation of any new or replacement on-site wastewater treatment system(s) on the project site shall require prior written Agency authorization.
21. When brought from off-site, all equipment to be used on the project site shall be clean and free of soil, mud, or other similar material. If washed on the project site, equipment shall be washed in one location to prevent the distribution of plant propagules among various wash sites.
22. The project shall be undertaken and monitored in compliance with the Stormwater Pollution Prevention Plan.



**CONCLUSIONS OF LAW**

The Agency has considered all statutory and regulatory criteria for project approval set forth in the Adirondack Park Agency Act, the Freshwater Wetlands Act and 9 NYCRR Part 578, and 9 NYCRR Part 574. The Agency hereby finds that the project authorized as conditioned herein:

- a. will meet all of the pertinent requirements and conditions of the approved local land use programs of the Towns of Johnsburg and Indian Lake; and
- b. will not have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources of the Park or upon the ability of the public to provide supporting facilities and services made necessary by the project.

PERMIT issued this        day  
of                               , 2024.

ADIRONDACK PARK AGENCY

BY: \_\_\_\_\_  
David J. Plante, AICP CEP  
Deputy Director, Regulatory Programs

STATE OF NEW YORK  
COUNTY OF ESSEX

On the        day of                                in the year 2024, before me, the undersigned, a Notary Public in and for said State, personally appeared David J. Plante, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their capacity, and that by their signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

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Notary Public