



PERMIT WRITING FORM – P2021-0245

Assigned EPS: 68 Reviewed by: DFK Date: 11/5/2024

APPLICANT

Project Sponsor(s): Barton Mines, LLC
Landowner(s): Ruby Mountain Holdings, LLC
Authorized Representative: Tom West, Esq. (previously Bernard Melewski, Esq.)

PROJECT SITE

Town/Village: Johnsbury and Indian Lake County: Warren and Hamilton
Road and/or Water Body: Thirteenth Lake Road, Beach Road, Ruby Mountain Road
Tax Map #(s): 67.000-1-39, 29.-1-5, 29.-1-4, 29.-1-1, 46.-1-63, 62, 61, 57.1, 58
Deed Refs:

TM# 67.000-1-39:
Richard L. Doyle and 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 at B246, P74.

TM #'s: 46.-1-63, 46.-1-58, 29.-1-1, 29.-1-4, 29.-1-5:
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 Warren Co. at B3673, P37.

TM#'s 46.-1-62, 46.-1-61, 46.-1-57.1:
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 Warren Co. at B3778, P194.

Land Use Area(s): []H []MIU []LIU [x]RU [x]RM [x]IU

Project Site Size: 848.6± acres

- [x]Same as Tax Map #(s) identified above
[]Only the []H []MIU []LIU []RU []RM []IU portion of the Tax Map #(s) identified above
[]Other (describe):n/a

Lawfully Created? []Y []N []Pre-existing subdivision: n/a

River Area: []Y [x]N If Yes: []Wild - []Scenic - []Recreational Name of River: n/a

CEAs (include all): [x]Wetland - []Fed Hwy - []State Hwy - [x]State Land - []Elevation - []Study River

The Resource Management LUA portion of the project site is partially within the Siamese Ponds Wilderness Area Critical Environmental Area. There is no Wilderness CEA jurisdiction in Industrial Use LUAs.

PROJECT DESCRIPTION

Amendments to a previously-approved mineral extraction, including: expansion of a residual minerals pile from 73 acres to a final max. footprint of 128.2 acres in size, lowering of the quarry floor from 1,860 feet above mean sea level (amsl) to 1,720 feet amsl, increasing hours of on-site trucking and mining vehicle operation from 7:00am to 3:30pm Monday through Friday to 7:00am to 4:30pm Monday through Friday, increasing supplier deliveries from 7:00am to 3:00pm to 7:00am to 5:00pm

Monday through Friday, increasing off-site trucking trips from 5 per day to 16 per day Monday through Friday and reducing off-site trucking hours from 7:00am to 10:00pm to 7:00am to 5:00pm Monday through Friday.

805(35) – “Mineral extraction” means any extraction, other than specimens or samples, from the land of stone, coal, salt, ore, talc, granite, [petroleum products or other materials,] except for commercial sand, gravel or topsoil extractions; including the construction, alteration or maintenance of mine roads, mine tailing piles or dumps and mine drainage.

JURISDICTION (including legal citation)

810 (1)(f)(1): Mineral extraction in Industrial Use LUA

810 (1)(e)(12): Mineral extraction in Resource Management LUA

810 (1)(e)(1)(d): Mineral extraction in Resource Management LUA in Wilderness CEA (Non-jurisdictional in Industrial Use LUA)

Previous Agency Permits:

P87-39B – expansion of RM pile greater than 73 acres

P78-401 – lowering quarry floor below 1,860 feet amsl

P79-358 – increasing trucking past 3:30pm Monday through Friday

P79-358 – increasing truck trips beyond 5 per day Monday through Friday

P79-358 – increasing supplier vehicle deliveries past 3:00pm Monday through Friday

PRIOR PERMITS / SETTLEMENT AGREEMENTS BEING SUPERSEDED

All prior Agency permits are being superseded: 79-174, 79-358, 81-20, 81-20A, 81-20B, 81-20C, 87-39, 87-39A, 87-39B.

P2019-0136 was not undertaken and has expired.

Agency Project 78-401 was a conceptual determination.

A letter of permit compliance was issued for P87-39C.

FINDINGS OF FACT – ENVIRONMENTAL SETTING

Lakes, Ponds, Navigable Rivers and Streams

Check if none

Water Body Name: Thirteenth Brook

Length of Existing Shoreline (feet): approx. 0.5 mi

MHWM determ: Y N

Minimum Lot Width: No subdivision proposed

Meets standard: Y N

Structure Setback (APA Act): No new structures proposed.

Meets standard: Y N

Structure Setback (River Regs): n/a

Meets standard: Y N

Y N Cutting proposed within 6 ft of MHWM?

If Yes, < 30% vegetation? Y N

Y N Cutting proposed within 35 ft of MHWM?

If Yes, < 30% trees 6” dbh? Y N

Y N Cutting proposed within 100 ft of river area? (If Yes, include under jurisdiction)

Non-Navigable Streams in proximity to development

Check if none

Permanent Stream

Intermittent Stream

Classified? Y

N

[DEC Environmental Resource Mapper](#) stream classification: see below:

Slide Mountain Creek, Class C

Brown Pond Brook, Class C(TS)

Unnamed Stream, Class C

Wetlands

There are two jurisdictional wetlands on the project site in the vicinity of the mineral extraction activities. Neither will be impacted by the project, as a greater than 100-foot buffer exists between the wetlands and the mineral extraction activities.

There are various other wetlands, such as those associated with Thirteenth Brook, on the project site that are not in proximity to the mineral extraction activities and will not be impacted by the project.

- Y N Jurisdictional wetland on property, or
- Y N Wetlands are a basis of development jurisdiction If Yes, RASS biologist consulted
 - If Y, covertime: *n/a*
 - If Y, value rating: *n/a*
- Y N Draining, dredging, excavation of wetland
 - Area of wetland loss: *n/a* Permanent? Y N
- Y N Fill/structure in wetlands
 - Fill/structure area: *n/a*
- Y N Shading of wetland
 - Area of shading: *n/a*
- Y N Clearcutting >3 acres of wetland *RASS forester consulted
 - Clearcut area: *n/a*
- Y N Untreated stormwater discharge into wetland
- Y N Pollution discharge into wetland
 - Pollution type: *n/a*
- Y N Pesticide/Herbicide application in wetland
 - Pollution type: *n/a*
- Y N OSWTS within 100 feet of a wetland
 - Distance to Wetland: *n/a*

Ecological / Wildlife

- Y N Natural Heritage Sites/listed species or habitat present, including bat

There is a historic coverage area of a threatened vascular plant in the vicinity of one of the jurisdictional wetlands. A plant survey was completed by the applicant in this location and the plant was not found. Additionally, through the review process, the project was modified to avoid impact to any jurisdictional wetlands.

- Y N Forest management plan existing or proposed If Yes, RASS forestry analyst consulted
- Y N Biological Survey required by RASS Biologist 2 or Supervisor If Yes, completed

Special Districts

- Y N Agricultural District

Slopes RASS engineer consulted if structure proposed on >15%, driveway on >12%, or wwts on >8/15%

Existing slope range: *0-40+%* Building area(s) if authorizing development: *n/a*

Soils

- Y N Deep-hole test pit completed? (Necessary for every building lot) Check if N/A
- If Yes, soil data information determined or approved by RASS soil analyst?

NRCS Mapped Soil Series or Other Comments: *Soils on the project site are generally well-drained sandy loams. The garnet resource being mined is found in gabbroic rocks that contain megacrystic*

garnet deposits. Groundwater within the quarry area is monitored by a series of monitoring wells, and reported at 1,700 feet amsl.

Stormwater

- Y N Greater than 1 acre disturbance, or
Y N Proposed ground disturbance < 100 feet from wetlands
 If Yes, stormwater management reviewed and approved by RASS engineer
Setback to wetlands: **Greater than 100 feet for all phases of the project.**

Character of Area

Nearby (include all): Residential Commercial Industrial Agricultural Forested

Adjoining Land Uses / State Land: **Siamese Ponds Wilderness Area, RU, RM, IU.**

Is nearby development visible from road? Y N

→ If Y, name road and describe visible development: **Scattered dwellings and seasonal camps are visible along Thirteenth Lake Road and Beach Road in the vicinity of Ruby Mountain Road. More dense residential development exists 0-2 miles south of the project site.**

FINDINGS OF FACT – COORDINATED REVIEW

- Y N Archeologically Sensitive Area, according to OPRHP If Yes, OPRHP consulted
Y N Structures > 50 years old on or visible from site If Yes, OPRHP consulted

The NYS State Historic Preservation Office issued a determination letter to H2H Geoscience Engineering on November 5, 2020, indicating that there would be no impact to archaeological or historic resources as part of the project.

- Y N Solar Project > 50 acres requiring ZVI & historic inventory If Yes, APA AHPO consulted
Y N Within Lake George Park If Yes, LGPC consulted / application submitted
Y N Public water supply If Yes, DEC / DOH application submitted
Y N Greater than 1,000 gpd wastewater If Yes, DEC application submitted
Y N Disturbing bed or bank of classified/navigable water body If Yes, DEC application submitted
Y N Disturbing 300 LF or more of a stream (temp + perm) If Yes, DEC application submitted
Y N Disturbing ¼ acre of Corps wetlands (temp + perm) If Yes, DEC application submitted
Y N Creating 5 or more lots less than 5 acres each If Yes, DOH application submitted
Y N Army Corps involvement * If Yes, ACOE consulted
Y N Agency-approved Local Land Use Program If Yes, Town/Village consulted

ALLUP consultation letters were sent to the Towns of Johnsburg and Indian Lake when the Agency determined the application complete, as required. The Town of Indian Lake responded with a resolution in support of the project.

The project site is regulated by a NYSDEC mining permit and MSGP & SPDES permits.

*- Review the Pre-Construction Notification (PCN) thresholds for the [Buffalo District](#) and the [New York District](#) to help determine if an application (PCN) needs to be submitted to the Corps. Additionally, review the [Section 10 waters list](#) to determine if a Section 10 Navigable Waters permit might be required from the Corps.

PERMIT CONDITIONS AND IMPACT ANALYSIS

Merger

Justification if merger required: *n/a*

Deed Covenant

Non-building lot being created? Y N

If Yes and lot is not being merged by condition, no PBs? Or no structures at all? Justification: n/a

Easement

Easement proposed or required? Y N

If Y, consult with Legal for conditions. Justification: n/a

Construction Location and Size (may be different for each subdivision lot)

Is new development (other than oswts) being authorized without further Agency review? Y N

→ If Y: Structure height limit and justification: none

Structure footprint limit and justification: none

→ If N:

→ Acceptable development sites identified for all subdivision lots with PB allocation? Y N

→ Review of future development required? Y N

→ If Y, justification: Review of any potential future development of the project site is necessary to review potential stormwater impacts, wetland impact, visual impact, etc.

Guest Cottages (if authorizing a dwelling)

Proposed and reviewed? Y N

If N, guest cottages potentially allowed? Y N

→ Justification for any conditions: n/a

Boathouses (if project site contains shoreline)

Proposed and reviewed? Y N

If N, boathouses potentially allowed? Y N

→ If N, justification: n/a

→ If Y, review required (beyond definition limits)? Y N

→ If Y, justification: n/a

Docks (if project site contains shoreline)

Proposed and reviewed? Y N

If N, docks potentially allowed? Y N

→ If N, justification: n/a

→ If Y, review required (beyond definition limits)? Y N

→ If Y, justification: n/a

Outdoor Lighting (if authorizing development)

Plan proposed and reviewed? Y N

No new or expanded lighting proposed. Any new lighting on the project site shall require prior written Agency authorization, as the project site is located adjacent to the Siamese Ponds Wilderness Area, and new lighting would need to be assessed for potential off-site visual impact.

Building Color (if authorizing development)

If color condition required, justification: no new structures proposed.

Tree Cutting / Vegetation Removal

Town with Northern Long-Eared Bat (NLEB) occurrences? Y N

The project site is wholly within 5 miles of a known NLEB hibernaculum, so no trees will be allowed to be removed between April 1 and October 31 of each year within the Life of Mine area without prior Agency authorization.

Indiana Bat habitat indicated on Lookup? Y N

Vegetative cutting restrictions required? Y N

If Y, restrictions required (choose all that apply):

within n/a feet of limits of clearing

within n/a feet of road

within n/a feet of river/lake/etc

within n/a feet of wetlands

Other: n/a

OR on entire site outside Life of Mine

Extent of cutting restriction necessary within the area noted above:

Cutting of all vegetation prohibited

Cutting of trees of n/a diameter dbh prohibited

Other: n/a

Justification: Necessary to maintain existing vegetative screening, attenuate noise, and avoid potential wetland impacts.

Plantings

Plan proposed and reviewed? Y N

If N, plantings required? Y N

→ If Y, species, number, location, and time of year: Reclamation plantings required as shown on the Site Plans and described in Response Letter & Project Narrative and Revegetation Testing Report.

Justification: Necessary to provide site stability and minimize visual impacts.

The project site will also be revegetated and reclaimed in accordance with the requirements NYSDEC's Mined Land Reclamation Law.

Density (may be different for each subdivision lot)

Located in Town with ALLUP? Y N

(If Y, STOP, Town oversees density.)

Authorizing PB on substandard-sized lot created pre-2000 with no permit? Y N

If N and N, list existing PBs, including whether they are pre-existing/year built: n/a

Mathematically available # of new PBs (in addition to existing or replacement): n/a, Johnsbury and Indian Lake are ALLUP towns.

Extinguishing PBs? Y N If Y, number: n/a

Wastewater (if authorizing construction of a new PB without further review)

No changes to existing on-site wastewater treatment systems proposed. Any potential new or replacement system would require prior written Agency authorization, to ensure wetland setback, system capacity, and slope requirements are met.

Municipal system connection approved?

Y N

Community system connection approved by RASS?	<input type="checkbox"/> Y <input type="checkbox"/> N
Proposed on-site system designed by engineer and approved by RASS?	<input type="checkbox"/> Y <input type="checkbox"/> N
If N, has RASS field-verified location for conventional standard trench system?	<input type="checkbox"/> Y <input type="checkbox"/> N
If N, has RASS field-verified location for conventional shallow trench system?	<input type="checkbox"/> Y <input type="checkbox"/> N
Suitable 100% replacement area confirmed for existing / proposed system?	<input type="checkbox"/> Y <input type="checkbox"/> N
Consult with RASS for additional conditions.	

Stormwater Management (if authorizing development)

Consult with RASS for conditions. Condition required if authorizing development within 100 feet of wetlands or greater than 1 acre disturbance; condition possibly required in other circumstances too. Justification: Require compliance with the MSGP and SPDES permits in the SWPPP, which is necessary to prevent impacts to wetlands and water resources by stormwater and/or erosion.

Erosion and Sediment Control (if authorizing development)

Consult with RASS for conditions. Condition required if authorizing development within 100 feet of wetlands or greater than 1 acre disturbance; condition possibly required in other circumstances too. Justification: Require compliance with the MSGP and SPDES permits in the SWPPP, which is necessary to prevent impacts to wetlands and water resources by stormwater and/or erosion.

Infrastructure Construction (if authorizing development)

Construction necessary before lot conveyance: n/a
Justification: n/a

For permits that will not include conditions related to Building Color, Vegetation Removal, or Plantings

Explain why no condition is needed: No building color condition required because no new structures are proposed or authorized. Vegetation removal condition (including NLEB cutting condition) is included. Planting (reclamation) condition is included. Lighting condition included.

Additional Site / Project-Specific Concerns / Conditions Needed

Permit condition: Invasive species condition.

Justification: To prevent the introduction and spread of invasive species into and throughout the Adirondack Park.

Permit conditions: Operational conditions, including daily trucking maximum, on-site trucking/vehicles hours, off-site trucking hours, quarry mining activity hours.

Justification: Reduce potential noise impact to off-site receptors.

Permit condition: Project will be undertaken as shown and described in all referenced Project Plans.

Justification: Minimize potential impacts as reviewed and produce results consistent with all referenced Project Plans.

Permit condition: Annual reporting to the Agency is required, as described in the Monitoring Report.

Justification: Ensure the project is being undertaken as shown and described in all referenced Project Plans.

Permit condition: Five-year permit term.

Justification: To allow for Agency review of anticipated mineral extraction activities.

Y N **Public comments received**

The Agency notified adjoining landowners and other parties and published a Notice of Complete Permit Application in the Environmental Notice Bulletin, as required by the Adirondack Park Agency Act. Additionally, the Agency made the file materials available to the public on the Agency's website throughout the review process.

631 public comments were received between October 15, 2021 (when permit application was received) and September 16, 2024 (when the application was determined complete).

798 public comments were received during the public comment period (including comment period extension).

Staff reviewed each public comment received, including all attachments.

Y N **Applicant submitted response (notes, if any)** The applicant provided responses to 3 concerned comment letters. These comments and responses were received prior to application completion.



INDIVIDUAL LOT DEVELOPMENT REVIEW – P#2021-0245

If a subdivision: Lot #n/a: not a subdivision (Life of Mine area = 253.1± acres)

Assigned EPS:68 Reviewed by: DFK Date: 11/5/2024

Existing Development

PRINCIPAL BUILDINGS

Structure - Pre-existing (Y/N)? - Lawfully constructed (Y/N)?

Processing Mill Building (Resource Mgt LUA), not pre-existing, lawfully constructed in 1980, as authorized by P79-174 & 79-358.

Primary Crusher Building (Industrial Use LUA), not pre-existing, lawfully constructed in 1980, as authorized by P79-174 & 79-358.

Quarry Office (Industrial Use LUA), not pre-existing, lawfully constructed in 1980, as authorized by P79-174 & 79-358.

ACCESSORY STRUCTURES

Structure - Pre-existing (Y/N)? - Lawfully constructed (Y/N)?

None

Proposed Development

Check if portions or all below are NJ

PRINCIPAL BUILDINGS

Check if proposed as a non-building lot:

Structure Footprint Height # Bedrooms Slopes

None proposed

Have necessary density? Y N No new structures or principal buildings proposed/authorized.

remaining potential principal buildings = n/a, Johnsburg and Indian Lake administer Agency-approved local land use programs (ALLUP). from survey or estimate

ACCESSORY STRUCTURES

Structure Footprint Height Slopes

None proposed

MINERAL EXTRACTION

Life of Mine (LOM) Five-Year Permit Term Affected Area
253.1 acres 253.1 acres

Total size of the landowner property in this vicinity is 848.6 acres. No activities authorized outside the Life of Mine area without prior written Agency authorization.

ACCESS

*Consult RASS engineer for driveway > 12% slope / *consult RASS ecologist for driveway > ¼ mile

Driveway is existing / proposed Length: Ruby Mountain Drive is existing and provides access to the project site. No changes are proposed. Width: n/a
 Sight distance evaluated? Y N Slopes: n/a
 Need Clearing/Grading? Y N Comments: n/a (Note if HOA or shared maintenance involved)
 Need hwy access permit? Y N
 Need easement? Y N
 Need signs? Y N

VISUAL / AESTHETIC

Y N Proposed development visible from public areas (list) The residual minerals (RM) pile is currently visible from off-site visual receptors including Gore Mountain, the Hooper Mine hiking trail and Thirteenth Lake Road. Visibility of the RM pile will increase at these locations where it is currently visible as part of this project. Removal of the top 20 feet of the pile during Phase 4 will provide some visual impact mitigation. The quarry is currently visible from the Gore Mountain and the Hooper Mine hiking trail. Visibility of the quarry will increase at these locations where it is currently visible as part of this project. The quarry will become newly and partially visible from portions of Thirteenth Lake during Phase 4. Visibility of both the quarry and the RM pile will be mitigated by concurrent reclamation in project Phases 2-4 and final reclamation as shown on the Project Plans.

Y N Existing topography / vegetation will screen, if retained
 All vegetation on the project site outside the Life of Mine will be retained.

Y N Planting plan proposed If Yes, RASS forestry analyst consulted
 Reclamation plantings will be undertaken in accordance with the Reclamation Plans.

WASTEWATER TREATMENT (WWTS) *Consult RASS engineer for engineered plans

Individual on-site Municipal Community
Y N Slope suitable for WWTS (i.e., ≤8% shallow, ≤15% conventional)?
Y N Soil suitable for WWTS (i.e., depth to SHGW and bedrock)?
Y N All water bodies or streams > 100 feet WWTS? (If No, needs variance – from Town if ALLUP)
Y N If fast perc (1-3 min/in), water > 200 feet WWTS? (If No, amended soils required)
Y N All jurisdictional wetlands > 100 feet WWTS? (If No, counts as permit jurisdiction)
Y N Suitable 100% replacement area identified?
 Existing and proposed to remain (needs suitable 100% replacement area)
 No changes to the existing on-site wwts proposed or authorized.

WATER SUPPLY

Individual on-site Municipal
Y N All water supplies, on-site and off-site, > 100 feet WWTS? (If No, need DOH waiver)
 NYSDEC completed an application for an Article 15 water withdrawal permit for a new water supply well to serve the project site on June 21, 2024.
 No changes are proposed or authorized to the existing water intake (max. 68 gallons per minute) from Thirteenth Brook.

STORMWATER / EROSION & SEDIMENT CONTROL *Consult RASS engineer

Y N Does proposed development maintain existing drainage patterns?

- Y N < 1 acre disturbance proposed (May need E&S Control Plan if water/slope/soil resources at risk)
 Y N > 1 acre disturbance proposed (SWPPP required, which includes E&S Control Plan)

UTILITIES

- Available on site? Y N Overhead Underground
Available at road? Y N Overhead Underground
Proposed for site? Y N Overhead Underground

Electricity is brought to the site by a transmission line as authorized by previous Agency Permits 81-20, 81-20A, 81-20B, 81-20C. No changes proposed or authorized.