



# Adirondack Park Agency

## NOTICE OF INCOMPLETE PERMIT APPLICATION APA Project No.: 2021-0245

<b>Project Sponsor:</b> Barton Mines, LLC c/o Mario Cangemi PO Box 400, North Creek, NY 12853	<b>Authorized Representative:</b> Bernard Melewski, Esq. 32 Fryer Lane, Altamont, NY 12009
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**Date Permit Application Received:** October 15, 2021

**Type of Project:** Amendment to a previously-approved mineral extraction

**Location of Project:** Town of Johnsburg, Warren County

Land Use Area: Industrial Use, Resource Management, Rural Use

Tax Map No.: 29.-1-5, 4, and 1; 46.-1-63, 62, 61, 57.1 and 58

Town of Indian Lake, Hamilton County

Land Use Area: Industrial Use

Tax Map No.: 67.000-1-39

Dear Bernard Melewski, Esq.:

Thank you for your permit application, received by the Agency on October 15, 2021. The application provided important information on the proposed project. As listed below, initial evaluation by Agency staff indicates that additional information is necessary to review the project and complete the application.

**Please submit your response to this notice by e-mail to [sarah.staab@apa.ny.gov](mailto:sarah.staab@apa.ny.gov) and reference Project Number 2021-0245 in the subject line.**

You will receive a notice in writing informing you when staff has received the information necessary to complete the application. At the time the application is deemed complete, the required time period for Agency action on the proposed project will begin.

The proposal may not be undertaken until a permit has been issued by the Agency. "Undertake" means any commencement of a material disturbance of land preparatory to the proposed project, including but not limited to road construction, grading, installation of utilities, excavation, clearing of building sites, or other landscaping, or in the case of subdivision, the conveyance of any lots.

If you have any questions regarding this Notice of Incomplete Permit Application or the project review process, please contact EPS **Sarah Staab**.

November 16, 2021  
Date

/s/ John M. Burth  
John M. Burth  
Environmental Program Specialist 3 (EPS3)

Attachment: List of Requested Information

**REQUESTED INFORMATION**  
**APA Project No. 2021-0245**

**Please submit your response to this notice by e-mail to [sarah.staab@apa.ny.gov](mailto:sarah.staab@apa.ny.gov)  
All application submissions should be in PDF or similar format and be legible.  
Electronic copies of plans must be fully scalable.**

1. **Project Site:** Appendix A of the application materials provides a copy of the NYSDEC mine permit application, which indicates the total acreage of land owned or controlled by the applicant to be 848.6-acres; however, the Agency application indicates an 837-acre project site. Meanwhile, staff review of the applicant's landholdings based on information available from Warren and Hamilton Counties indicates an 855.34-acre landholding. Please clarify these acreage discrepancies and confirm the total acreage of land owned by the applicant, including project site and contiguous properties.

In addition, certain section pages in the Addendum refer to a Figure X. Please clarify this reference and revise the application materials accordingly.

2. **Proposed Operational Profile:** The proposal involves the following:
  - Expanding the Life of Mine from 194.5-acre to 267-acres;
  - Expanding the mineral extraction area from 28.8-acres to 69-acres;
  - Lowering the depth of the quarry floor from 1880 feet above mean sea level (amsl) to 1720 feet;
  - Expanding the residual mineral storage pile height from an elevation of 2,275 feet above mean sea level (amsl) to 2,375 feet amsl;
  - Increasing truck trips from 5 per day to 16 per day;
  - Increasing blasting from 2 to 3 blasts per month to a maximum of 6 blasts per month; and
  - Increasing the hours of mining operation Monday through Friday from 7:00am-3:30pm to 7:00am-4:30pm

The existing operation on the project site operates a mill 24 hours a day, 7 days a week and produces an average of 250,000 cubic yards (CY) of residual mineral (RM) per year. Given the proposed expansions described above, it also appears the proposal involves an increase in production on-site. Please confirm that the 250,000 CY of RM per year is the current average and indicate what the proposed production volume would be given the proposed expansions described above. Please include a proposed estimated total annual volume and final estimated volume of RM. Please update all application materials accordingly.

Please also explain how the rate of production could be increased when the Mill currently processes material 24-hours a day and describe if there would be any new or additional equipment associated with a proposed increase in production. Please also update the provided Noise Study to account for any increase in production, changes in operation, or addition of equipment, etc.

The Site Plan Map titled Drawing 2 indicates an “ore body area” extending beyond Barton’s property line onto state land classified Wilderness. Please clarify how this ore body was identified.

3. **Wetlands and Streams:** The Wetland and Stream Delineation Report dated November 2019 shows wetlands in Figures 3, 5, and 6; however, these wetlands are not depicted on the map titled “Wetland Delineation Map, Barton Mines, LLC, Figure 8” (Figure 8), dated October 30, 2020, found in the November 2020 Wetland Delineation Report. Please explain why the wetlands in Figures 3, 5, and 6 in November 2019 Report were not depicted on the map titled Figure 8. Please revise Figure 8 to include labels for all wetlands currently referenced and shown.

The Wetland Delineation Reports dated November 2019 and 2020 contain photographs and data points of various wetlands on the project site. Please provide a map that shows the location of each data point and photograph provided in the reports, and indicate the directional view of each photo.

During two site visits by staff in November 2020, Rhodora was mentioned as a threatened species that may occur in wetland #5 due to the presence of suitable habitat. Please provide the results of a plant survey conducted within wetland #5 to determine if this species is present.

Existing operations on the project site currently pump a maximum of 68 gallons per minute (gpm) of freshwater from Thirteenth Brook. The application materials state the proposed expansion requires an additional 42 gpm of freshwater to meet operational needs and proposes obtaining this additional freshwater from an industrial non-potable well (TW-04) on site. The application also states that commissioning of TW-04 will allow operations to rely less on surface water from Thirteenth Brook; however, the total proposed water demand for the mine is 110 gpm. Please clarify how water withdrawal from Thirteenth Brook would be decreased when the total combined freshwater demand of 110gpm appears to include the existing maximum 68gpm from Thirteenth Brook and the 42gpm proposed from TW-04.

Please provide the following map revisions:

- a. The proposed plans depict expansion of the Life of Mine within 100 feet of the 2.4-acre wetland area (aka “Finger Valley Wetland”). Please revise all maps and plans to maintain a 100-foot vegetative buffer from the proposed areas of expansion to this wetland;
- b. Please revise all maps and plans, including the map titled “Mine Topography, Barton Mines, LLC, Figure 2” (Figure 2), dated January 21, 2020, and found in the November 2020 Wetland Delineation Report, to include the un-named tributaries located on the western portion of the project site as shown on Drawings 6-13;
- c. Please revise the maps associated with the proposed mine plan, titled Drawings 6-9, to include the location of all mapped wetlands and include wetland labels; and

- d. Please revise the map titled "Bridge Plan & Details, Barton Mines, LLC- Ruby Mountain Mine, Figure 2", dated August 26, 2021, to also include wetland boundaries in the vicinity where the bridge is proposed. Please also revise all maps depicting proposed changes to the site to include the location of the proposed bridge.

4. **Monitoring Wells and Groundwater:** The application materials state that three decommissioned pumping wells are utilized as monitoring wells. Please explain how these wells are used as monitoring wells if they were properly decommissioned per NYSDEC protocols.

In addition, the monitoring well results indicate groundwater flows in a southwesterly direction near the proposed quarry excavation area along a fault oriented in the same direction. Of the four monitoring wells installed, only one is completed to a depth below the proposed mine floor, RUB-20-05 at 1608 feet amsl. The proposal involves lowering the mine floor in the excavation area from 1880 feet amsl to 1720 feet amsl and includes excavation below the perched water table. The application materials state the groundwater table is intermittent and the anticipated water entering the excavation area is de minimis. Please clarify how this conclusion was made, given only one monitoring well was completed below the proposed excavation depth and the proposal involves expanding the excavation area along a fault where groundwater has the ability to flow through permeable joints, fractures, and faults.

Please also clarify why additional monitoring wells were not installed within the footprint of the proposed excavation area and to the proposed excavation depth of 1720 feet amsl to further confirm the absence of groundwater.

5. **Stormwater Management:** The application proposes removing water from the excavation area through a dewatering process using a sump to pump water from the extraction area to existing on-site stormwater ponds. Given the details described in Item 4 above regarding proposed expansion of the mineral extraction along a fault and below the perched water table, please revise the proposal to accommodate the potential for encountering groundwater within the proposed excavation area. Please also revise all existing stormwater plans accordingly to account for this potential flow increase.
6. **Reclamation:** The application indicates topsoil is stockpiled on-site and depicted on Drawing 2; however, Drawing 2 does not show the location of the topsoil stockpile. Please revise all maps, plans and narratives to indicate the location and volume of the existing topsoil stockpile and the proposed estimated volume, footprint and location of the topsoil stockpile with respect to each proposed expansion phase.

The reclamation plans note that drought tolerant native shrub species will be utilized "wherever possible" to supplement revegetation of benches. Condition D of Agency Permit 79-358 requires planting of seedlings to assure a minimum 20-30% crown coverage on benches and a minimum 10% coverage on all lift areas that have a grade of less than 35% over a 50-foot horizontal distance.

Accordingly, please revise the reclamation plans to provide for, at a minimum, the coverage described above.

The proposed reclamation plan describes successful reclamation of the entire Life of Mine within two years of the permit's expiration date with reclamation, including plantings, to begin in Phase 2 and concurrent with on-going mining activities. Please revise this plan to include replacement of vegetation that does not survive after two growing seasons to be replaced in the spring of the following growing season.

The map titled "Proposed Mine Plan Map, End of Phase 4, Drawing 9" and "Proposed Reclamation Mine Plan Map, End of Phase 4, Drawing 13" indicate benching elevations but do not give final floor elevations. Please revise drawing 9 and Drawing 13 to include final floor elevations in all three proposed pit areas.

The cross section maps provided showing current reclamation plans are drawn at a scale of 1:1, while the proposed reclamation plan cross sections B-B, C-C, and D-D are at a scale of 10:1. To provide an at scale comparison of the proposed mineral extraction area, please revise Drawing 14 to indicate all four cross sections at a scale of 1:1 and indicate the proposed quarry floor depths, the final reclamation grade depths, the proposed fine-grain material depth in the excavation areas, groundwater elevations and stream elevations with corresponding labeling.

Residual Mineral (RM) Pile: The application materials describe how current mining operations on the project site create the RM pile. The process involves obtaining ore material from the mineral extraction area, processing it through the primary crusher, transporting the crushed material to the Mill for additional processing, and disposing of the byproduct (fine and coarse-grain RM material) in the RM pile. The existing RM pile is described as being 73-acres in size and composed of 6% fine-grain and 94% coarse-grain materials. Currently, the fine-grain material resides in settling ponds located within the overall RM pile. The proposed reclamation plan involves transporting the fine-grain material from these settling ponds into containment cells created in the mineral extraction area once final excavation of a particular area has been reached.

The provided alternatives analysis for handling of the fine-grain material states the existing composition of this material is not conducive for transport via truck without additional processing. Please describe how it is intended to transport the fine-grain material from the settling ponds in the RM pile approximately 2,500 feet back to the mineral extraction area for reclamation. If intending to transport this material via stationary hydraulic methods, please depict this on the associated phased mine plan maps and update the project narratives accordingly.

An alternatives analysis was provided regarding handling and reclamation of the fine-grain materials, but no detailed alternatives analysis was given for the coarse-grain materials. Please provide a detailed alternatives analysis for handling of the coarse-grain material, including but not limited to combinations of

disposal on-site and off-site. The alternatives analysis should also evaluate each of the following:

- Trucking only the fine-grain material off-site and back filling the quarry cells with coarse-grain material;
- Trucking all the coarse-grain material;
- Trucking only a portion of the coarse-grain material;
- Backfilling the proposed containment cells with fine and coarse-grain material; and
- Include backfilling proposed excavation area with fine-grain, coarse-grain, or fine and coarse-grain material.

Mineral Extraction Area (MEA): Figure 1 of the application materials depicts four phases for the proposed expansion of the existing mineral extraction area with Phase 4 terminating in 2096. Please provide the anticipated date which the mineral extraction area would be fully reclaimed.

Also, as stated above, please revise the cross-section maps to show the elevation of fine-grain material in the excavation pits.

7. **Revegetation Testing Program**: The application materials state that the residual mineral storage area will be reclaimed in a manner consistent with the reports titled "Revegetation Testing Program Monitoring, Summer 1998" and "Revegetation Test Program Monitoring, Summer/Fall 1999." Please provide a copy of these monitoring reports referenced in the application for staff review.
8. **Blasting**: The applicant proposes blasting from 9am to 4pm, Monday through Saturday, with no blasting on Sundays or legal holidays. Agency Permit 79-358 requires no blasting during inversions of less than 72 hours. Given the area surrounding the project site is heavily residential to the south and east and includes state land designated Wilderness to the west and north, to ameliorate noise concerns from nearby landowners, please consider amending the blasting plan to exclude blasting on Saturdays.

Please also provide an updated blasting plan for Agency records.

9. **Trucking**: The application states that Barton Mines currently operates five 20-ton garnet truck trips per day on average. Please clarify if the trucks are single or double axle and provide the capacity (i.e. 14 or 15 CY) for a single truck.

The applicant proposes to reduce its off-site trucking hours from 7am to 10pm, Monday through Friday, to 7am to 5pm, Monday through Friday, and increase the daily truck trips from 5 to 16 per day. Please provide an estimated schedule detailing how the 11 additional truck trips, as proposed, would operate within the reduced off-site hauling hours, including approximated time frames of peak truck traffic and number of trucks per hour.

Please clarify the purpose for the proposed increase in truck trips (i.e. hauling of garnet materials; hauling of RM off-site, etc.) and approximate how many trucks will be utilized for each type of material transported off-site.

10. **Visibility:** The project proposes lateral and vertical expansion of the RM pile, increasing the height from 2,275 feet amsl to 2,375 feet amsl, and expanding the face view by approximately 4.13-acres above the existing 2,275 feet elevation. Note, the 4.13-acre face view estimate does not account for side slope areas on the east or west nor lateral expansion below 2,275 feet. Given the RM pile is currently located on land designated Resource Management and is proposed to be expanded within the Wilderness Critical Environmental Area, please evaluate other alternatives that could reduce the proposed expansion of the RM pile (see Item 6 above).

The application materials propose changes and improvements to the existing entrance road. Please evaluate if these proposed changes have the potential to increase visibility from Thirteenth Lake Road (aka County Route 78).

The Visual Impact Assessment provided by the applicant states that proposed mining of the southern highwall will be delayed until Phase-4 to prevent adverse visual impacts from exposing the quarry to off-site receptors for as long as possible. Mining of the southern highwall as proposed would result in the removal of a 2,100 feet forested ridgeline to an elevation of 1,950 feet, increasing the face view visibility of the quarry by an area approximately 150 feet tall by 1,400 feet long, totaling 4.82-acres of potential visibility increase. Please evaluate reducing the lateral expansion of the mineral extraction in this area to maintain the existing 2,100 feet forested ridgeline and alleviate potential visual impacts.

11. **Noise:** The application proposes extending the hours of operation of the mine from 7:00am-3:30pm to 7:00am-4:30pm; however, it also states that the applicant will mitigate noise by limiting the days and times of its drilling operations, but does not provide additional details. Please clarify how potential adverse impacts from noise will be mitigated by extending the mine hours.

The application also states that the applicant will utilize additional noise mitigation measures such as installing temporary moveable noise barriers around drilling operations and enclosing drilling operations with noise absorptive materials. Please provide additional details regarding these measures, including descriptions, specifications, and photos of the proposed barriers and enclosure materials proposed to be utilized.

Please also specify the size and location of the proposed berms intended for use to mitigate noise when operations occur close to property boundaries. Please revise all maps and narratives accordingly.

Noise Study: The noise study submitted with the application materials evaluated noise from two monitoring locations on the project site (M-1 and M-2) and two monitoring locations off-site (M-3 and M-4). The two monitoring locations off-site

were used to assess noise from trucking, while the two monitoring locations on-site were used to measure existing mining activities and operations to establish a baseline and assess the proposed increase in noise from proposed expansion of mining operations. Given that the proposal involves increasing the mineral extraction area by 40.2-acres and expanding the life of mine by 72.5-acres, a noise assessment with only two on-site monitor locations is insufficient.

In addition, the location chosen for M-1 is screened from the existing quarry by a topographic rise to the north, and the noise assessment only analyzed readings from the existing mineral extraction area and not the areas of proposed expansion. Similarly, the location chosen for M-2 is screened from the existing mineral extraction area by the existing Mill and a topographic rise to the east. Therefore, the locations of M-1 and M-2 are not representative of existing noise conditions on-site, nor do they adequately assess potential noise from areas of proposed expansion or assess potential impacts to nearby and adjacent residences.

Please clarify which residence by address number was identified as being located 1,700 feet from the project site and indicate where this measurement was taken from within the project site.

Please provide a legible and enlarged copy of Figure 3 in the Noise study for Agency review.

Please explain why sound readings were taken 200 feet from mobile equipment on-site but specifics of the meter location were not provided. Please provide a description of the meter reading location for each piece of equipment measured, along with the elevation, direction, and potential intervening noise barriers (i.e. other equipment, vegetation, topography, etc.). Please also clarify why a distance of 200 feet was chosen when a distance of 50 feet was used to assess operations at the Mill. Please note, a measurement distance of 50 feet would provide a more appropriate comparison to Table D in NYSDEC's February 2, 2001 Program Policy Memorandum on Assessing and Mitigating Noise Impacts.

The Noise Study indicates that the drill rig operating above the highwall is anticipated to be the highest projected sound in the mineral extraction area along section A-A. Please clarify how this section correlates to the nearest adjacent receptors. This section also describes types of noise mitigation measures that could be used to reduce noise levels and makes conclusions based on use of these noise mitigation measures; however, the application materials do not propose or include use of these noise mitigation measures. Please revise the application materials to include details on how and when the noise mitigation measures referenced in this section will be used.

Accordingly, please provide a revised Noise Study that addresses the discrepancies above and includes the following:

- Additional on-site monitoring locations;
- Assessment from the residence identified as 1,700 feet away;



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- Assessment of other nearby and adjacent receptors;
- Account for extended noise exposure from the proposed change in hours of mining operation;
- Provides noise measurement during ambient conditions (i.e. without the Mill, excavation activities, equipment, or other noise generating activities);
- Provides sound level comparisons or correlations from sounds level projections to the nearest receptors; and
- Includes vehicle manufacturing specifications for the 20-ton capacity beneficiated garnet haul truck used for the study.

12. **Other Regulatory Permits and Approvals:** Based on the Letter of Transmittal dated October 12, 2021, and prepared by H2H Geoscience Engineering, PLLC, the application materials were submitted to New York State Department of Environmental Conservation (NYSDEC), U.S. Army Corps of Engineers (US ACE), New York State Office of General Services (NYSOGS), and New York State Department of State (NYSDOS).

The submitted application materials contain a copy of the NYSDEC SPDES permit No. NY0034959, which has an expiration date of February 1, 2007. Please confirm with NYSDEC that this SPDES permit is still in existence and provide the Agency with proof of validity. Please also provide the Agency with a copy of this active permit for Agency records.

Please also confirm with NYSDEC that the currently active SPDES permit No. NY0034959 will cover the proposed 42 gpm increase described in Item 3 above and includes the proposed MSGP outfall 007A. Please provide the Agency with copies of all relevant correspondence and approvals.

On November 3, 2021, the Agency received a copy of a Notice of Incomplete Application dated November 2, 2021 from NYSDEC for this project. In order to facilitate a coordinated review of the project, please provide copies of all correspondence, permits, approvals, and determinations received from the Agencies listed above. Please also provide copies of the completed and signed Local Government Notice Forms from the Town of Johnsbury and the Town of Indian Lake.

Enc: LGNF

cc: Ruby Mountain Holdings, LLC  
Katherine Nightingale, Town of Johnsbury, Deputy Supervisor  
Brian Wells, Town of Indian Lake, Supervisor