



New York State
Adirondack
Park Agency

KATHY HOCHUL
Governor

BARBARA RICE
Executive Director

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

Project Sponsor: Barton Mines, LLC c/o Mario Cangemi PO Box 400 North Creek, NY 12853	Authorized Representative: Bernard Melewski, Esq. 32 Fryer Lane, Altamont, NY 12009 bmelewski@gmail.com
--	---

Date Permit Application Received: October 15, 2021

Type of Project: amendment to a previously approved mineral extraction

Location of Project: Town of Johnsbury, Warren County

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

Tax Map Nos.: 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 the recent submissions in relation to APA Project No. 2021-0245, received by the Agency on December 8, 2023. The submissions provided important information in response to the Agency's June 12, 2023 Notice of Incomplete Permit Application (NIPA).

Based upon staff review of your proposal and the information submitted in response to the Agency's June 12, 2023 NIPA, the following questions must be addressed in order to review your application. Also, as outlined below, some of the information requested in the June 12, 2023 NIPA was not addressed and is required to review the application.

Agency Permits 78-401, 79-358, and 79-174 allow for the current mineral extraction and industrial use on the project site. Review of your submissions and Agency requirements included in these prior permits indicate that the following proposals require Agency review for the proposed five-year permit term, which involves implementation of Phase 1 only. Please note that requests to extend Phase 1 operations beyond the proposed five-year term and requests to expand the proposal to activities anticipated as part of Phases 2 through 4 will be reviewed under all Agency requirements when those activities are proposed:

- Expansion of the residual mineral (RM) pile from 73 acres to 88.4 acres in size (P87-39B);
- Lowering of the quarry floor depth from 1860 feet above mean sea level (amsl) to 1,790 feet (P78-401);
- Increasing hours of on-site trucking from 7:00am-3:30pm M-F to 7:00am-4:30pm (P79-358):
- Increased trucking from the project site from 5 trips per day to a maximum of 16 trips per day (P79-358): and
- Any changes to water withdrawal from Thirteenth Brook (P2019-0136).


Please note that additional information related to proposed Phases 2 through 4, including, at a minimum, additional geotechnical and visual analyses, will be required for any future application involving a permit term implementing those phases.

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 your 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 or the project review process, please contact APA Environmental Program Specialist 1 (EPS1) **Corrie Magee**, who is assigned to review your project.

January 12, 2024
Date


David J. Plante, AICP CEP
Deputy Director, Regulatory Programs

Attachment: List of Requested Information

REQUESTED INFORMATION
APA Project No. 2021-0245

Please submit your response to this notice by e-mail to corrie.magee@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. Please ensure that when any edits made to any plans, maps, or figures as a result of this 3rd NIPA, that all documents are updated to indicate the most recent revision date. Please also ensure that any future submissions to the Agency are consistent and accurate across all materials.
2. Appendix T, the geotechnical report titled "Barton Mine, Residual Minerals Storage Facility, Geotechnical Assessment of Proposed Permit Modification, REV4, Supersedes Prior Letter Dated October 13, 2023" and dated October 30, 2023 (the Geotechnical Report), is prepared by a Colorado engineering firm called Knight Piesold Consulting, but there are no signatures. Please submit a revised geotechnical engineering letter of certification that includes signatures and a cover sheet with the seal of a NYS licensed professional engineer.

The Geotechnical Report states that "A site investigation and piezometer installation program within the Middle Pond slimes is expected to take place in 2023." Please explain if this investigation has commenced and, if so, please provide a preliminary report of the findings.

The NIPA response letter received by the Agency on December 8, 2023, states that “Barton proposes to have a qualified geotechnical engineer conduct geotechnical assessments and file associated reports at least every five years.” Please note that any Agency permit for the current proposal will likely require that geotechnical assessments and monitoring reports be performed and sealed by a NYS licensed professional engineer on an annual basis. The October 30, 2023, Geotechnical Report contains multiple assumptions, caveats, and contingencies in relation to activities contemplated in Phases 2-4, in particular the RM pile height expansion on top of the Middle Pond former slimes disposal area. The annual geotechnical assessments and monitoring reports performed during implementation of Phase 1 will document conditions resulting from the lateral expansion of the RM pile, and will help to eliminate the assumptions, caveats, and contingencies currently associated with Phases 2 through 4, potentially leading to a change in the proposal and/or allowing for a thorough Agency review of these phases.

3. Please provide a reclamation plan for Phase 1 that allows for concurrent reclamation and ensures reclamation of areas disturbed during the proposed permit term.

On Page 8 of the comment response letter received by the Agency on December 8, 2023, it is indicated that the RM pile will be reclaimed in a manner consistent with Plot 2 as described in the report “Revegetation Testing Program Monitoring: Summer 1998.” “Table A-1: List of Plant Species on Revegetation Test Plots, July 1998,” has been extracted from this report, and lists the species present on all test plots at the time of the observation. Please provide the September 2023 revegetation test plot site assessment report that was prepared by H2H, as described on Page 9 of the comment response letter. Based on the findings of this 2023 report, please provide a list of species that will be prioritized for use in reclamation of the RM pile and incorporate this information into the reclamation plan for Phase 1.

4. As requested in the June 12, 2023, NIPA, please provide photos from Gore Mountain that are not taken during hazy/foggy conditions. These are necessary to provide an accurate representation of visual impacts and provide for a proper Visual Impact Assessment (VIA) of Phase 1.

Successful reclamation is critical to minimizing visual impacts of the proposal. The VIA appears to use 100% reclamation success to mitigate cumulative visual impact. If reclamation is less successful, the visual impact will be greater than the VIA projects. Please revise the photographic simulations to show the minimally acceptable percentage of vegetative cover for all activities proposed to occur during Phase 1.

As the project site is highly visible and nearby to the Hooper Mine site on the Forest Preserve, please provide Phase 1 photographic simulations for the Hooper Mine receptor location that also show a minimally acceptable percentage of vegetative cover and 100% reclamation success for all activities proposed to occur during Phase 1.

The submission received by the Agency on December 8, 2023 states that the VIA has been revised to show the machinery, conveyors, vehicles, etc. near the top of the RM pile, as requested in the June 12, 2023 NIPA. However, the digital simulations do not appear to include or account for the machinery, conveyors, vehicles, etc. as the pile is laterally expanded in Phase 1. Please include these visual considerations.

5. The Geotechnical Report indicates that the expanded RM pile footprint will be “cleared of all vegetation, grubbed and excavated to competent bedrock” and then “residual mineral sands shall be compacted in 1-foot-thick lifts, and compacted with a vibratory drum compaction roller.” Please revise the noise impact analysis to include all activities and equipment proposed for use during Phase 1, including vegetation removal, excavation and compaction equipment and their individual sound levels, and estimated duration of associated equipment noise levels.

The noise impact analysis received by the Agency on December 8, 2023, attempts to obtain ambient noise levels at the monitoring locations without the processing mill operating. However, the noise levels were obtained on August 17, 2023 (Thursday) and August 19, 2023 (Saturday). Does Barton plan to expand mining operations of drilling, rock breaking, grading, RM pile construction, shoveling and hauling to weekends - including Saturdays? Otherwise, the Saturday-recorded ambient noise levels are inappropriate to be used for comparison to weekday operations, either current hours of operation or proposed expanded weekday hours of operation. Please exclude these Saturday noise recordings from the revised noise impact analysis accordingly.

The noise impact analysis received by the Agency on December 8, 2023, states that future noise levels were modeled instead of calculated, as “the straight line project method used previously is more conservative and subsequently yields higher project sound levels than those projected from the dBmap software, which more accurately reflects sound attenuation...” In order to support the modeling results, the revised noise impact analysis must include the straight-line noise projection calculations for the residential receptor scenarios at M-3 through M-9, as well as a cover sheet with the seal of a NYS licensed professional engineer.

6. The proposed water withdrawal from TW-04 appears to require installation of a new piping run from TW-04 to the processing mill. Will new vegetative clearing be required to accommodate the preferred new piping run route? If so, please show proposed limits of clearing on revised site plans and materials.
7. The proposal appears to result in the conversion of approximately 36 acres of forest to a non-forested covertype during Phase 1, and associated loss of forest carbon storage and forest carbon sequestration potential. Section 9.0 on page 56 of the narrative response document titled “Climate Change,” should be revised to account for this loss.
8. To provide for a coordinated review, please copy the Agency on all correspondence, comments and approvals from NYSDEC.

cc: Ruby Mountain Holdings, LLC – mcangemi@barton.com
Kevin Bean, Town of Johnsbury Supervisor – supervisor@johnsburgny.com
Brian Wells, Town of Indian Lake Supervisor – supervisor@indianlakeadk.com
Katherine Smith, NYSDEC - katherine.smith@dec.ny.gov
Beth Magee, NYSDEC - beth.magee@dec.ny.gov