

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 8
6274 East Avon-Lima Road, Avon, NY 14414-9516
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www.dec.ny.gov

October 17, 2022

Via US Mail and email

Thomas Biamonte
Shelby Crushed Stone Inc
10830 Blair Road
Medina, NY 14103

RE: Draft Environmental Impact Statement
Determination of Adequacy of the Draft EIS for Public Review
Eagle Harbor Sand and Gravel Pit (Mine ID #80171)
Application ID: DEC ID# 8-3422-00003/00001
Town of Barre, Orleans County

Dear Mr. Biamonte:

The New York State Department of Environmental Conservation; as Lead Agency, has reviewed the draft Environmental Impact Statement (dEIS) be prepared for the above-noted mining and wetland application proposing to mine bedrock within a 99.7 acre area within the existing 250.6 acre Eagle Harbor Sand and Gravel Pit. The Department has determined that the draft EIS sent received on September 2, 2022 is not adequate, due to the following deficiencies:

The DEIS is difficult to navigate and requires revisions prior to a complete review by the Department and eventual release for public review and comment. The expectation was that the Mined Land Use Plan dated December 13, 2018, the Hydrogeologic Analysis dated December 2018, and all other applications, assessments, and reports would be revised and updated as standalone documents included in the DEIS. The revisions should include responses to NOIA's, tests and assessments, reports, additionally collected data, etc. When revised, the originally submitted document should be removed for clarity. It is difficult to navigate between the updated summaries in the DEIS, the correspondence and response to comments, and the original studies that don't necessarily contain the most recent data, information, assessments, or conclusions.

The following should be included in the DEIS and/or Mined Land Use Plan, please note once the DEIS is updated with the most recent and accurate information, further comments will likely be generated by the Department.

- Mining Application - Please sign and date section 21 and 22.
- Organizational report - Please sign, date and notarize.
- Environmental Assessment Form - sign and date page 13.

Eagle Harbor DEIS Comments:

- Page 20 states Eagle Harbor will conduct pre-blast surveys on residential homes. Please explain which residences will be surveyed i.e. 2500' from Quarry. Provide details as to when the survey will be completed.
- DEIS Volume 2 Water Budget- please address the importance of this letter and if it should be included in the DEIS since it seems to contradict the pump test results 2020 and much of the hydro study.
- Mined Land Use Plan (MLUP) – Should have the same information that is provided in the DEIS and should not contradict information in the DEIS and other more recent studies, submissions, etc.
- Groundwater- Page 6 - lists 12 monitoring wells located at the Quarry, please update with the 15 monitoring wells used in the pump test 2020.
- Hydrogeologic Assessment/Pump Test Analysis/ Updated Figure - The original maps and figures as well as the revised maps and figures are undated and should contain a dated/revision date for distinction.

3.2.1.3 Construction and Operation

- Please include detail on the phasing of the bedrock mining into the sand and gravel operations.

3.2.4.1 Earth and Natural Resources and 4.1.1 Land Use

- As a mitigation measure, it is suggested that a “the 99.7 bedrock excavation area is a significant reduction in mined area”. Please clarify how is this a reduction: Is the remaining area of the 250.6 acre Life-of-mine going to be removed from the life-of-mine or reclaimed? It is unclear what reduction in area is being cited, other than the area that would be reclaimed back to agricultural lands.
- As a mitigation measure, it is suggested that the area would benefit “conversion to open space”, as compared to the current reclamation plan which focuses on agricultural use. While it is understood that impacts to land resources/agricultural resources may be unavoidable, it is unclear what is being proposed as mitigation. The creation of a lake from would-be agricultural land likely doesn't serve the intent to maintain open space and agriculture. Such a change of use may restrict access, certain types of hunting, and general use of area. As much of the surrounding land is rural / agricultural in nature, please include a discussion on how the land use fits into the overall community character.
- As mining is considered the use of a non-renewable resource, it should be noted as an unavoidable environmental impact.

3.2.4.2 and 4.3 Agricultural Resources

- See comments to section 3.2.4.1

3.2.4.2.6 and 4.7 Open Space and Recreation

- See comments to section 3.2.4.1

3.2.4.2.7 and 4.8 Consistency with Community Character

- See comments to section 3.2.4.1

3.2.4.2.4 and 4.5 Traffic

- Within the Mined Land Use Plan, provide the maximum truck traffic exiting the facility per hour. The February 17, 2021 response to the Incomplete Notice states a maximum of 24 trucks exiting the facility, this should be included in the DEIS and MLUP.
- While adding a crushed stone operation is anticipated to “completely replace existing sand and gravel sales”, it is unclear how truck traffic will be maintained during the transition with both operations running. The basis of addressing traffic noise and dust mitigation is based on the fact that truck traffic will not be increasing. As there are approximately 128 truckloads a week currently, the maintenance of such a traffic level should be identified as a mitigation measure.
- Please include detail regarding how overloading of trucks will be avoided.
- Section 4.4 - Include in the MLUP all the Dust control methods listed in the DEIS section 4.5.3 (2) Dust and Tracking.

4.2 Surface Water / Wetlands

- 4.2.2.2 Potential Impacts (Bedrock Aquifer) - Provide an update on which public roads surrounding the proposed quarry is currently on public water supply. Include this information in the Mined Land Use Plan section 4.2.1 page 13.
- Section 4.2.1 (page 13) – Provide an update on which public roads surrounding the proposed quarry is currently on public water supply.
- 4.2.1.1.1.2 Wetlands - The analysis fails to mention the presence of NYS regulated wetlands located in proximity of the proposed expansion area, such as KN-9 located to the south of the expansion area, and KN-12/KN-13 to the north. An analysis is needed to demonstrate that these areas (which are presumed to be largely made by semi-perched water table conditions related to the surficial aquifer) would not be impacted dewatering for bedrock mining operations. Additionally, an analysis should detail any impacts/changes anticipated to KN-12/KN-13 with any potential increases to discharges related to dewatering. It is yet to be determined if there may be hydrologic impacts to the freshwater wetlands, as such a determination for the need of a Freshwater Wetland Permit has not been made at this time. Additionally please detail of a jurisdictional determination has been made by the US Army Corps of Engineers.

4.2.2.3 Mitigation Measures - Groundwater

- Please detail the options considered. Specifically, the logic of proposing residential well supply agreements, rather than considering other options.

4.3.1.3 Mitigation Measures - Greenhouse Gas

- The mitigation measures offered reiterated that the project “minimizes vegetation/forest loss compared to developing a quarry at a greenfield location”. While this may be true, this doesn’t offer to proposed an measures to reduce the 165 tons/year of greenhouse gas from diesel generators at the site. Considering the efforts of the state to reduce green house gas emissions, please detail the considerations to mitigate the emissions. Would natural gas be a potential option to reduce emissions?

The Department asks that you provide an updated dEIS for review. To facilitate the dEIS revision, we recommend having a conference call to clarify the changes needed to the format and content. As noted, further comments will likely be generated when the Department can review the revised document.

Please contact me at (585) 226-5396 or email at Robert.call@dec.ny.gov if you have any questions relating to the status of this application or the information discussed in this letter and/or to set up discussion regarding the information needed.

Sincerely,

Robert B. Call
Deputy Regional Permit Administrator

Cc: S. Livingstone, Earth Dimensions (Ecc)
D. Sek, NYSDEC - MLR (Ecc)
S. Army, NYSDEC - MLR (Ecc)
T. Haley, NYSDEC - Regional Permit Administrator (Ecc)
File



Brian Milliman 315.725.6259
brian@miningstrategy.com

strategic mining solutions

geologists & mining consultants
www.miningstrategy.com

February 27, 2023

Mr. Robert B. Call, Deputy Regional Permit Administrator
New York State Department of Environmental Conservation
Division of Environmental Permits, Region 8
6274 East Avon-Lima Road
Avon, New York 14414-9516

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Dear Mr. Call:

The following are responses to comments raised by the New York State Department of Environmental Conservation (NYSDEC) in correspondence dated October 17, 2022 regarding the Eagle Harbor Sand and Gravel, Inc. (EHS&G) Draft Environmental Impact Statement. Each of the comments are broken out and addressed individually below.

NYSDEC Comment

The DEIS is difficult to navigate and requires revisions prior to a complete review by the Department and eventual release for public review and comment. The expectation was that the Mined Land Use Plan dated December 13, 2018, the Hydrogeologic Analysis dated December 2018, and all other applications, assessments, and reports would be revised and updated as standalone documents included in the DEIS. The revisions should include responses to NOIA's, tests and assessments, reports, additionally collected data, etc. When revised, the originally submitted document should be removed for clarity. It is difficult to navigate between the updated summaries in the DEIS, the correspondence and response to comments, and the original studies that don't necessarily contain the most recent data, information, assessments, or conclusions.

EHS&G Response

The requested reports have been revised and updated as standalone documents. Copies of the following updated technical reports are enclosed:

- ⊗ Updated Mined Land-Use Plan dated February 27, 2023 to replace the December 13, 2018 Mined Land-Use Plan included in Appendix 3 of the DEIS.
- ⊗ Composite Hydrogeologic Assessment dated January 2023 to replace the 2018 Hydrogeologic Analysis, 2019 Water Budget Analysis and 2020 NOIA Response

Figures included in Appendix 5 of the DEIS, and the May 2019 Hydrologic Modeling Report that was included in Appendix 6 of the DEIS.

NYSDEC Comment

The following should be included in the DEIS and/or Mined Land Use Plan, please note once the DEIS is updated with the most recent and accurate information, further comments will likely be generated by the Department.

- Mining Application - Please sign and date section 21 and 22.
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EHS&G Response

Copies of the Mining Permit Application Form and Organizational Report are enclosed, and the Environmental Assessment Form is included in the Appendix of each of the updated Mined Land-Use Plans which are also enclosed.

NYSDEC Comments

Eagle Harbor DEIS Comments:

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EHS&G Response

The Draft Environmental Impact Statement has been updated to incorporate the Department’s comments, copies of which are enclosed for review.

Please feel free to contact me with any questions or comments you may have.

Thank you,

Brian Milliman
Strategic Mining Solutions

enc

ecc Thomas Biamonte, Eagle Harbor Sand and Gravel, Inc.
Kevin Brown, Esq., Fogel & Brown, P.C.

- 1. The Current Mined Land-Use Plan is Located in Appendix 3**
- 2. The Composite Hydrogeologic Assessment is Located in Appendix 5**
- 3. The Mining Permit Application Form, Organizational Report and Environmental Assessment Form are Located in Appendix 3**