

FINAL ENVIRONMENTAL IMPACT STATEMENT

Route 13 Rocks, LLC Cortlandville Sand and Gravel Mine

Town of Cortlandville, Cortland County, New York
DEC No: 7-1122-00043/00008
Mine No. 70436

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I. INTRODUCTION

A. Contents of the Final Environmental Impact Statement

This final environmental impact statement (“FEIS”) has been prepared for the proposed Cortlandville Sand and Gravel Project (“Project”) in accordance with the State Environmental Quality Review Act (“SEQR”) as contained in the New York State Environmental Conservation Law (“ECL”) (see ECL § 8-0101 *et. seq.*) and its implementing regulations (see 6 NYCRR Part 617). The FEIS contains three (3) sections. Section I summarizes the environmental review process and contains a description of the Project. Section II provides information presented by RT 13 Rocks, LLC (“RT 13 Rocks”) to the New York State Department of Environmental Conservation (“DEC”) after the draft environmental impact statement (“DEIS”) was deemed complete by DEC on June 14, 2024. Section III contains the DEC’s responses to public comments. Copies of the public comments are contained electronically in Appendix 3.

The DEIS accepted by the DEC on June 14, 2024 is incorporated herein by reference and provided electronically in Appendix 1. Also contained in the Appendices to this FEIS are electronic copies of the transcripts of the public hearings held on July 23, 2024; and electronic copies of written comments received by DEC.

B. Application History

RT 13 Rocks proposed to expand its existing 66.8-acre Life-of-Mine (LOM) area on approximately 120 acres of land to include 10.1 acres of lateral expansion and to mine sand and gravel up to 100 feet below the local water table. The mine site is located southwest of the City of Cortland, west of NYS Route 13 and south of Lime Hollow Road, in the Town of Cortlandville, Cortland County. According to the application, the property is owned by the applicant.

On April 18, 2017, DEC received an application from RT 13 Rocks for a Mined Land Reclamation permit modification, pursuant to Article 23 of the Environmental Conservation Law (“ECL”), regarding its proposal to expand the facility. DEC also initiated SEQR lead agency coordination with the Town of Cortlandville on this same day.

On May 16, 2017, DEC Region 7 Office received a letter from the Town of Cortlandville, dated May 8, 2017, stating the Town’s intention of acting as SEQR lead agency for the proposal. A second letter from the Town of Cortlandville was sent to the DEC Commissioner’s Office on May 30, 2017, again, stating the Town’s desire to act as SEQR lead agency.

On September 5, 2017, DEC Commissioner Seggos designated NYSDEC to serve as the lead agency for the environmental review of the proposed Cortlandville Sand & Gravel expansion.

On January 20, 2021, after numerous submittals of additional information in response to requests made by DEC and comments provided by local agencies, DEC issued a Negative Declaration and Notice of Complete Application. The notice of Negative Declaration and Notice of Complete Application was published in the January 27, 2021 edition of the Environmental Notice Bulletin (ENB). The 30-day public comment period, afforded by Uniform Procedure

Regulations (6 NYCRR Part 621) was scheduled to expire on February 26, 2021, but was extended until March 26, 2021.

On April 26, 2021, DEC rescinded the Negative Declaration as, pursuant to 6 NYCRR 617.7(f), substantive new information was discovered through the submittal of public comments during the public comment period. In consideration of the new information, on that same day DEC issued a Positive Declaration and Notice of Intent to Prepare a DEIS (“Positive Declaration”) for the Project. The Positive Declaration was published in the June 2, 2021 edition of the ENB. In the Positive Declaration the DEC determined that a DEIS should be prepared for the Project based on the scope of the proposed action and its potential for significant adverse environmental impacts.

After the DEC’s adoption of a final DEIS scoping document, RT 13 Rocks submitted various preliminary drafts and revisions of the DEIS. On June 14, 2024, the DEC accepted the DEIS for public review and issued a combined Notice of Complete Application, Acceptance of DEIS, and Notice of Hearing and Public Comment Period for Rt 13 Rocks’ application. The complete DEIS and application were made available for public review and comment. The Notice of Complete Application, Acceptance of DEIS, and Notice of Hearing and Public Comment Period were published in the ENB on June 18, 2024 and the Cortland Standard, a daily newspaper published in Cortland County, on June 20, 2024. On July 23, 2024, the DEC held a public hearing at the Cortlandville Masonic Lodge, located at 1883 Route 13, in Cortland, New York. The public written comment period ended on August 9, 2024.

C. Description of Proposed Project

RT 13 Rocks operates the Cortlandville Sand & Gravel Mine, which consists of a 66.8-acre Life-of-Mine area on approximately 120 acres of land. Mining below the water table is not currently permitted. The applicant proposes to modify the existing Mined Land Reclamation Permit to allow the following: vertical expansion of the existing mine that would include mining sand and gravel up to 100 feet below the local water table; a lateral expansion of 10.1 acres in the southeast portion of the property; and the removal of 0.4 acres of unaffected land from the existing Life-of-Mine area in the northwest.

As proposed, the total area of the mine will be 76.5 acres. Surface mining will continue utilizing standard mechanical equipment, however, as mining proceeds below the water table, mining equipment will include a wireline dredge, a hydraulic dredge, and a long stick excavator operating from the banks of the resulting pond. A total of approximately 10.5 million cubic yards of aggregate sand and gravel is estimated to be removed from the site. Material will be stockpiled as unprocessed “run-of-bank” material or processed with portable screens and crushers. Once sand and gravel resources are exhausted from the outwash deposit, the site will be reclaimed as a 52.4-acre pond with graded, revegetated slopes.

II. ADDITIONAL INFORMATION TO THE DRAFT SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT

In review of the DEIS and public comments received during the public comment period, no additional information or investigations were necessary after the acceptance of the DEIS. No revisions to the DEIS were necessary. Public comments are addressed in Section III below.

III. RESPONSIVENESS SUMMARY

Two public comment letters regarding the DEIS and application were received prior to the expiration of the public comment period, ending on August 9, 2024. Copies of those comment letters are provided electronically in Appendix 3 of this document. No oral nor written comments were provided during the Public Comment Hearing held on July 23, 2024. The written transcripts of the hearing are presented electronically as Appendix 2 of this document.

The potential environmental impacts that have been raised in the public comments on this proposal have been evaluated and are addressed below:

Comment 1: The applicant fails to accurately identify the number of marl ponds potentially impacted by the mine expansion. While three marl ponds have previously been inventoried as significant ecological communities, investigation shows that at least four additional ponds on land owned by the Town of Cortlandville and Lime Hollow Nature Center are of this rare ecological community.

Response 1: The Final Scoping Document (“Scoping Document”), dated May 27, 2022, required that the DEIS evaluate the potential for the proposed mine pond to negative impact unique flora and fauna of the marl ponds due to any changes in hydrology and water chemistry resultant from the proposal. The Scoping Document directed, as part of that evaluation, that the DEIS characterize at a minimum the North Marl Pond and South Marl Pond, but also any other marl ponds that could be impacted hydrologically by the mine pond. This evaluation was directly correlated to two other sections of the DEIS which required the evaluation of potential impacts to Groundwater Flow and Groundwater Quality resultant from the excavation of the proposed mine pond.

The Groundwater Flow section of the DEIS (Section 2.1), evaluates available hydrogeologic data and data obtained through the applicant’s study on groundwater flows in the area. That information, resultant conclusions outlined in Section 2.1 regarding the groundwater flow regime, and the conclusions outlined in Section 2.2 of the DEIS regarding Groundwater Quality, were included in the analysis of impacts to marl ponds in vicinity of the Project. Information from Sections 2.1 and 2.2 is specifically referenced in the conclusions described in Section 2.3 of the DEIS regarding ecological impacts. As such, the DEIS found that the proposed action will not significantly alter hydrologic conditions outside the natural water table fluctuations within the marl ponds. As the three marl ponds surveyed for the DEIS are the closest ponds to the site, and the studies required via the Scoping Document workplan for Section 2.3 Ecological Impacts required an evaluation of all marl ponds that could be impacted hydrologically, the evaluation of the three closest marl ponds considered in the DEIS was found to be sufficient as the environmental assessment found no significant alteration of water levels in those ponds resultant from the proposal. Figures 2.1.R a-j in the DEIS show potentiometric groundwater gradients across and adjacent to the mine site and cross-sectional views of the north marl pond water levels at seasonal high and seasonal low water table conditions during different phases of the mine expansion. The north pond is the pond that will experience the greatest influence from the proposed mine pond, hence the significance of that cross-section view of that pond in the evaluation. The cross-sectional views illustrate insignificant water level changes in the north marl pond for all phases, considering seasonal ground water conditions. It should also be noted that the above referenced figures include potentiometric groundwater gradients across two additional marl ponds adjacent to the mine site to the west, which are identified in the

commenter's map illustrating marl ponds in the vicinity of the Project and anticipated groundwater levels during different scenarios discussed above.

Comment 2: Not only are there additional marl ponds not investigated within the DEIS, but the applicant has not shown an adequate baseline for the marl pond vegetation within marl ponds that may be impacted as there are deficiencies of the vegetation surveys within the DEIS.

Response 2: The surveys conducted within the marl ponds, as required by the Scoping Document work plan, employed U.S. EPA survey protocol and guidelines, using transect methodologies during "leaf-on" conditions. The purpose of the surveys was to create a baseline of species present and identify general features of tolerance and intolerance with the current plant communities. The commenter's investigation sampled the entire population of five marl ponds, with no mention of survey methodology. It is noted that the study described in the DEIS and the survey conducted by the commenter occurred during the same time of year, however, in different years.

As the purpose of the survey was to get a baseline of species to understand plant population tolerance or intolerance to changes in hydrology and water chemistry, changes in natural ground water fluctuations resultant from the mine pond are of utmost importance, particularly for these unique ecological features. However, as described in Response 1 above, the proposal will not create significant alterations to groundwater elevations. This is discussed in Section 2.3.6 of the DEIS. Therefore, there is no potential for significant impacts to the vegetation in the marl ponds, regardless of exact plant species identified in the surveys, as no significant changes in water levels of the marl ponds will occur from the proposal.

Comment 3: There is no acknowledgement of the risk to the marl ponds by the potential to introduce exotic species from the mine expansion, either during the mine operation or during remediation.

Response 3: The area of lateral expansion is in the southeast corner of the parcel and furthest from the marl ponds. Additionally, the proposal includes a reduction in LOM area closest to the north marl pond, increasing the distance of mining from that pond. All equipment used for mining activities near the proposed pond will remain on site and will not be exposed to invasive species, with the exception potentially of haul trucks. No interaction between construction vehicles and the marl ponds will occur. Further, vehicle and equipment washing will occur and be located in the southeast corner of the mine on a paved surface. All wash water will be contained (and treated by an oil-water separator), therefore, preventing invasive species from entering the marl ponds. The site will be secure which will prevent the public from entering the mine and/or marl ponds from the applicant's property.

All stormwater sheet flow within the mine will be directed via grading toward the excavation or mine pond once excavation occurs into the water table. The grading will reduce the potential for any invasive species brought into the site from haul trucks from entering the marl ponds via stormwater transport. Storm drains are not currently located on site, nor are they proposed during any phase of mining or reclamation.

Although the introduction of invasive species to the marl ponds is not explicitly evaluated in the DEIS, that does not mean that there is a potential significant risk of introduction of invasives into the marl ponds during mine operation, as discussed above, or during and post mine reclamation activities. In accordance with 6 NYCRR 422.3(b), Mined Land-Use Plan – Reclamation plan,

specific provisions – *“acceptable basic reclamation requirements shall provide for the development of the affected land either to a condition or physical state which is similar to and compatible with that which existed prior to any mining or which encourages the future productive use of the land”*. Further, 6 NYCRR 422.3(d)(vi) Revegetation states *“(a) vegetative cover shall be provided on the affected land where vegetation is indigenous to the area and where revegetation is consistent with the land-use objective as designated in an approved mined land-use plan.”* The application materials state that Cortland County Soil and Water Conservation District (SWCD) recommended the NYSDEC Standards for Erosion and Sediment Control document be followed in determining the appropriate seed mixture for reclaiming upland slope. As such, the application materials state that the proposal will follow those standards and developed an approvable planting plan accordingly. The application also states that all upland slopes will be reclaimed prior to any below the water table mining, which includes well established revegetation with native plant species. This establishment of native vegetation in upland areas will further decrease the chance of introduction of invasive plant species to the marl ponds.

Comment 4: There is no plan for what to do if mining causes something to deviate from the established floral and faunal baselines; therefore, a plan should be clearly laid out in the DEIS for what actions the operator of the mine will take if significant alterations to hydrology, amphibian breeding, or vegetation are observed.

Response 4: As discussed in Response 1, the DEIS found that the proposed action does not propose to alter hydrologic conditions from the natural water table fluctuations within the marl ponds. Therefore, no significant deviations from established baselines should occur due to water levels within the marl ponds. Transducers will, however, be installed in monitoring wells to observe groundwater levels and if desiccation does not occur as per typical seasonal groundwater levels, artificial desiccation consistent with current duration and timing of such occurrences will be implemented. As the unique ecology of the marl ponds is dependent on such desiccation, the artificial desiccation should ensure current floral and faunal baselines are not impacted by any unanticipated changes in marl pond water levels. This artificial desiccation will also ensure that population of the ponds by fish species which may consume adult or juvenile herptiles, or their eggs, will not occur.

Regarding water quality issues that may impact flora and fauna, the DEIS and application materials assess potential impacts to water quality from proposed activities associated with this proposal. Best management practices will be implemented as discussed in Section 2.2.7 and Appendix 1.1.B Spill Prevention and Response Plan. Chemical storage and vehicle parking will be kept in the southeast portion of the mine, stormwater will be directed into the mine and should not contain any contamination, and spill kits and spill response equipment will be on site. These are just a few of the numerous best management practices that will be implemented to protect the quality of surface water and groundwater in and near the mine site.

Comment 5: It is firmly believed that the expansion of the mine would negatively impact the Lime Hollow area with specific impacts on the marl ponds, groundwater, Town of Cortlandville municipal water system, and the greater ecosystem.

Response 5: Although this comment is not supported by specific data or scientific reasoning, the DEIS assesses such impacts in detail. As prescribed by the Scoping Document, the DEIS assess four topics:

1. Potential that mine pond water could enter the wellheads at Lime Hollow wells and potential risk to the quantity of the municipal potable water supply,
2. Assuming the mine pond water could enter the wellheads at Lime Hollow wells, potential risk to the quality of the municipal potable water supply,
3. Potential for the mine pond to negatively impact the unique flora and fauna of the adjacent marl ponds, and
4. Potential for impact on recreation, scientific education, and scientific research opportunities that are dependent on the unique flora and fauna of the marl ponds.

Each of the above topic sections within the DEIS assessed potential impacts to the identified resources. These assessments consider existing environmental settings and included the development and implementation of a work plan to obtain required information for the analysis of potential impacts. A discussion and conclusion on the likelihood of those potential impacts was also included at the end of each section of the DEIS. Through the analysis the DEIS concludes the proposal will not impact those resources and no evidence through the analysis suggested that impacts to those resources would occur. In fact, the studies conducted for the DEIS regarding the hydrogeology of the site, including data obtained from the Town, particle tracking analysis, groundwater contours generated for all conditions, and USGS potentiometric data analysis, further supports that the flow path of groundwater moves regionally to the northeast. Modeling and analysis showed insignificant impacts to the local and regional hydrology when examining the mine pond's influence on water quantity and quality, both at the Town wells and marl ponds.

Comment 6: The Lime Hollow area is of significant importance and needs to be protected as a "Critical Environmental Area" for numerous reasons.

Response 6: Although the location is not currently considered a Critical Environmental Area, DEC understands the area contains exceptional and unique values, important to the region and State. As such, DEC required the completion of a DEIS to analyze potential significant impacts to such characteristics at and near the site. As discussed above, the DEIS identified the resources that could potentially be impacted by the proposed mine expansion, and assessed if such impacts would result. This assessment included conducting additional studies and modeling, considered alternatives, and proposes mitigation in instances where unanticipated impacts may occur. The analysis resulted in no evidence that the resources identified in the comment letter would experience significant adverse impacts to the characteristics of those resources. Further, the conclusions in the DEIS show that excavation into the water table will have minimal, negligible impacts to the water levels in the marl ponds. Therefore, recreation, scientific studies, flora and fauna, and community value of the Lime Hollow area should be unimpacted by the Project.

APPENDICES

APPENDIX 1

Draft Environmental Impact Statement – Cortlandville Sand and Gravel Mine Permit Modification, dated March 2024

APPENDIX 2

**In the Matter of Application to Modify Permit of Route. 13
Rocks, LLC, Public Hearing Official Transcripts,
dated July 23, 2024**

APPENDIX 3

Public Comments on Draft Environmental Impact Statement