

New York State Environmental Quality Review Act

**ENVIRONMENTAL  
ASSESSMENT FORM**

ADDENDUM

FOR

**850 ROUTE 28 LLC**

**Proposed Manufacturing Facility**

SITUATE:

850 Route 28  
Town of Kingston  
Ulster County, NY  
SBL: 38.4 – 1 - 36.1

OWNER:

850 Route 28, LLC

DATE:

November 30, 2019

PREPARED BY:

**MEDENBACH & EGGERS**  
**CIVIL ENGINEERING AND LAND SURVEYING, P.C.**  
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Under Separate Cover:

1. Site Plan

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- Sheet SP-1: Site Plan, revised November 26, 2019
- Sheet GP-1: Grading and Utility Plan 1, revised November 26, 2019
- Sheet GP-2: Grading and Utility Plan 2, revised April 16, 2019
- Sheet PH-1: Phasing Plan, revised November 26, 2019
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- Sheet LP-1: Lighting Plan, dated January 31, 2019
- Sheet SEP-1: Septic Plan, revised November 26, 2019
- Sheet RP-1: Existing Road Profile, revised January 31, 2019.
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- Sheet SPP-1: Stream Protection Plan, revised November 26, 2019
- Sheet SEESC-1: Soil Erosion and Sediment Control, revised May 14, 2019
- Sheet D-1: Site Details, revised January 15, 2019
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- Sheet HIP-1: Highway Improvement Plan, revised May 29, 2019
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- Sheet ELEV-1: Building Elevations, dated June 8, 2018
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## 1. General Description

850 Route 28 LLC (“the applicant”) proposes to construct a manufacturing facility for steel and precast concrete bridge decking for road and bridge projects throughout New York State. The 110-acre project site, zoned for commercial and industrial use, is an unreclaimed quarry heavily scarred by mining operations conducted during the 1950s – 1970s. The proposed area of disturbance will occupy approximately 37.7 acres (34%) of the site and lies primarily within the footprint of the former mine. The remaining 72 acres of the site will remain undisturbed and serve as a buffer between the proposed facility and adjoining properties. The existing vegetation and general topography of the site and surrounding area shields the site from view of Route 28 and the neighboring properties. The applicant will adhere to all NYS environmental regulations and intends to obtain all required permits, including a stormwater pollution prevention plan designed in accordance with SPDES GP-15-02.

The initial Site Plan application was submitted to the Town of Kingston Planning Board (PB) on July 18, 2018. The initial Public Hearing was conducted on March 18, 2019, with subsequent hearings held through July 15, 2019. A Negative Declaration under the State Environmental Quality Review Act (SEQRA) was issued on March 20, 2019. The PB rescinded the Negative Declaration on August 19, 2019 due to a procedural error in the prior rezoning of this property, which requires further action by the town board, as well as comments and concerns submitted by the public. This document provides an updated NYS Environmental Assessment Form (EAF) with supporting documentation and responses to public comments.

Until 2015 the project site was in the Mixed Use 1 (MU-1) zoning district. The purpose of the MU-1 zoning district is to provide a wide variety of highway-oriented commercial uses. In 2015 the Town Board amended the zoning map to place the project site within the Mixed Use 2 (MU-2) zoning district in order to permit the development of the site as an automobile recycling facility. In 2018 the Town Board undertook the process to amend the zoning map to place the project site back within the MU-1 zoning district, including conducting a public hearing and town board vote approving the amendment. However, due to a processing error, the zoning amendment was not finalized. Now, as part of this coordinated review, the Town Board will consider the zoning amendment as part of the proposed action for the development of the project.

## 2. Manufacturing Operation

There is currently one building, a parking/storage area and a long driveway on site. The facility is approved by the Town of Kingston for “Heavy Equipment Storage with Maintenance Building”. The applicant proposes to redevelop the unreclaimed quarry as a manufacturing facility for steel and pre-cast concrete beam fabrication. All production, including the mixing of the pre-cast concrete, will occur within two proposed 120,000 SF buildings. No cement will be produced on site - the pre-cast concrete will be mixed with imported cement. The sides of each building will have a 100-ft wide paved area for truck passage and storage for materials with a 170-ft wide paved area at either end for truck movements in and out of the buildings. All mobile equipment used for production will be equipped with white-noise backup alarms.

The public has presented questions and comments<sup>1</sup> regarding the proposed number of employees, hours of operation and the type of work that will be conducted. The applicant intends to hire approximately 60 employees working in three shifts as follows:

- Shift #1 - 6am to 2pm,
- Shift #2 - 2pm to 10pm and
- Shift #3 - 10pm to 6am.

Shifts #1 and #2 are the primary production shifts and will be comprised of both indoor and outdoor work. Shift #3 duties will be primarily conducted indoors and includes maintenance, upkeep, set up, break down, removal of materials and safety duties. Outdoor work during Shift #3 will be limited to security and minor material handling as needed.

## 3. Wetlands, Species and Habitats

The parcel consists of approximately 110 acres of exposed bedrock, access roads, mine spoil/tailing piles (bluestone and shale piles), wooded lands and surface water features. The central portion of the site, approximately 56 acres, has been affected by a former mining operation and remains unreclaimed. The former quarry consists of several processing areas, a series of shallow settling ponds, old structural footings, vertical mine faces, exposed-bedrock mine floors and spoil piles of bluestone and shale (Figure 1). The vast majority of the trees in this area were cleared during the mining operation, with some regrowth consisting primarily of 8-15” dbh trees (white pine, birch, hemlock, oaks,

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<sup>1</sup> See Appendix J: Steve Malloy, letter to T/o Kingston Planning Board, April 15, 2019 and Thomas Auringer, letter to T/o Kingston Planning Board, May 21, 2019.

shagbark hickory, black cherry, red maple and white ash) and a shrub layer of dogwood, viburnum and blueberries. No evidence of threatened or endangered species was found on the site. See reports and map prepared by Ecological Solutions LLC (Appendix C).

The proposed area of disturbance will occupy 37.7 acres of the site and lies primarily within the bounds of the unreclaimed quarry. Habitat within the proposed area of disturbance consist of approximately 17.5 acres of exposed or shallow bedrock with little to no vegetation, 13.4 acres of marginally revegetated shallow bedrock areas, 5.2 acres of forest and 0.1 acres of pond and/or wetlands.

NYSDEC Wetland KW-3 lies on public lands adjacent to the westerly bounds of the project site. This wetland was delineated on July 17, 2018 and was validated by the NYSDEC on July 20, 2018 (Appendix C). The wetland was further delineated to include the wetland bounds adjacent to the northerly side of Route 28 and the revised wetland delineation map was sent to the NYSDEC for verification on October 28, 2019. A small portion of this wetland ( $\pm 1,500$  SF) extends into the area immediately to the north of the site entrance. The 100-ft adjacent area of Wetland KW-3 extends over approximately 3,600 SF of the existing entrance and driveway and encompasses all of Route 28 along the site's road frontage. No other state-regulated wetlands exist on site.

NYS DOT has requested the applicant to provide curbing for the existing entrance, as well as a left turn lane for eastbound traffic entering the site. This left turn lane requires extending approximately 300 LF of the northerly shoulder of Route 28 further into the adjacent area of Wetland KW-3 and will temporarily disturb approximately 1,500 SF of the wetland, with 400 SF of that disturbance to remain permanently. A NYSDEC Freshwater Wetlands permit will be required for these proposed improvements and the applicant will coordinate with the NYSDEC regarding any mitigation required for the road improvements.

The former settling ponds (Ponds A-G, as shown on the site plan and in the Habitat Assessment report prepared by H2H Geologic Engineering PLLC) created by the prior mining operation have been classified as federally-regulated wetlands. These ponds do not have a direct connection to one another, but they do overflow into each other during heavy rains. Subsurface seepage may also connect the ponds. The NYSDEC has designated the series of ponds and the stream channel immediately south of the ponds as a protected stream (H-171-25-5 or 6, Class C(T), aka Tributary 6 of Praymaher Brook). This watercourse travels in a southerly direction and exits the site via a culvert beneath Route 28 and then onto the Esopus Creek.



The proposed development lies within the watershed of Tributary 6. Two proposed water quality ponds, each with an outfall directing water into the pond series, will be constructed with minimum disturbance to the watercourse. A joint application will be filed for a NYSDEC Stream Disturbance permit and a US Army Corps of Engineers (USACE) Section 404 Clean Water Act Permit as required to construct the proposed discharge points. The discharge will comply with all NYSDEC requirements for coverage under SPDES GP-15. No other disturbances or impacts are proposed for the stream or its associated ponds.

The following passages regarding potential impacts to wetlands, threatened or endangered species or general habitat have been gathered from multiple public comment letters received from March through August 2019:

1. *COMMENT: "Wetlands on site have been mapped by a consultant for the Applicant and should be verified by state and federal officials, especially in the area along the access road where encroachment into the State Regulated Wetland associated with Onteora Lake will occur."*<sup>2</sup>

RESPONSE: The wetlands were certified by the NYSDEC on May 31, 2018 (Appendix C). Additional wetland delineation along Route 28 was conducted on Sept. 23, 2019 and was submitted to the NYSDEC for validation on October 28, 2019.

2. *COMMENT: "The Wetland Report indicates that the onsite wetlands are isolated. However, it does not consider the disturbed nature of the Site. Based on aerial photographs, the Site seems to have significant rock fragments over the surface suggesting significant infiltration rates and potential subsurface hydrologic flow. Therefore, we do not believe the hydrologic connection between these wetlands has been thoroughly analyzed. The connection of these onsite wetlands to offsite wetlands has also not been evaluated and should be."*<sup>3</sup>

RESPONSE: According to analysis by Richard Hisert of H2H, the water bodies on site are recently excavated, man-made, water-filled features that are hydrologically isolated and are not NYSDEC-regulated wetlands. Furthermore, the surface water bodies mapped by the USFWS have been designated as "lake", with no associated wetlands. These ponds are shallow (5' deep or less), with overburden and rubble along the margins and appear to be created some time after 1958. An analysis of aerial photography indicated these

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<sup>2</sup> See Appendix J: Open Space Institute, letter to T/o Kingston Planning Board, June 17, 2019.

<sup>3</sup> See Appendix J: Open Space Institute, letter to T/o Kingston Planning Board, June 17, 2019.

ponds have grown and sometimes gone dry as a part of the mining operation and are not naturally occurring wetlands.

Medenbach & Eggers, PC is taking a more conservative approach and is assuming the ponds contain federally-jurisdictional wetlands and will require the filing of a Joint Application with the NYSDEC and USACE for stream and wetland disturbances.

3. *COMMENT: "Emergent wetland areas along the access road are shown to occur near Palm Muck soils that occur in the state regulated wetland. These types of habitats are known to potentially be inhabited by isolated pockets of bog turtles (Clemmys muhlenbergii), a state and federally protected species. This species also warrants a larger buffer (300 feet) from occupied habitats which could affect the Site plan. While the Applicant's consultant has concluded that bog turtles are not present onsite. There is no definitive statement regarding habitats in the adjacent State Regulated Wetland. Therefore, we recommend that a second opinion by a certified bog turtle surveyor be provided on this species, as Site operations have the potential to severely degrade this habitat offsite and impact (i.e., water quality runoff: road salts, invasive species) the wetland along the access road."*<sup>4</sup>

RESPONSE: Michael Nowicki of Ecological Solutions LLC is a certified Bog Turtle surveyor and has evaluated this site and prepared a Threatened and Endangered Species Habitat Suitability Assessment (Appendix C). Based on his field visits, he has determined that there is no bog turtle habitat on this site. The NYSDEC was also contacted regarding potential threatened and endangered species on or adjacent to the project area and they confirmed there is no evidence of bog turtles on or adjacent to the project site.

4. *COMMENT: "Environmental documents for the industrial project assert that, since agency guidelines will be followed (e.g., tree removal during winter only), there will be no harmful effects to the federally-listed Indiana bat and northern long-eared bat. Even if the wooded areas of the site are preserved, the construction and operations noise (and night lighting) may make the site and nearby areas uninhabitable by those bat species. Published research indicates that chronic loud noise from industrial activities can make habitat unusable by certain bat species ( e.g. Bunkley et al. 2015). Noise can also deter other wildlife from using otherwise suitable habitats (Francis and Barber 2013). Many bird species are sensitive to chronic noise."*<sup>5</sup>

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<sup>4</sup> Same as above.

<sup>5</sup> See Appendix J: Open Space Institute, letter to NYSDEC, May 16, 2019.

RESPONSE: In order to mitigate potential noise and lighting impacts to Indiana and long-eared bats and other sensitive wildlife, the applicant proposes the following:

- limiting site preparation activity to daylight hours, when bats are not active,
- strategically placing the crusher in an area where the topography, material stockpiles, berms and a proposed sound wall will best reduce the noise impacts on the receptors located in the adjacent neighborhood as well as users of the recreational areas adjacent to the site,
- conducting the majority of the proposed industrial activity indoors,
- installing white-noise backup alarms on all mobile construction equipment and
- installing Dark Sky compliant exterior lighting throughout the site.

In addition, the applicant has proposed the following additional best management practices:

- Limiting tree clearing to the time when bats are not resident on the site (November 1 to March 31). This site has a limited number of trees suitable for bat habitat.
- Clearly demarcating the proposed area of disturbance with orange construction fencing (or similar) to prevent any inadvertent over-clearing of the site.
- Preserving the wetlands on the site to the maximum extent possible in order to preserve any potential travel corridors for bats and other wildlife.
- Minimizing the disturbance of areas not previously affected by mining.
- Implementing soil conservation and dust control best management practices, such as watering dry disturbed soil areas to keep dust down, and using staked, recessed silt fence and anti-tracking pads on the roadways to prevent erosion and sedimentation of surface waters on the site.
- Prohibiting the use of any chemicals to maintain the proposed storm-water basins that might adversely affect bats or insect populations on which they may feed.

#### 4. Noise

Two sound reports were performed by H2H Geoscience Engineering (Appendix H). The initial sound report, dated February 2019, was performed to evaluate the noise impacts of the proposed project at the residences situated on the end of Waughkonk Road. The first report found that there will be an increase in noise at the residences during construction, however, this increase would be temporary and minimized by the proposed noise mitigations. This report also states that the proposed concrete and steel manufacturing facilities can be operated with no disturbance to the neighboring residences.

The second sound study, dated November 2019, was performed to evaluate the noise

impacts of the proposed project on adjacent New York State (NYS) lands, which are closer to the proposed site development than the neighborhood along Waughkonk Road. Noise impacts will be greatest at Pickerel Pond, which is located immediately adjacent to the northwest corner of the site. The sound experienced at Pickerel Pond during construction, with proposed mitigations, is estimated to be 67.7 dBA. The largest sound at the existing trails due to construction is estimated to be 61.6 dBA. (See the sound barrier plan, (Sheet PH-2) of the Site Plan for the proposed sound barrier locations.) In order to mitigate the impact, the applicant proposes to restrict the hours of blasting, drilling and processing to weekdays only, from 7a.m. to 7p.m, with no blasting or drilling on weekends or holidays. Restricting blasting and drilling to weekdays will greatly reduce noise on the weekends. The largest noise impact on weekends is estimated to be 55.4 dBA at the property line and 45.9 dBA at the existing trails, therefore noise impacts should be minimal for the majority of visitors on the neighboring NYS lands. The noise impacts from rock removal and blasting will occur only during the initial 2-3 years of site preparation.

The November 2019 report states the sound generated by the proposed manufacturing operation is comparable with the sound generated by the tractor-trailers currently located on site. Noise generated by the manufacturing operation will be mitigated by placing the manufacturing processes within the two proposed buildings. Sound generated by the tractor-trailers used to deliver materials and finished products for the manufacturing operation will be mitigated by the installation of permanent sound fencing and sound berms along the perimeter of the facility.

The following passages regarding potential noise impacts have been gathered from the public comment letters received from March through August 2019.

1. *COMMENT: "The noise study did not place receptors on the Onteora Lake Addition property, where recreational trails are planned to be constructed just east of the Project boundary. This study fails to note the sound impacts that visitors to these trails will experience."*<sup>6</sup>

RESPONSE: OSI's purchase of the Onteora Lake Addition and public release of the proposed trail network occurred after the original noise study was conducted. A supplemental sound study (Appendix H) has been prepared in order to analyze the potential noise impacts that users of OSI's proposed trail system may experience.

It should be noted that the Eastern Material's quarry, located approximately 2,000' northeast of the Onteora Lake Addition, uses crushers as part of their ongoing daily

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<sup>6</sup> See Appendix J: Open Space Institute, letter to NYSDEC, May 16, 2019.

operations, whereas the noise generated during the construction phase of the proposed project is temporary and will cease once site preparation is complete. Noise produced as part of the proposed manufacturing operation is expected to be minimal, as the majority of the fabrication processes will be conducted within the proposed buildings.

2. *COMMENT: "Mobile Batch Plant and crusher plants are located outside of the buildings. This will be a severe noise concern. Block wall around the plants should be installed to reduce noise impact to residence(s)."*<sup>7</sup>

RESPONSE: The revised site plan relocates the mobile batch plant to the inside of Proposed Building 1. Noise will be further mitigated by the placement of berms and a sound wall, supplementing the existing vegetative buffers around the perimeter of the site. The rock crusher, to be used only during construction, has been moved to a location that minimizes the effect on neighboring receptors (Site Plan, Sheet SP-1).

3. *COMMENT: "We need high barriers on the inclined road that goes between the buildings to mitigate the sound of truck traffic."*<sup>8</sup>

RESPONSE: The road between the proposed buildings is to be cut 15 to 20 feet into the bedrock, thus creating a stone wall between the proposed road and neighboring properties.

## 5. Traffic

In light of the NYSDOT's request to install a left turn lane, Creighton Manning prepared a supplemental traffic study.<sup>9</sup> Traffic counts contained within this study are based on the Institute of Traffic Engineers (ITE) averages for General Light Industrial use, with a requested projection for "full build-out" for the site. It has been determined that the widening of Route 28 will adequately serve the occupancy of the proposed 240,000-SF build-out and a hypothetical 360,000 SF build-out. Traffic generated during site preparation is estimated to be significantly less than the peak hour trip generation and is not anticipated to exceed that of the completed project.

Public comments regarding traffic have been addressed in several responses to the Town and are included in Appendix J.

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<sup>7</sup>See Appendix J: Steve Malloy, letter to T/o Kingston Planning Board, April 15, 2019 and the response from M&E, dated May 14, 2019.

<sup>8</sup> See above reference.

<sup>9</sup> See Appendix B: Creighton Manning, Response to Department Comments, October 4, 2019.

## 6. Visual

As shown in the cross-sections provided in Appendix G, the proposed manufacturing facility will have no visual impacts for drivers travelling along Route 28 and the residents along Waughkonk Rd. Topography on and adjacent to the site will block the view and construction area from the north, east, south and south west. However, due to the excavation necessary to provide a relatively level site for the proposed development, there may be an obstructed view of the northeasterly corner of the proposed facility from the westerly shore of Pickerel Pond. The applicant proposes additional vegetative screening along this section to help mitigate the potential visual impacts to users of Pickerel Pond.

The following passages regarding potential visual impacts have been gathered from the public comment letters received from March through August, 2019.

1. *COMMENT: "The Negative Declaration analyzed the aesthetic impacts of the Project primarily from the nearby residential subdivision: as a result, no visual mitigation other than maintenance of the existing trees along the property line has been proposed. Proper analysis under SEQR would require analysis of the visual impacts of a 250,000 SF warehouse and supporting infrastructure on neighboring land used extensively for public recreation, in this case is the Onteora Lake Addition property and the Bluestone Wild Forest. Further analysis should include, at minimum, proposed mitigation for aesthetic impacts to future recreational trails."*<sup>10</sup>

RESPONSE: As can be seen in the view sections provided in Appendix G, topography will completely obscure the proposed facility from lands to the north, east, south and southwest of the site. The only potential views of the site may be from the west side of Pickerel Pond, accessed from one of the trails leading from Onteora Lake. These views are obscured by an existing ± 50-foot wide vegetative buffer that will be supplemented by an additional 50 feet of evergreens. For the remainder of the site the applicant will retain the existing trees within a minimum of 50 feet of the property line in order to mitigate potential visual impacts to the surrounding properties.

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<sup>10</sup> See Appendix J: Woodstock Land Conservancy, letter to NYSDEC, May 16, 2019.

## 7. Recreational Trails and Trail Easement

There is an existing series of trails on the NYSDEC Onteora Lake parcel located on the westerly bounds of the project site. Open Space Institute (OSI) has recently acquired a parcel on the northeasterly bounds of the project site and has proposed a series of trails to be built on this parcel sometime in the future. It appears that OSI will offer this parcel to the NYSDEC in order to be incorporated in the Bluestone Wild Forest.<sup>11</sup> There is also a deeded trail easement extending across the driveway of the project site.<sup>12</sup> The location of this trail easement is not clearly defined but it appears that the easement is intended to connect the Onteora Lake parcel to other NYSDEC lands on the easterly side of the access to 850 Route 28. In Liber 1946 of Deeds at Page 202 it is stated:

*“Parcel One is Conveyed:*

*Together with a permanent public footpath easement of right of way of sufficient dimensions to accommodate, without limiting the generality of “the public,” back packers and game hunters with full field equipment, and enable them to pass each other in opposite directions, in single files.*

*The easement to run from the existing 13-acre rectangular parcel of State land just east of the most southerly area of Parcel One above, across intervening retained lands of Grantor, to said most southerly area of Parcel One above, across intervening retained lands of Grantor, to said most southerly area, the final line and grade location of which path is to await the improvement of this vicinity by Grantor, its successors or assigns, with an access road and gate office in the reasonably near future. The selection of the permanent line and grade to be initiated by the Grantees and, as far as possible, be with the approval of the Grantor, its successors or assigns. However, in default of said improvements by the Grantor within a reasonable time in the future, and/or the refusal to approve a reasonable proposed location by Grantees, the Grantees may establish the right of way of their own, being careful to consider the interests of the servient estate, as much as possible....”*

As described above, Parcel One is a portion of the NYSDEC Onteora lands located on the east side of the access road to the 850 Route 28 LLC development project , and the “13-acre rectangular parcel of State land” to be SBL 38.4-1-27, located on the west side of the access road. There does not appear to be any indication of an agreed-upon “final line and grade location” for this pedestrian right-of-way. If requested by the NYSDEC, the applicant will cooperate to determine an adequate location for this

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<sup>11</sup> See Appendix J: OSI, letter to NYSDEC, May 16, 2019

<sup>12</sup> See Appendix J: WLC, letter to T/o Kingston Planning Board, June 17, 2109.

pedestrian right-of-way fully . A note to this effect is included in the site plan. The proposed project does not limit or abrogate the easement rights described above.

## 8. Drainage and Stormwater Management

As outlined in the Stormwater Pollution Prevention Plan (SWPPP) prepared by Medenbach & Eggers (Appendix E), all stormwater from the proposed development site during and after construction will be controlled by implementing water pollution facilities in accordance with NYSDEC regulations.

Stormwater management for the project will include temporary erosion controls during construction as well as permanent post-construction controls such as dry swales, pipe culverts, and water-quality basins. The proposed stormwater management practices will mitigate the impacts of the proposed development for runoff quantity and quality improvements to remove pollutants from the stormwater before it is discharged to the existing ponds on site. Stormwater currently flows towards existing ponds originally constructed as settling ponds for the former mine operation. These ponds have no defined outlet and appear to be infiltrating during normal conditions. During heavy rains some of the ponds overflow their banks and drain in a southerly direction through the site. The proposed stormwater facilities are expected to reduce and improve the quality of the stormwater currently flowing into and released by these ponds.

More specifically, each building and parking area is proposed to be surrounded by dry swales. The dry swales will discharge into two proposed water-quality basins prior to discharging to the existing onsite ponds. The water-quality basins will be used for water-quality volume and to control the flow of water from the site. When all proposed facilities are constructed, they are projected to reduce all post-development peak flows from the site to less than the peak pre-development rates. Therefore, there will be no negative impacts on downstream waters or adjacent lands from the proposed development.

The following charts provide a summary of stormwater discharges after development and illustrate there will be no change or a reduction of stormwater discharges after the stormwater facilities are constructed.



<b>Design Point #1 (NYS DEC Wetland KW-3)</b>			
<b>Storm</b>	<b>Pre-development (cfs)</b>	<b>Post-development (cfs)</b>	<b>% Change</b>
1 Year	23.8	23.8	0%
10 Year	56.7	56.7	0%
100 Year	107.2	107.2	0%

<b>Design Point #2 (Water to culvert under NYS Route 28)</b>			
<b>Storm</b>	<b>Pre-development (cfs)</b>	<b>Post-development (cfs)</b>	<b>% Change</b>
1 Year	73.4	49.1	-33%
10 Year	206.8	151.0	-27%
100 Year	385.1	276.3	-28%

The following passages regarding stormwater management have been gathered from multiple public comment letters received from March through August, 2019.

1. *COMMENT: "The project should require a Multi-Sector General Permit (MSGP) for stormwater discharges associated with Industrial Activity GP-0-17-004."*<sup>13</sup>

RESPONSE: The concrete and steel manufacturing facilities will not discharge wash water used in the manufacturing process. At the applicant's current facility, wash water is reused to clean concrete forms. The slurry mixture from onsite washing is removed offsite by an approved hauler. However, due to the outdoor storage of raw steel material, coverage under the MSGP for Industrial Activity will be required. Coverage under this permit will be obtained prior to initiating industrial activities on site. This permit will require water-quality monitoring of offsite stormwater discharges and reporting to the NYSDEC.

2. *COMMENT: "The amount of existing impervious area and the amount of future impervious area stated in the SWPPP and the NOI do not match. The Notice of Intent (NOI) stated that the nature of this project is 'redevelopment with increase in impervious area' on question #2, however, the amount of existing impervious area to be disturbed (26.0 acres) is less than the future impervious area within disturbed area (3.8 acres) on question #4. In addition, the SWPPP listed 37 acres of disturbance with 23.5% of impervious area before construction (8.7 acres) and 28.3% impervious area after construction (10.5 acres), with future impervious cover of 6 acres. The Applicant should confirm the amount of existing impervious area and the amount of future impervious area and make appropriate corrections to documents."*<sup>14</sup>

<sup>13</sup> See Appendix J: Open Space Institute, letter to T/o Kingston Planning Board, June 17, 2019.

<sup>14</sup> See above reference.

RESPONSE: The SWPPP and Site Plan have been updated to correct any discrepancies, as some of the data in the above comment was obtained from early site plan submissions.

3. *COMMENT: "Since the proposed "Water Quality Basin #1" will be 12 feet deep with 130,978 cubic-feet of storage and "Water Quality Basin #2" will be 12 feet deep with 96,149 cubic-feet of storage, they may require a Dam Permit from NYSDEC's Dam Safety Division."*<sup>15</sup>

RESPONSE: The water quality basins do not meet the criteria necessitating a NYSDEC Dam Permit (Appendix E).

4. *COMMENT: "Documentation states that surface water from ponds D and E discharges to a Class C(t) perennial stream. However, this stream is not depicted on the Site Plan set. With the stream supporting trout, proper stormwater management at the Site is essential. NYSDEC stormwater officials should review the applicability of this new discharge to the need for permit requirements."*<sup>16</sup>

RESPONSE: The NYSDEC has classified the ponds created by the previous mining operation (Ponds A-G) and the stream channel beginning from the southerly end of Pond A as a connected watercourse referred to as Tributary 6 of the Praymaher Brook. Currently there is no physical connection between the ponds – during large storm events stormwater simply overflow the margins of the ponds and then flows in a southerly direction. No untreated discharges are proposed for this connected watercourse and the proposed plan includes reductions to current storm water discharges to these ponds.

5. *COMMENT: "The applicant states in the EAF that the stormwater runoff will be directed to existing ponds (D.2eiii), but site plans indicate that the existing ponds discharge to a perennial Catskill Mountain trout stream and its associated wetlands."*<sup>17</sup>

RESPONSE: As mentioned above, Ponds A-G and the stream channel located immediately south of the pond complex are considered by the NYSDEC to be a connected watercourse. However, as stated in the SWPPP and the H2H Associates Wetland Assessment, the ponds do not have a perennial connection of flow, though some subsurface seeping may exist between the ponds. During heavy rain events Ponds A-G currently discharge untreated stormwater onto the proposed project site that then flows into the stream channel located south of the existing pond complex

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<sup>15</sup> See above reference.

<sup>16</sup> See above reference.

<sup>17</sup> See Appendix J: Open Space Institute, letter to T/o Kingston Planning Board, June 17, 2019.

and is eventually carried offsite via a culvert beneath Route 28. The stormwater collected from the proposed buildings, parking areas and roads will first be treated by dry swales that infiltrate the stormwater through a layer of sand before discharging into one of two large water-quality basins located adjacent to Ponds B & C for further treatment before being released via a permitted outfall to Ponds B & C. There is an expected reduction of stormwater discharges after the stormwater facilities are constructed, as well as an increase in the quality of the stormwater released to the pond complex.

## 9. Water and Sewer

The proposed manufacturing process will use water for domestic use and the processing of precast concrete. An estimated 900 gallons per day (gpd) will be needed for restrooms serving 60 employees. Domestic water will come from an existing drilled well and two proposed onsite wells and will be disinfected as per Ulster County Health Department (UCHD) requirements for a public water supply. This use will also produce wastewater that will be treated and disposed of in an onsite subsurface septic system approved by the UCHD on March 7, 2019.<sup>18</sup> The proposed septic system will be located in the northwesterly portion of the site adjacent to the existing building and the existing septic system, where there are suitable soils capable of meeting the NYS Dept. of Health (DOH) standards for onsite septic systems.

The public has commented on potential impacts to neighboring wells and the local aquifer.<sup>19</sup> The precast concrete manufacturing process will use water for mixing and curing the concrete and washing forms. Rainwater will be collected from the building roofs to be used for the cleaning process. The wastewater from this process will be collected in holding tanks where it will settle suspended solids and siphon off the water for reuse in the cleaning process. The suspended solids, ie “slurry”, will be collected and hauled offsite by a licensed hauler. Supplemental water will be provided by two proposed onsite wells, one at each building. The water required from these wells for concrete production will be 2,000 gpd. This added to the domestic use will require a total of 2,900 gpd from onsite wells and relates to a required total continuous well production of only 2 gpm. The projected Total Average Daily Flow of 2,900 gpd is the water usage equivalent of less than 9 homes. Given the site encompasses over 110 acres, the projected water usage for this site is insignificant.

More specifically, the existing well was tested by Miller Hydrogeologic Inc. and the

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<sup>18</sup> See Appendix F: UCHD approval dated March 7, 2019.

<sup>19</sup> See Appendix J: Steve Malloy, letter to T/o Kingston Planning Board, April 15, 2019

results are outlined in their report dated May 28, 2019 (Appendix F). The well was tested for 24 hours with a total drawdown of 27 ft. Total well depth is 273 ft. It was concluded the existing well is more than adequate to supply water for the entire factory buildout. The two additional wells will ensure that the site will have adequate water supply for both domestic and industrial use and the proposed project will not have any impact on neighboring wells or wetlands.

## 10. Rock Removal

The 110-acre site was formerly a quarry with approximately 56 acres of disturbance. Approximately 26 acres of the quarry is now exposed/shallow bedrock, with 10'-40' highwalls, compacted processing areas and large amounts of scattered and stockpiled rock rubble, some of which is marginally revegetated with brush and small trees. The proposed project area encompasses 37.7 acres of the site and lies primarily within the footprint of the former quarry. The proposed project requires the preparation of two level areas for two proposed 120,000 square foot manufacturing buildings. The majority of the stone excavated during site preparation will be processed onsite and either be used for fill material needed to level the site or used for the concrete required for the proposed precast beam manufacturing. It is anticipated that there may be approximately 62,000 CY of excess rock generated during Phase 1 of the project and additional  $\pm 100,000$  CY of excess rock generated during Phase 2. This projected  $\pm 162,000$  CY of excess material is proposed to be removed from the site. All excavation is for the sole purpose of constructing the two manufacturing buildings and is therefore an exempt activity as defined in Article 23, Title 27, Section 23-2705 of the NYSDEC Mined Land Reclamation Law.

Excavators can remove the existing piles of loose rock within the project area, but blasting will be required to remove the balance. At peak rate, the applicant anticipates blasting approximately 20,000 to 30,000 CY of rock per month, with one drill rig on site to prepare the blast holes. Initial blasts will be smaller while baseline vibrational and airblast levels are assessed, with a maximum frequency of no more than once a week. Once the maximum blast size is determined, the number of blasts should decrease to once per month. One or two mobile crusher units with maximum throughput volumes of 110 tons/hour will process and screen some of the rock. At the proposed rate of extraction, the duration of blasting and drilling activities will be approximately two years.

More broadly, Phase 1 site preparation is anticipated to be completed within 12 months. Construction of the first building will start immediately thereafter, and the first of the two proposed buildings is expected to be operational within two years of breaking ground. Excavation for Phase 2 should begin immediately upon completion of site preparation for Phase 1. Total time for site preparation is estimated to be 2-3 years, with total buildout to be completed within 4 years. The proposed building in Phase 1 will be used for steel and concrete fabrication. The proposed building for Phase 2 will be used for steel fabrication.

In order to mitigate the impacts to neighbors and hikers on the adjacent trails, drilling and blasting activities will occur only during the 2-3 years of site preparations and will be limited to weekdays from 7AM to 7PM. There will be no drilling or blasting on weekends or holidays. No blasting or additional rock removal will occur after site preparation is complete.

The following passages regarding the proposed rock removal have been gathered from the public comment letters received from March through August, 2019.

1. *COMMENT: "The Proposed Project Appears to Need a Mining Permit From the New York State Department of Environmental Conservation. The Negative Declaration describes the proposed project site as an "unreclaimed rock mine" where the applicant proposed to construct a "concrete manufacturing facility" that will use "cement, sand and aggregate" as the raw materials for concrete. The Negative Declaration finds further that over the course of at least 3 to 4 years, the applicant will excavate 405,000 cubic yards of rock from the proposed project site and use at least 185,000 cubic yards as aggregate to manufacture concrete. The applicant has presented various volumes of rock that will be hauled away. The Negative Declaration finds that 162,000 cubic yards of rock will be removed from the site. The applicant provides no explanation, and the Board has no factual basis in the record to establish a need to haul this rock away from such a large, 110-acre site. Further, the applicant declines to defend the need for the environmental impact of this heavy truck traffic over a number of years. Since the rock that will be excavated clearly has significant industrial value to applicant, it is fair to infer that the 162,000 yards of rock to be hauled away has some "commercial, industrial or municipal value", thus also falling within the definition of "mining".*

*As the Negative Declaration finds, the applicant states a need to excavate 154,000 yards of rock to use as fill material. No cut and fill plan has been drawn by an engineer or geologist to establish this need, so it must be the subject of inquiry by the Board and DEC. The DEC may find that this volume falls within the "construction project" exception to the definition of*

*"mining" upon close scrutiny of a proper cut and fill plan filed with them, but there is certainly no aggregate production exception set forth in the state law that regulates mines."*<sup>20</sup>

RESPONSE: The cut and fill plan shown on Sheet PH-1, Phasing Plan was submitted to both the Planning Board and the NYSDEC. As shown on this sheet, a 40-foot highwall traverses much of the proposed site, thus requiring the removal of nearly 20' of stone in order to create a level building pad and yard. When the highwall is blasted, the resulting fractured stone (shot rock) occupies more volume than the solid rock face. Any excess fill created by the leveling of the highwall, if not suitable for use in the manufacturing of the pre-cast concrete beams, will need to either be stockpiled elsewhere on site, or removed from the site. Stockpiling the excess fill on site in order to eliminate the need to have trucks haul it offsite is environmentally unsound, as there is local demand for clean, native fill. Offering it for sale helps reduce the need for additional acreage to be mined elsewhere in order to meet this demand and eliminates the need for additional onsite disturbance in order to dispose of the excess material. The grading plan for the site was developed specifically to keep the proposed area of disturbance within the footprint of the unreclaimed quarry, as well as minimizing total site disturbance while still providing the area for needed for the proposed manufacturing facility.

The site plan, which includes Sheet PH-1, was submitted to the NYSDEC for a jurisdictional determination, including the applicability of the construction exemption contained within Article 23, Title 27, Section 23-2705 of the Mined Land Reclamation Law. Excavation and/or grading of an area that is part of an approved, non-speculative, construction plan is exempt from the requirements of the Mined Land Reclamation Law, if the excavation is an integral part of the construction project and the proposed facility is to be constructed upon completion of the site preparation. In their March 15, 2019 response (Appendix D) the NYSDEC determined that "the construction project as proposed may not be subject to the jurisdiction of the Article 23, Title 27 Mined Land Reclamation Law".

2. *COMMENT: "Vibration limiting criteria, as well as db level limits will need to be understood and monitoring provide for review. Where are the monitoring locations? Who will pay for damages to existing housing in the area and how will that be mitigated?"*<sup>21</sup>

RESPONSE: The details of the blasting patterns and location of monitoring seismographs will be provided in a site-specific blasting plan prepared by the blasting contractor. The general guidelines for blasting at the site can be found in the blasting plan prepared by H2H found in Appendix\_\_\_\_. Regulations set forth in the Town of Kingston Code, Section 245-5: Extractive Operation Limitations require the blaster to monitor the nearest

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<sup>20</sup> See Appendix J: Open Space Institute, letter to T/o Kingston Planning Board, June 17, 2019.

<sup>21</sup> See Appendix J: Steve Malloy, letter to T/o Kingston Planning Board, April 15, 2019.

occupied structure for any exceedances of ground vibration limits as established by the US Bureau of Mines. The contractor will provide a pre-blast survey for all adjacent homes and structures within 1,000 feet of the blasting area. All complaints should be directed to the Town of Kingston Code Enforcement Officer. Claims of property damage should be documented with pre-damage and post-damage conditions and directed to the Project Sponsor for evaluation.

3. *COMMENT: "What is the duration of blasting work? Will they blast one day a week and remove material the rest of the week? Need to understand what the durations of blasting will be and how often? An actual Blasting Plan should be submitted for review."*<sup>22</sup>

RESPONSE: The initial blasts will be smaller and more frequent while vibrational and air blast levels are assessed and are expected to occur on a weekly basis. Once a baseline has been established, the blasts will be larger and occur less frequently and are expected to take place once or twice per month. The total duration of blast activities is estimated to be 2-3 years. The blasting plan prepared by H2H can be found in Appendix D.

4. *COMMENT: "Blasting can also affect people and wildlife as a result of the air blast or over pressure wave and through ground vibration. Compression waves had been suggested to impact the swim bladders in fish in nearby water features. Insufficient information has been provided to address any of these potential impacts. Some researchers have also indicated that explosive residues have the potential to pollute surface and groundwater supplies. Mahtab (2005) indicates that explosive residues, which are toxic to aquatic life forms, can enter surface water through infiltration with precipitation and washing of aggregate materials. The pollution potential is dependent on the chemical composition of the blasting explosives. Special precautions should be in place to prevent contamination of Pickerel Pond and the state regulated wetland surrounding Oteora Lake."*<sup>23</sup>

RESPONSE: As mentioned above, the blasters will adhere to the mandates set forth by the US Bureau of Mines for ground vibration limits. Temporary sedimentation controls will be implemented prior to initiating site disturbances and will be monitored in accordance with NYSDEC regulations for stormwater discharges.

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<sup>22</sup> See Appendix J: Steve Malloy, letter to T/o Kingston Planning Board, April 15, 2019.

<sup>23</sup> See Appendix J: Open Space Institute, letter to T/o Kingston Planning Board, June 17, 2019.

## 11. Areas of Archaeological and/or Historical Significance

As part of the initial site plan preparation, Medenbach & Eggers, PC had requested the NYS Office of Parks, Recreation, and Historic Preservation (OPRHP) to provide comments regarding any potential impacts that the project may have on archaeological or historic resources. On July 24, 2018, OPRHP replied in a letter stating “Based upon this review, it is the New York State Office of Parks, Recreation and Historic Preservation’s opinion that your project will have no impact on archaeological and/or historic resources listed in or eligible for the New York state and National Registers of Historic Places”. On September 10, 2019, OPRHP sent a second letter stating that since “bluestone quarrying in Ulster County is a well-known historic extractive industry” they have rescinded the July 24, 2018 determination of no impact and requested historical information on the age and use of the former mining operation. As a result, the applicant hired local archaeologist Joseph A. Diamond, PhD, to investigate the possibility of 19<sup>th</sup> century quarrying on the site and to assess the project’s proximity to any archaeological sites within 1 mile of the proposed area of disturbance. As illustrated in his report sent to OPRHP on October 24, 2019 (Appendix I), no evidence of historical mining activity or pre-contact Native American sites was found on or within 1 mile of the site.

On October 31, OPRHP responded to the report with a letter stating that the project is “in an area with no archaeological and/or historic resources listed in or eligible for the New York State and National Registers of Historic Places. Therefore, it is the opinion of OPRHP that the project will have No Impact Registers-eligible resources.”<sup>24</sup>

## 12. NYS Environmental Assessment Form

The initial NYS Environmental Assessment Form (EAF) was submitted on Aug. 3, 2018 and revised on March 15, 2019. This report serves as an addendum to a second revision of the EAF (Appendix A) and includes all of the environmental studies conducted to date in support of the proposed project, as well as a summary and response to all public comment letters received from March through August, 2019.

The following passages regarding the EAF come from the CHA attachment to the Open Space Institute letter dated June 17, 2019. (See Appendix J).

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<sup>24</sup>See Appendix I: OPRHP, letter to M&E, dated October 31, 2019.



1. *COMMENT: "Based on our review and NYS Air Permitting Regulations 6 NYCRR Part 201, air permitting is needed for manufacturing operations and quarrying/crushing operations (D.2.g) unless all sources are considered exempt or trivial."*

RESPONSE: The maximum throughput volume of the crusher is below 150 ton/hour. As per CRR-NY Title 6, Chapter 3, Section 201-3.2: Exempt Activities, this unit does not require a NYSDEC air permit.

2. *COMMENT: "Applicant answered that the proposed action would not remove existing natural barriers or screen for noise or light (0.2.m.ii & 0.2..n.ii, respectively). However, E. 1 .b states that 19 acres of forest will be lost."*

RESPONSE: The majority of the proposed site disturbance will occur within the footprint of the unreclaimed, marginally-revegetated former quarry. A vegetative barrier a minimum of 50' wide will surround the project area. The EAF has been revised to reflect this.

3. *COMMENT: "Applicant answered that there will be no bulk petroleum or chemical storage (0.2.p). We would like information on how the heavy equipment will refueled and serviced during construction. We would also like to know if any chemicals are used during manufacturing and will there be a diesel-powered backup generator as part of the design."*

RESPONSE: No bulk storage of chemical or petroleum as outlined in the NYSDEC regulations is proposed for this site. NYSDEC requires a petroleum bulk storage permit for above-ground tank systems designed to store a combined capacity of more than 1,100 gallons of petroleum, or underground tanks designed to store more than 110 gallons. Chemical Bulk Storage permits are required for aboveground tanks larger than 185 gallons, or any underground chemical storage tank. NO petroleum or chemical storage tanks are proposed for the site.

Vehicles will be fueled in a designated fueling area via delivery truck from a local supplier. Vehicle maintenance will occur inside the garage, where some oil will be stored for equipment maintenance, but in volumes much less than 1,100 gallons. The site will be equipped with a spill response kit. Waste oil will be removed by the oil supplier NOCO. No backup generators are proposed.

4. *COMMENT: "The Applicant stated that there will be no solid waste management or disposal at the site (D.2.r). There will be solid waste generated at the site that must be managed at the site prior to offsite disposal."*

RESPONSE: There will be no onsite solid waste disposal, as licensed waste haulers will remove the solid waste generated at the site. Standard dumpsters will be used to collect these wastes generated on site.

5. *COMMENT: "The Applicant stated that there will be no use of pesticides or herbicides. We would like additional information on whether there will be any rodent or insect control or weed control practices as part of routine operations at the Site."*

RESPONSE: No issues with weed, rodent or insect infestations are anticipated.

6. *COMMENT: "Additional information is needed to verify that no hazardous waste is generated during the manufacturing or from the maintenance of equipment during construction or operation."*

RESPONSE: There are no hazardous materials generated during the production of the precast beams. Any fluids released during the operation or maintenance of onsite equipment will be cleaned up with an onsite spill response kit and disposed of at an approved waste disposal facility.

7. *COMMENT: "With bedrock at 0 feet below ground, we believe more than 20% of the site has bedrock outcroppings. (this appears to be a correct assumption– the soil report calls for 60% rock outcrop complex and 37% quarry)"*

The parcel on which the project is located is 110 acres, the exposed bedrock of the unreclaimed mine site occupies approximately 37% of the total site. Approximately 80% of the project area is exposed bedrock. The EAF has been revised accordingly.