

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 3
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Department of
Environmental
Conservation

June 21, 2021

VIA EMAIL

Town of Washington Planning Board
ncaul@optonline.net

Re: Mailman Conservation Preservation Area Project
Town of Washington, Dutchess County
DEC ID: 3-1358-00055/00005
SEQR Lead Agency Response

Dear Town of Washington Planning Board,

The Department of Environmental Conservation (DEC or Department) received your State Environmental Quality Review Act (SEQR) Lead Agency Coordination for the above-referenced action, submitted on your behalf by Jeffrey Battistoni of VanDewater and VanDewater LLP, on June 16, 2021. The proposal involves adaptation of a former 35-acre mine site, part of a larger 162.7-acre parcel located at 133 Woodstock Road, to create habitat improvements including excavation to create 20 acres of aquatic/open water habitat.

The Department has no objection to the Town of Washington Planning Board serving as lead agency for this project. Based on our review of the materials received, including Part 1 of the Full Environmental Assessment Form (EAF), we offer the following comments:

MINED LAND RECLAMATION

As described in the submitted materials, this project involves the removal of approximately 2 million tons of material from the site over the course of a 10-year period in order to create aquatic/open water habitat. This activity will require a Mined Land Reclamation permit from DEC under Article 23, Title 27 of the Environmental Conservation Law. The Department conducted a pre-application meeting with the applicant and their consultant on March 30, 2021 regarding this requirement. An application for this permit has not been received as of this writing.

STATE POLLUTANT DISCHARGE ELIMINATION SYSTEM (SPDES)

The federal Clean Water Act requires that all active and inactive mining operations have coverage under the SPDES Multi-Sector General Permit (MSGP) for Stormwater Discharges Associated with Industrial Activities, for stormwater discharges to waters of the State. However, if 100% of stormwater is discharged solely to groundwater in up to a 100-year, 24-hour storm event (Zero Discharge), SPDES permit coverage is not required and the general permit is not applicable.

A facility claiming Zero Discharge must be prepared to demonstrate, through modeling and site assessments (soil testing, infiltration test, hydrology, etc.), that Zero Discharge criteria are met, even during frozen conditions.

Any process wastewater must be contained in a closed loop zero discharge system. Discharges of process wastewater or process water co-mingled with stormwater are ineligible for coverage under the MSGP, and must be covered under an individual SPDES permit.



PROTECTION OF WATERS STREAM DISTURBANCE

The following stream is located within or near the site:

<u>Name</u>	<u>Class</u>	<u>DEC Water Index Number</u>	<u>Status</u>
<u>Tributary of Wappinger Creek</u>	<u>C</u>	<u>H-101-22</u>	<u>Non-Protected</u>

A Protection of Waters permit is required to physically disturb the bed or banks (up to 50 feet from stream) of any streams identified above as “protected.” A Protection of Waters permit is not required to disturb the bed or banks of any streams identified as “Non-protected.”

If a permit is not required, please note, however, you are still responsible for ensuring that work shall not pollute any stream or waterbody. Care shall be taken to stabilize any disturbed areas promptly after construction, and all necessary precautions shall be taken to prevent contamination of the stream or waterbody by silt, sediment, fuels, solvents, lubricants, or any other pollutant associated with the project.

FRESHWATER WETLANDS

The project site does not contain New York State-protected Freshwater Wetlands. However, please contact the United States Army Corps of Engineers for any permitting they might require.

WATER QUALITY CERTIFICATION

There may be federally regulated wetlands on certain portions of the overall property. If the US Army Corps of Engineers requires a permit pursuant to Section 404 of the Clean Water Act, then a Section 401 Water Quality Certification will be required. Issuance of these certifications is delegated in New York State to DEC. If the project qualifies for a Nationwide Permit, it may be eligible for coverage under DEC’s Blanket Water Quality Certification. Coverage under the blanket requires compliance with all conditions in the blanket for the corresponding Nationwide Permit. A copy of the current blanket for the 2017 Nationwide Permits is available on the DEC website at: http://www.dec.ny.gov/docs/permits_ej_operations_pdf/wqcnwp2017.pdf.

In 2020 the EPA implemented a new rule on the processing and issuance of Water Quality Certifications. Among the requirements are submission of a pre-filing meeting request 30-days prior to submission of the application and a number of additional specifications for the application materials themselves. Forms for pre-filing meeting request and a supplemental to the Joint Application for Water Quality Certifications are available online at <https://www.dec.ny.gov/permits/6222.html>.

You must submit the Water Quality Certification Pre-Filing Request Form at least 30 days before you plan to submit the application. When submitting, the application must include the Water Quality Certification Joint Application Supplement WQC-1 Form.

STATE-LISTED SPECIES

DEC has reviewed the State’s Natural Heritage records. No records of sensitive resources were identified by this review.

The absence of data does not necessarily mean that other rare or state-listed species, natural communities or significant habitats do not exist on or adjacent to the proposed site. Rather, our files currently do not contain information which indicates their presence. For most sites, comprehensive field surveys have not been conducted. We cannot provide a definitive statement on the presence or absence of all rare or state-listed species or significant natural communities. Depending on the nature of the project and the conditions at the project site, further information

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from on-site surveys or other sources may be required to fully assess impacts on biological resources.

OTHER

Other permits from this Department or other agencies may be required for projects conducted on this property now or in the future. Also, regulations applicable to the location subject to this determination occasionally are revised and you should, therefore, verify the need for permits if your project is delayed or postponed. This determination regarding the need for permits will remain effective for a maximum of one year unless you are otherwise notified. More information about DEC permits may be found at our website, www.dec.ny.gov, under "Regulatory" then "Permits and Licenses." Application forms may be downloaded at <http://www.dec.ny.gov/permits/6081.html>.

Please feel free to contact me at christopher.lang@dec.ny.gov if you have questions regarding the above information. Thank you.

Sincerely,

Chris Lang
Division of Environmental Permits

ecc: Ryan LaDuke, DEC Mined Land Reclamation Specialist
John Petronella, DEC Regional Permit Administrator
Mark Williams, Sterling Environmental
Christopher Mailman, Chatillon Realty
VanDewater and VanDewater, LLP