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September 24, 2024

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**RE: Request for Extension of Public Comment Period:
Barton Mines, LLC Application
APA Project No. 2021-0245**

Dear Chairman Ernst and Executive Director Rice:

As you know, the Adirondack Park Agency (“APA”) is in the process of reviewing an application by Barton Mines, LLC for expansion of its Ruby Mountain Mine located in the Town of Johnsbury, Warren County (the “Barton Project”). On September 16, 2024, APA issued a notice of complete application for the Barton Project and announced that a public comment period on the application will run from September 25 to October 10, 2024.

Staff

Peter Bauer
Executive Director

We are writing to request that APA extend the public comment period for this massive, complex, and controversial project beyond the paltry 15 days that APA staff is currently proposing. We also write to protest what appears to be APA staff’s rush to judgment on whether substantive and significant issues will be raised during the public comment period requiring an adjudicatory hearing on the Barton Project application.

Claudia K. Braymer, Esq.
Deputy Director

The Public Comment Period Should be at Least 60 Days

Christopher Amato, Esq.
**Conservation Director
and Counsel**

As proposed, the Barton Project would expand the footprint of the mine by more than one-third, from 195 acres to 267 acres; increase the on-site waste disposal pile by 15 acres and raise the elevation of the waste pile by more than 100 feet which, at its current elevation of more than 2,200 feet above sea level, is already

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higher than many Adirondack peaks; continue to operate industrial equipment at the site 24 hours a day, seven days a week, perpetuating unacceptable noise levels; increase the hours of operation of on-site trucking and mining vehicle operation and increase the frequency of blasting, adding to noise impacts to nearby residents and recreational users; and triple the heavy duty truck trips entering and leaving the mine site. The site of the Barton Project directly abuts the Siamese Pond Wilderness Area portion of the Forest Preserve, and is or will be visible from several other important recreational resources in the Forest Preserve including, among others, Thirteenth Lake, Moxham Mountain, and Gore Mountain.

Protect the Adirondacks, the Garnet Hill Homeowners' Association, and Friends of the Siamese Lakes Wilderness have been actively involved in the application process and have submitted detailed comment letters concerning the Barton Project's significant noise, visual, air and water quality impacts, together with expert reports on noise and visual impacts and on the many geotechnical and engineering issues posed by the immense on-site waste pile that Barton proposes to expand. The massive scope and complexity of this project is reflected in the fact that the application and supporting documents and reports number thousands of pages. In addition, in the nearly three years that the Barton Project has been under review by APA, the project has received a Notice of Incomplete Application ("NIPA") on four separate occasions, including the most recent NIPA issued on July 16, 2024.

Given the scope and complexity of the Barton Project, as well as the significant degree of public interest and opposition, APA staff's proposal that the public be afforded only 15 days in which to provide comments is woefully inadequate. Apart from the large size of the application and its complexity, Barton has apparently submitted additional voluminous materials in response to APA's July 16, 2024 NIPA, copies of which we received only yesterday. It is unrealistic to expect interested parties to thoroughly review these most recent submissions and formulate comments on this technically complex project in such a short time. In our view, the minimum public comment period on a project of this magnitude, which has such an array of significant environmental impacts, is 60 days, and we therefore urge APA to extend the deadline for public comment to November 25, 2024.

APA's Rush to Judgment on an Adjudicatory Hearing

PROTECT and others have submitted expert reports identifying substantive and significant omissions and flaws in the application for the Barton Project. Nevertheless, an email from APA staff to Barton's representatives obtained by PROTECT pursuant to the Freedom of Information Law, states that "We plan to present this project to the Agency Board at their November meeting, which is scheduled for November 14, 2024." Apart from severely truncating the opportunity for public review and comment, this needlessly hasty schedule assumes that an adjudicatory hearing will not be held on this major project application, despite the array of expert reports submitted by PROTECT and others taking issue with Barton's assumptions and projections and identifying significant flaws and omissions in the application. We object to this apparent prejudgment by APA staff that no substantive and significant issues have been raised or will be raised during the public comment period requiring an adjudicatory hearing on the Barton Project application. Moreover, the decision on whether to hold an adjudicatory hearing is the sole province of the APA Board and should be made only after the Board engages in a thorough and balanced evaluation of

the issues raised during the public comment period and review of the regulatory criteria for holding an adjudicatory hearing.

Conclusion

After a nearly three-year application process, it appears that APA is now rushing to approve the Barton Project without an adequate opportunity for public review and comment. In addition, the APA staff's email appears to indicate that this large and complex project with numerous environmental impacts will be considered by the APA Board without an adjudicatory hearing, thereby depriving the Board of a full and complete examination of the many significant issues raised by the application. We object to such a pre-ordained outcome and urge APA to extend the public comment period to 60 days and to make clear that it will be the Board, not APA staff, that will determine whether an adjudicatory hearing is required for the Barton Project.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Amato", written in a cursive style.

Christopher Amato
Conservation Director and Counsel