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**Via Email**

February 4, 2025

Beth Magee  
New York State Department of Environmental Conservation  
Region 5  
232 Golf Course Rd.  
Warrensburg, NY 12885

**RE: Barton Mines Company, LLC  
Ruby Mountain Garnet Mine  
Major Permit Modification  
NYSDEC Mine Permit #5-5230-00002/00002  
Town of Johnsbury, Warren County**

Dear Ms. Magee:

As you know, the Division of Mineral Resources of the Department of Environmental Conservation ("DEC") has issued a proposed new program policy, DMN-4, "Mining Projects and Climate Considerations" and has extended the public comment period on the proposed policy to February 18, 2025. Protect the Adirondacks ("PROTECT") urges DEC to proactively apply DMN-4 to the application by Barton Mines, LLC ("Barton") to significantly expand its mining operations at the Ruby Mountain Garnet Mine in the Town of Johnsbury, Warren County. Specifically, PROTECT requests that DEC require Barton to conduct a greenhouse gas ("GHG") emissions analysis for the proposed mine expansion as required by the Climate Leadership and Community Protection Act ("CLCPA"). As discussed below, the Barton expansion meets the criteria set forth in both the CLCPA and the draft DMN-4 for completion of a GHG emissions analysis.

**The CLCPA Requires GHG Emissions Analyses for All Permit Applications**

The CLCPA establishes economy-wide requirements to reduce Statewide GHG emissions. Article 75 of the ECL (enacted as part of the CLCPA) requires DEC to promulgate regulations ensuring that Statewide GHG emissions be reduced to 40% below 1990 levels by 2030, and 85% below 1990 levels by 2050. ECL

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§ 75-0107(1). As required by the CLCPA, DEC promulgated regulations translating the statutorily required statewide GHG emission percentage reduction limits into specific limits based on estimated 1990 GHG emission levels. *See* 6 NYCRR Part 496. The regulations establish Statewide GHG emissions limits for the years 2030 and 2050, respectively, of 245.87 and 61.47 million metric tons of carbon dioxide equivalents (measured on a 20-year Global Warming Potential basis). *Id.*

Section 7(2) of the CLCPA imposes a mandatory duty on all State agencies to consider the GHG emissions associated with the issuance of *any* permit or approval:

In considering and issuing permits, licenses, and other administrative approvals and decisions . . . all state agencies, offices, authorities and divisions shall consider whether such decisions are inconsistent with or will interfere with the attainment of the statewide [GHG] emissions limits established in [ECL Article 75]. Where such decisions are deemed to be inconsistent with or will interfere with the attainment of the statewide [GHG] emissions limits, each agency, office, authority or division shall provide a detailed statement of justification as to why such limits/criteria may not be met, and identify alternatives or [GHG] mitigation measures to be required where such project is located.

Ch. 106, Laws of 2019, § 7(2).

Thus, the CLCPA imposes a duty on “all state agencies” to conduct a GHG emissions analysis “[i]n considering and issuing permits, licenses, and other administrative approvals and decision.” Notably, this requirement applies to all permit applications and is not limited to only those projects possessing an air permit.

#### **DMN-4 Requires a GHG Emissions Analysis for the Barton Permit Modification**

The draft DMN-4 describes the requirements for analyses developed pursuant to Section 7(2) of the CLCPA and applies to, among others, applications for renewal or modification of mined land reclamation (“MLR”) permits such as sought by Barton. *See* Draft DMN-4 at 3. The draft policy provides instructions for applicants and DEC staff for preparing and reviewing the CLCPA analyses that must be submitted to DEC in support of applications for MLR permit renewals or modification and are intended to ensure that DEC decisions concerning MLR permits comply with the requirements of CLCPA Section 7(2). *Id.* at 2. Notably, the draft policy applies to pending applications, “to the extent feasible, including modifications and renewals to existing permits.” *Id.* at 3.

The draft DMN-4 provides that “[a]pplications that must include site-specific CLCPA analysis” include “a proposal that modifies an existing MLR permit for a mine with an Air Facility registration, if DEC determines an analysis is necessary or appropriate to ensure consistency with the CLCPA.” Draft DMN-4 at 3. The Barton application seeks to modify the existing MLR permit for the Ruby Mountain Mine and the mine currently has an Air Facility registration. Among other things, Barton is proposing to (i) increase the hours of operation for on-site trucking and other on-

site mining activities by five hours each week; (ii) increase the hours for delivery of supplies to the mine by ten hours each week; and (iii) more than triple the number of off-site truck trips from a maximum of 5 per day to a maximum of 16 per day. Each of these activities, if approved, will increase GHG emissions associated with the mine's operations and must therefore be analyzed as required by the CLCPA and by the draft DMN-4.<sup>1</sup>

## **Conclusion**

For the reasons set forth above, PROTECT urges DEC to fulfill its obligation pursuant to the CLCPA and the draft DMN-4 by requiring Barton to provide an analysis of the direct and upstream GHG emissions from the proposed significant expansion of mining operations, including truck traffic, at the Ruby Mountain Mine.

Sincerely,

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

Christopher Amato  
Conservation Director and Counsel

c: Aaron Love, DEC Regional Attorney

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<sup>1</sup> We note that Section 7(2) of the CLCPA imposes an across-the-board requirement for a GHG emissions analysis for any agency permit or approval and does not include the limitations proposed in the draft DMN-4 that possession of an air permit or registration is necessary to trigger the analysis.