



LAND USE PERMIT AMENDMENT

State of Vermont Natural Resources Board
District 1 Environmental Commission
440 Asa Bloomer State Office Building
88 Merchants Row, 4th Floor
Rutland, Vermont 05701-5903
<https://nrb.vermont.gov/>

CASE NO. 1R0489-8(Altered)

Casella Construction, Inc.
25 Industrial Lane
Mendon, Vermont 05701
and
Casella Group, LLC
25 Industrial Lane
Mendon, Vermont 05701

LAWS/REGULATIONS INVOLVED

10 V.S.A. §§ 6001 - 6111 (Act 250)

The District 5 Environmental Commission hereby issues Land Use Permit Amendment 1R0489-8(Altered), pursuant to the authority vested in it by 10 V.S.A. §§ 6001-6111. This permit amendment applies to the lands identified in Book 156, Pages 590-592, of the land records of the Town of Clarendon, Vermont and in Book 107, Pages 114-116, of the land records of the Town of West Rutland, Vermont, as the subject of a deed to Casella Group, LLC and a lease to Casella Construction, Inc. This permit authorizes the establishment of a new wash plant for sand and stone with associated wash settling ponds and related infrastructure; the expansion of the operational season to March 1 through December 31; the increase of the permitted weekday crushing hours from 7:00 AM to 5:00 PM (limited to 8 hours a day); changes to the permitted blasting techniques and limits; removal of the permitted hourly truck haul limit; and an extension of the permit expiration date to April 1, 2056. The project is located on 1058 VT Route 133 in Clarendon, Vermont.

Jurisdiction attaches because the project constitutes a material change pursuant to Act 250 Rule 2(C)(6) and thus requires a permit amendment pursuant to Act 250 Rule 34.

The Permittee, and their assigns and successors in interest, are obligated by this permit to complete, operate, and maintain the project as approved by the District 5 Environmental Commission (the "Commission") in accordance with the following conditions.

1. The project shall be completed, operated, and maintained in accordance with the conditions of this permit and the permit application, plans, and exhibits on file with the Commission and other material representations. The approved plans are:

"Cover Plan Sheet" - dated 3/16/21, last revised 7/28/21 (Exhibit 11a)

Land Use Permit 1R0489-8(Altered)

Sheet C1.01 - "Existing Conditions Plan", dated 3/24/20, last revised 7/28/21 (Exhibit 12a)

Sheet C2.01 - "Overall Site Plan", dated 12/18/20, last revised 7/28/21 (Exhibit 13a)

Sheet C2.02 - "Site Plan", dated 12/18/20, last revised 7/28/21 (Exhibit 14a)

Sheet C2.03 - "Quarry Sections", dated 2/19/21, last revised 7/28/21 (Exhibit 15a)

Sheet C2.04 - "Reclamation Plan", dated 2/19/21, last revised 7/28/21 (Exhibit 16a)

Sheet C4.01 - "Pre-development Drainage Area", dated 12/18/20, last revised 7/28/21 (Exhibit 17a)

Sheet C4.02 - "Post Development Drainage Area", dated 12/18/20, last revised 7/28/21 (Exhibit 18a)

Sheet C5.01 - "EPSC Plan", dated 12/18/20, last revised 7/28/21 (Exhibit 19a)

Sheet C8.01 - "Details", dated 12/18/20, last revised 3/16/21 (Exhibit 20)

Sheet C8.02 - "Pond Sections", dated 12/18/20, last revised 3/5/21(Exhibit 21)

Sheet C8.03 - "Erosion and Pond Details", dated 12/18/20, last revised 3/5/21 (Exhibit 22)

Sheet C8.04 - "Erosion and Pond Details", dated 2/19/21, last revised 2/19/21 (Exhibit 23)

Sheet C8.05 - "Flow Schematic", dated 12/18/20, last revised 2/19/21 (Exhibit 24)

Sheet C8.06 - "EPSC Details", dated 12/18/20, last revised 2/19/21 (Exhibit 25)

Sheet C8.07 - "EPSC Details", dated 12/18/20, last revised 2/19/21 (Exhibit 26)

"Forest Cover", dated 7/30/21 (Exhibit 46)

Sheet W-1 - "Well Location Map", dated 3/24/20 (Exhibit 51)

2. All conditions of Land Use Permit 1R0489 and amendments are in full force and effect except as further amended herein.
3. The Permittee shall comply with the conditions of the Authorization to Discharge Stormwater under Multi-Sector General Permit #9125-9003 authorized on November 17, 2020, by the ANR Watershed Management Division.
4. The Permittee shall comply with the conditions of Air Pollution Control Permit #AP-21-011, issued on April 2, 2021, by the ANR Air Pollution Control Division.
5. The Permittee shall comply with the conditions of Industrial Direct Discharge Permit IDP #3-1570 on November 17, 2021, by the ANR Watershed Management Division.
6. Any nonmaterial changes to the permits listed in preceding conditions 3-5 shall be automatically incorporated herein upon issuance by the Agency of Natural Resources.
7. Representatives of the State of Vermont shall have access to the property covered by this permit, at reasonable times, for the purpose of ascertaining compliance with Vermont environmental and health statutes and regulations and with this permit.

8. A copy of this permit and plans shall be on the site at all times throughout the construction process.
9. No change shall be made to the design, operation or use of this project without a permit amendment issued by the Commission or a jurisdictional opinion from the District Coordinator that a permit is not required.
10. No further subdivision, alteration, and/or development on the tract of land approved herein shall be permitted without a permit amendment issued by the Commission or a jurisdictional opinion from the District Coordinator that a permit is not required.
11. Pursuant to 10 V.S.A. § 8005(c), the Commission or the Natural Resources Board may at any time require that the permit holder file an affidavit certifying that the project is in compliance with the terms of this permit.
12. The conditions of this permit and the land uses permitted herein shall run with the land and are binding upon and enforceable against the Permittee and its successors and assigns.
13. No changes to the permitted extraction rate of 325,000 raw tons per year and 260,000 processed tons per year is permitted.
14. Seasonal operations (drilling, blasting, and crushing) are permitted from March 1st. through December 31st. All other operations may occur year-round except on federal holidays.
15. Daily operating hours are permitted from 6:30 AM to 5:30 PM Monday through Friday, and 9:00 AM to 12:00 PM on Saturdays. No crushing, blasting, or hammering is permitted on Saturdays. The quarry shall not operate on Sundays or federal holidays.
16. Crushing hours are permitted from 7:00 AM to 5:00 PM Monday through Friday. Crushing shall be limited to 8 hours daily. The Permittee shall record crushing hours in daily logs which shall be made available to the Commission upon request.
17. Crushing rates shall not exceed 650 tons per hour through the primary crusher and 422 tons per hour through the secondary crusher.
18. Trucks shall be limited to a maximum of 85 loads Monday through Friday, and 20 loaded trucks on Saturday, with no hourly loaded truck limit. No truck convoys, meaning three or more trucks leaving the quarry together, shall be allowed.
19. The maximum 6,000 lbs. total explosives per blast is eliminated. Blasting shall be limited to no more than 975 pounds of explosive per delay with no limit on the total pounds of explosives. The blasting maximum of once per week, and no more than 15 such weekly blasts in any one year is eliminated. Blasting shall be permitted Monday through Friday, once per week. Blasting may be allowed twice per week 5 times per year. A maximum of 25 blasts per year is permitted. No blasting shall occur on federal holidays.
20. The Permittee shall employ the electronic blast initiation technology described in Exhibit 6, "Rock Extraction Blasting Plan, Clarendon Springs Quarry," for all blasts at the quarry consisting of 6,000 pounds total explosives or greater. Other forms of blast initiation may be used for blasts

employing less than this amount of the total explosives which have minimal potential for significant off-site impacts.

21. All explosive blasts at the quarry shall be monitored by at least two seismographs one of which shall be located at the closest residence to the blast or comparable distance if the closest residence to the blast does not allow the same. The monitoring seismographs shall be capable of recording air concussion and ground vibration from blasts at the quarry against the U.S. Bureau of Mines' recommendations for air concussion and ground vibration. Air concussion at the quarry shall not exceed 133 dBL as measured at the closest residence. Ground vibration from blasts at the quarry shall not exceed the level depicted on the reference line in the U.S. Bureau of Mines' publication R.I.8507 Appendix B Graph as measured at the closest residence to the blast.
22. The Permittee shall provide the owners of all occupied residences located within 2,000 feet of any potential future blast site the opportunity to have a pre-blast survey done of their property before commencing blasting under the new blasting regime. In the event a property owner indicates that they wish to have such a survey done, the same shall be performed by an appropriate contractor and the results maintained on file by the Permittees.
23. The Permittee shall provide prior written notification of the blasting schedule to those with homes within 2000 feet of the quarry who so request.
24. The Permittee shall implement the following noise mitigation measures:

The height of the existing crusher area berm shall be increased by 6 feet for a top elevation of 645 feet.

A noise reducing rubber liner shall be installed on the primary jaw crusher hopper.

The use of the rock hammer shall be confined to the rock extraction area. Use of the rock drills and rock hammer simultaneously is prohibited if the rock hammer is to be operated at an elevation greater than 709 feet.
25. The requirement of a minimal bench horizontal separation of 15' is permitted, thereby superseding the previously permitted minimum of 25' in horizontal separation.
26. The Permittee shall take reasonable precautions at all times to prevent fugitive particulate matter (dust) from becoming airborne from the project and its operations. Reasonable precautions to be taken shall include, but not be limited to, the following measures or other equally effective measures for project operations and activities under the Permittee's control or supervision:
 - a. The unpaved traffic and parking areas at the project shall be periodically maintained by the application of water and/or generally accepted chemical treatments, such as calcium chloride unless otherwise restricted, which are applied at a rate and frequency to effectively limit visible dust emissions;
 - b. Any paved traffic and parking areas at the project shall be periodically maintained as necessary to prevent buildup of material that may generate fugitive dust emissions.

Sweeping shall be performed in a manner to minimize fugitive dust air emissions, and may include lightly wetting the paved surface immediately before sweeping, or preferably by the use of a vacuum, regenerative, or high efficiency sweeper;

- c. All trucks owned, operated or under the control of the Permittees shall be securely covered when operated on public roadways when loaded;
 - d. All rock drills operated at the project shall be equipped and operated with either an effective wet or dry dust control system;
 - e. All unenclosed crushing and dry screening operations shall be equipped with a wet dust control (suppression) system with spray nozzles at appropriate locations and shall be operated as necessary to effectively limit visible dust emissions;
 - f. Active storage piles shall be periodically maintained by application of water and/or generally accepted chemical treatments, such as calcium chloride unless otherwise restricted, which are applied at a rate and frequency to effectively limit visible dust emissions. Inactive storage piles and exposed surfaces shall be revegetated as soon as reasonably practicable; and
 - g. The Permittee shall ensure that any dust control measures taken in accordance with the conditions listed above are in compliance with all other state and federal requirements.
27. The Permittee shall not allow the operation of a gravel or stone crushing plant on the premises with a maximum rated capacity (based on the crusher's largest possible setting and maximum throughput, not actual operating rate) of greater than 150 tons per hour, unless said crushing plant has a permit to operate from the District Commission and the Vermont Air Pollution Control Division.
28. The Permittee shall implement the Vermont Department of Environmental Conservation's *[Best Management Practices for Blasting Activities to Avoid Environmental Contamination \(2016\)](#)*^a.
29. Prior to construction of the approved work, the Permittee shall: a) clearly delineate the construction limits with flagging or snow fencing; b) place diversion ditches on the uphill limits of the construction area; and c) place temporary siltation controls on the downhill limits of construction.
30. The Permittee shall install silt fence on the downhill side of topsoil stockpiles and all construction activities. Diversion ditches shall be installed as necessary.
31. A copy of the approved erosion prevention and sediment control plan shall be on the site at all times during construction.
32. In addition to conformance with all erosion prevention and sediment control conditions, the Permittees shall not cause, permit, or allow the discharge of waste material into any surface

^a Best Management Practices for Blasting Activities to Avoid Environmental Contamination (2016), <http://anr.vermont.gov/sites/anr/files/co/planning/documents/guidance/Best%20Management%20Practices%20for%20Blasting%20to%20Avoid%20Environmental%20Contamination%20%28Dec%202016%29.pdf>

waters. Compliance with the requirements of this condition does not absolve the Permittees from compliance with 10 V.S.A. (§§ 1250-1284) Chapter 47, Vermont's Water Pollution Control Law.

33. The Permittee shall maintain an undisturbed, naturally vegetated riparian buffer zone on the Clarendon River which shall begin at the water's edge at base flow conditions, and shall further extend 100 feet measured inland from, and perpendicular to, and horizontally from the top of bank as depicted on Exhibits 12a through 19a. The term "undisturbed" means that there shall be no activities that may cause or contribute to ground or vegetation disturbance or soil compaction, including but not limited to construction, earth-moving activities, storage of materials, tree trimming or canopy removal, tree, shrub, or groundcover removal, plowing or disposal of snow, grazing or mowing.
34. The Permittee shall maintain an undisturbed, naturally vegetated buffer zone on the project Tract within 50 feet of any wetlands as depicted on Exhibits 12a through 19a. The term "undisturbed" means that there shall be no activities that may cause or contribute to ground or vegetation disturbance or soil compaction, including but not limited to construction, earth-moving activities, storage of materials, tree trimming or canopy removal, tree, shrub, or groundcover removal, plowing or disposal of snow, grazing or mowing.
35. The Permittee shall install flagging around Class II wetlands D and E where the project activities occur within 100' of the wetlands.
36. The Permittee shall notify the Department of Fish & Wildlife in the event that an active Peregrine Falcon nest is established on the quarry face in the future. In the event that an active nest is established, the Permittee shall not engage in quarry activity within 75-feet on either side or directly above the nest site during the nesting period of March 1st - July 31st, inclusive, or until the nest is abandoned.
37. In order to protect Northern Long Eared Bat habitat, the Permittees shall restrict tree clearing to November 1 through April 14 (dates inclusive). The Permittee shall clear less than 1% of the forested area within a mile of the project.
38. Any extracted stumps shall be disposed of on-site above the seasonal high-water table and not in any wetland, or at a state-certified stump and inert waste disposal facility, so as to prevent groundwater pollution.
39. The permit condition requiring an annual open house with the Town of West Rutland is eliminated. However, the Permittee shall continue to abide by the toll arrangement (which includes the annual tonnage of stone hauled from the quarry) with the Town of West Rutland established in the 1R0489- 4 EB (Revised) Permit. The Permittee may cease this payment at such time as the Town of West Rutland consents or upon obtaining an amendment to this permit.
40. Trucks under the Permittee's ownership shall not use engine braking within West Rutland Town limits.
41. Reclamation shall comply with Findings of Fact and Conclusions herein under Criteria 9(D) and 9(E) and Exhibit 16a, the revised reclamation plan.

42. This permit amendment shall expire on April 1, 2056.
43. Act 250 jurisdiction over the project tract shall not be lifted until the following requirements have been met:
 - a. The Permittee shall submit a report from a professional engineer specifically documenting precisely how the required reclamation work has been completed in accordance with the conditions of this permit, and the permit application, plans, and exhibits.
 - b. The District Environmental Commission shall issue a memorandum of decision determining that all reclamation has been successfully completed in accordance with the conditions of this permit, and the permit application, plans, and exhibits.
 - c. The District Coordinator shall issue a written opinion, determining that all required reclamation has been successfully completed, and formally lifting jurisdiction over the project tract.
44. Within five (5) years of the completion of final reclamation (April 1, 2056), the Permittee shall submit to the District Commission a report by a professional engineer describing the stability of the site and whether any additional measures are required to ensure the ongoing stability of the site.
45. The Permittee shall provide each prospective purchaser of any interest in this project a copy of the Land Use Permit Amendment and the Findings of Fact before entering into any written contract of sale.
46. Failure to comply with any condition herein may be grounds for permit revocation pursuant to 10 V.S.A. sec. 6027(g).

Dated this 14th day of January 2022

By /s/ Mattheew Krauss
Matthew Krauss, Chair
District 5 Environmental Commission

Commissioners participating in this decision:
John H. Fitzhugh
Norma Malone

This is an amended decision issued pursuant to Act 250 Rule 31.

If the District Commission issued this amended decision on its own motion, any party may file a motion to alter with the Commission within 15 days from the date of this decision, pursuant to Act 250 Rule 31(A). If the District Commission issued this amended decision in response to a motion to alter filed by a party, then no additional motions to alter this amended decision may be filed.

Any appeal of the Commission's decisions must be filed with the Superior Court, Environmental Division within 30 days of the date this amended decision was issued, pursuant to 10 V.S.A. Chapter 220. The Notice of Appeal must comply with the

Land Use Permit 1R0489-8(Altered)

Vermont Rules for Environmental Court Proceedings. The appellant must file with the Notice of Appeal the relevant entry fee required by 32 V.S.A. § 1431.

The appellant must also serve a copy of the Notice of Appeal on the Natural Resources Board, 10 Baldwin Street, Montpelier, VT 05633-3201, and on other parties in accordance with Rule 5(b)(4)(B) of the Vermont Rules for Environmental Court Proceedings.

Decisions on minor applications may be appealed only if a hearing was held by the district commission. Please note that there are certain limitations on the right to appeal, including appeals from Administrative Amendments and interlocutory appeals. See 10 V.S.A. § 8504(k), 3 V.S.A. § 815, and Vermont Rule of Appellate Procedure 5.

For additional information on filing appeals, see the Court's website at:

<http://www.vermontjudiciary.org/GTC/environmental/default.aspx> or call (802) 951-1740. The Court's mailing address is: Vermont Superior Court, Environmental Division, 32 Cherry Street, 2nd Floor, Suite 303, Burlington, VT 05401.

E-Notification CERTIFICATE OF SERVICE #1R0489-8(Altered)

I hereby certify that I, the undersigned, sent a copy of the foregoing **Memorandum of Decision and Order on Motion to Alter and Land Use Permit 1R0489-8(Altered)** on January 14, 2022, by electronic mail to the following addresses. All email replies should be sent to NRB.Act250barre@vermont.gov. **Note: Any recipient may change its preferred method of receiving notices and other documents by contacting the NRB District Office staff at the mailing address or email below. If you have elected to receive notices and other documents by email, it is your responsibility to notify the District Office of any email address changes.**

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