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September 29, 2023

Ms. Julie Hargrave  
Policy and Planning Manager  
Central Pine Barrens Joint Planning & Policy Commission  
624 Old Riverhead Road  
Westhampton Beach, NY 11978

**Re: SEQRA Lead Agency Coordination: 1-436-00057/00003  
4 Old Country Road LLC (formerly Westhampton Mining Aggregates)  
76 North Summit Boulevard, Westhampton  
Central Pine Barrens Core Preservation Area**

Dear Ms. Hargrave:

As you may be aware, our office represents applicant 4 Old Country Road LLC (the “Applicant”) regarding its Part 360 permit application concerning the above referenced property. We hereby respond to issues raised in the Central Pine Barrens Joint Planning & Policy Commission’s (“Commission”) correspondence to the New York State Department of Environmental Conservation (“NYSDEC”), dated May 17, 2023, regarding lead agency coordination.

Specifically, in its May 17, 2023 correspondence to NYSDEC, the Commission indicated that “[i]f the Project constitutes development, it will need Commission approval and the Commission would be an involved Agency.” Notably, since the receipt of this correspondence, which was addressed to NYSDEC, the scope of the Project proposed by the Applicant has been amended and, in fact, has been reduced. As detailed below, as the Project now consists solely of environmental restoration, it neither includes nor constitutes “development” under the Long Island Pine Barrens Maritime Reserve Act (“Act”).

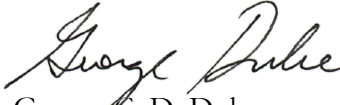
Pursuant to the Act at NY CLS ECL § 57-0123(2)(a), the Commission has “jurisdiction to review and approve all proposed development in critical resource areas and developments of regional significance as identified in the land use plan and proposed developments found by the commission after petition by a commissioner to have significant adverse impact on the land use plan.” Critically, NY CLS ECL § 57-0107(13)(c) defines the term “development” to include the “commencement of mining, excavation or material alteration of grade or vegetation on a parcel of land excluding environmental restoration activities.” (emphasis added). Notably, pursuant to the express language of the Act, the mere “potential” for redevelopment as a result of a project does not give rise to jurisdiction by the Commission.

The proposed Project consists of the remediation and environmental restoration of a former sand and gravel mine primarily under the jurisdiction of the NYSDEC. The work proposed is in furtherance of the December 1, 2022 Consent Order entered into with the NYSDEC requiring the investigation and remediation of the property. In fact, the permit sought by the Applicant to operate a Solid Waste Management facility pursuant to 6 NYCRR Part 360 is necessary to complete the environmental restoration of the site and would only be valid for a limited purpose and a limited (five year) term pursuant to the NYSDEC permit.

All activities proposed are needed for and in furtherance of the full environmental restoration of the subject site, consistent with the 2022 Consent Order, including the creation of a restorative buffer to protect the water table from possible contamination. Thus, as the Project consists solely of environmental restoration activities, expressly excluded from the definition of “development” at NY CLS ECL § 57-0107(13)(c), the Project does not include nor constitute “development” pursuant to the Long Island Pine Barrens Maritime Reserve Act. As such, the Project should not require formal approval from the Commission at this time.

Best regards,

CONNELL FOLEY LLP



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