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March 2, 2020

M. John Konior, Chairman  
Town of Kingston Planning Board  
906 Sawkill Rd.  
Kingston, NY 12401

RE: Response to Comments on 850 Route 28 Proposed Manufacturing Facility

Dear Chairman and Planning Board Members;

We have received the memo from Burke, Miele, Golden and Naughton LLP, dated January 3, 2020, and have respectfully prepared the following response. The appendices indicated below refer to the revised SEQRA Environmental Assessment Form Addendum submitted with this response letter. Both a redlined version of the EAF and a proposed final version have been submitted, to aid the Board and its consultants in their review.

- *"The tax identification numbers are not consistent and need to be changed to match across all documents (i.e., 36.1 vs. 36.100)."*

**Response:** Tax ID numbers have been revised as requested.

- *"Page 6 states that the property is "zoned for commercial and industrial use". The MU-2 zone is primarily a commercial zone and should be referenced as such. The EAF should also clarify that the EAF includes the study of the pending Town Board local law modifying the zoning map to include the property in the MU-1 zoning district, and that the project has been analyzed as though it is contained within the MU-1 district."*

**Response:** the EAF addendum has been revised as requested.

- *"Page 6 states The PB rescinded the Negative Declaration on August 19, 2019 due to a procedural error in the prior rezoning of this property, which requires further action by the town board, as well as comments and concerns submitted by the public." This should be revised to correct the date of the Planning Board's action in this respect and to mirror the Planning Board's resolution, i.e., "The Planning Board rescinded the Negative Declaration on August 29, 2019 because it determined that the new information presented by the public comments may have a significant adverse environmental impact and, together with the new involvement of the Kingston Town Board as a SEQRA Involved Agency owing to the Town Board's introduction of a Local Law proposing a Zoning Map change to include the property in the MU-1 zoning district."*



**Response:** The EAF addendum has been revised as requested.

- *"Page 7 states that the 'facility is approved by the Town of Kingston for "Heavy Equipment Storage with Maintenance Building'. This statement should be clarified to state that this approved use was a determination of the Town of Kingston Building Inspector."*

**Response:** On December 21, 2009, the Town of Kingston Planning Board issued site plan approval to John Smith and Aarjen Development for "Heavy Equipment Storage with Maintenance Building" to be used in conjunction with the quarry. The continued use of the site for heavy equipment storage with maintenance building by the current owner was approved by the Town of Kingston Building Inspector. The EAF addendum has been revised as requested.

- *"Page 7 mentions that "no evidence of threatened or endangered species was found on the site". The location of this statement in the document makes it seem as though the Applicant only intends this to refer to plant species. This statement must be clarified to indicate if it is limited to plant species or the same also applies to other endangered species."*

**Response:** The comment has been clarified and is included in the section entitled Wetlands, Species and Habitat, which includes the plants, animals and their habitats on site.

- *"On Page 7 the calculation of 37.7 acres appears to be incorrect. The acreages provided total 36.2 acres. This should be corrected/clarified."*

**Response:** The remaining 1.5 acres is comprised of the existing road.

- *"Page 7: The Applicant needs to clarify the status of the DEC validation of the noted wetland, and whether the Applicant has permission for the access road to be in the 100-foot buffer, including increasing the encroachment as required by the DOT. The Applicant should also clarify the status of the DOT review and improvements."*

**Response:** The DEC has validated the initial and revised wetland delineation maps. Both validated wetland delineation maps are included under the application documents tab of the project website ([www.859route28.com](http://www.859route28.com)). A Wetland Disturbance application has been filed with the DEC. As indicated in their March 15, 2019 letter to the Town Engineer (Appendix D), the DEC cannot process the wetlands permit applications until the Town reaches a determination of significance in regard to the State Environmental Quality Review Act.

The access road to the project site has been in use for over a half-century and is shown in the NYSDEC Bluestone Wild Forest Unit Management Plan (1997). The DOT has reviewed the Highway Improvement Plan and conceptual approval of the project and improved access was issued on February 18, 2020 (Appendix B).



- *“Page 9 – Response to Comment 2 – This paragraph needs to clarify how it is consistent with the paragraphs preceding it that concern settling ponds. Also, it would be helpful if here or elsewhere in the EAF there was a discussion of the new Waters of the United States rule recently implemented and how this affects the EAF statements, if at all.”*

**Response:** The new rule change loosens the WOTUS rule implemented during the Obama administration and could potentially apply to the man-made settling ponds. The initial habitat assessment prepared by H2H Associates did not classify the settling ponds as wetlands. However, the DEC considers the settling ponds to be part of the stream corridor for Tributary 6 of the Praymaher Brook and the National Wetlands Inventory database classifies the ponds as wetlands, therefore we have filed a Joint Application with DEC and Army Corps of Engineers for the minimal disturbance that will occur while constructing the outflows to the settling ponds. The plans have been designed to keep disturbance to the stream corridor to an absolute minimum.

- *“Page 11: The EAF should clarify if the DEC has expressed an opinion concerning the mitigation measures proposed for noise and lighting impacts on the bats and, if so, stating the DEC opinion. Also, the referenced “site preparation activity” must be more fully identified as to the activities involved.”*

**Response:** The mitigation measures are taken from the Indiana Bat Project Review Fact Sheet prepared by the US Fish and Wildlife Service and provided to us by the NYSDEC. Correspondence with the NYSDEC regarding this issue is included in the February 18, 2019 revision of the Threatened and Endangered Species Habitat Suitability Assessment Report (Appendix C).

Site preparation activities include drilling, blasting, excavation and grading and is more fully discussed in Section 10 of the revised EAF addendum.

- *“On Page 11, the referenced “noise mitigations” must be identified.”*

**Response:** The noise mitigations referenced include sound barriers and berms and the strategic placement of the rock crusher. The design and location of these mitigations can be found in the Sound Barrier Plan (Sheet PH-2) of the revised site plan and in the sound reports provided by H2H Geoscience.

- *“On Page 12, the summary of the noise study discusses how noise will be greater during construction. The EAF needs to clarify here the timing of the construction periods and the extent of any subsequent outdoor operational activities that will generate noise.”*

**Response:** Construction activities have been divided into two phases. Phase 1 encompasses the site preparation and construction activities for the first building. Phase 2 is comprised of site preparation and construction activities for the second building. Phase 2 will commence when the rough grading for Phase 1 is complete. Each phase is expected to take 18 to 24 months (12-18 months for site preparation and 6 months for building construction), and both buildings are expected to complete and operational within 3-4 years.



Initial site preparation for both buildings will produce noise from drilling, blasting, stone processing, hauling and excavating activities. Construction activity will be quieter, with noise generated by haul trucks and excavators completing the final grading of the building pad, associated roadways and stormwater features. Once the site is built out and operational, noise will be limited to tractor-trailers delivering materials and picking up finished products and haul trucks and forklifts moving materials and products to and from the yard and into the building.

- *“Page 12: The EAF must further clarify why rock removal and blasting will only occur during the first 2-3 years of preparation (e.g., quantity of rock to be removed and rate of removal), and the number of phases and duration of this activity in each year. Although some clarification is found on pages 20-21, at a minimum a reference to this discussion should be included if there is no further clarification needed.”*

**Response:** Initial site preparation will be comprised of rough grading the building pad and associated roadways and stormwater features. In order to create level areas to accommodate the proposed buildings and achieve rough grades, drilling and blasting will be needed to remove the highwalls left over from the former mining operation. Drilling, blasting & rock-removal will no longer be necessary once the rough grades for building construction have been achieved.

Approximately 405,000 CY of material will need to be blasted, processed and/or removed and is expected to be conducted at a rate of 20,000 to 30,000 CY of material per month. At this rate, it is estimated that it will take 12 to 18 months to complete initial site preparation activities for each phase, resulting in a total of 24-36 months for Phase 1 & 2 site preparation. Initial site preparation for Phase 2 will begin once the site preparation for Phase 1 is complete. The construction of the Phase 1 building will occur in conjunction with site preparation activities for Phase 2 and should take approximately 6 months. The Phase 2 building will be constructed once Phase 2 site preparation is complete and is expected to take 6 months, resulting in total project length of 3.5 years.

- *“Page 12 states that the ‘majority of the fabrication processes will be conducted within the proposed buildings’. The EAF must indicate the noise level for those processes that will be conducted outdoors, and whether that was covered/studied in the noise study.”*

**Response:** Fabrication of the precast concrete and steel beams will be conducted inside of the buildings. Processes that will generate noise outside the buildings during the fabrication process consists of trucks delivering materials to the site, haul trucks and forklifts moving materials into and finished products out of the buildings, and the trucking of finished products offsite to their destinations. These noise sources were accounted for in the sound study. For further information regarding sound generated during the fabrication/manufacturing process please see Section 4.0 of the November 2019 sound study provided by H2H Geoscience in Appendix H.



- *“Page 13 – Response to Comment on visual notes the importance of an existing 50-foot vegetative buffer, to be supplemented with an additional 50 feet of evergreens. The EAF should note whether the Applicant is willing to include as part of this mitigation a conservation easement, deed restriction, or other protection, to ensure the continued viability of this visual mitigation effort.”*

**Response:** Continuous maintenance of the vegetative buffer should be made a condition of the special use permit.

- *“Page 14: There is a dedicated easement across the access road into the site to the DEC for the public. The EAF states that “if requested by the NYSDEC the applicant will cooperate to determine an adequate location for this pedestrian right-of-way fully”. It would be best if the Applicant defines this easement now in coordination with the DEC so that the location of the pedestrian trail is clearly defined for the Planning Board to determining the efficacy of the overall site plan.”*

**Response:** The DEC has been contacted regarding the trail easement. In his January 21, 2020 email to Barry Medenbach, Bill Rudge, Natural Resource Supervisor for Region 3 of the NYSDEC, indicated that they “do not have any plans to develop a trail on the adjoining state forest preserve lands that would utilize this easement to cross your client’s lands” (Appendix J). He also provided a sketch of the preferred location for a trail, should the DEC decide to do so sometime in the future. This area is shown on the of Sheet SP1 (rev. February 25, 2020) of the enclosed Site Plan.

- *“On Page 16, the Town Engineer should weigh in as to whether it is acceptable for the treated stormwater to run to the settling ponds that the DEC has claimed jurisdiction over under the SWPPP.”*

**Response:** The settling ponds are currently receiving untreated stormwater running across the open quarry and occasionally overflowing into the adjacent stream channel. The proposed stormwater plan would increase the quality and decrease the flow of stormwater into these ponds and is designed in accordance with the NYSDEC Standards and Specifications for Erosion and Sediment Control. The Stormwater Pollution Prevention Plan we designed is in complete compliance and NYSDEC stormwater regulations to treat the runoff prior to discharge into the stream corridor. The discharge points will need to be permitted by the NYSDEC as part of this site plan application. We welcome any comments the Town Engineer may have regarding the proposed stormwater controls.

- *“Page 18: The Applicant has tested the existing onsite well, and are proposing two new wells, with no testing performed for those. The Town Engineer should weigh in on whether additional water testing or monitoring of neighboring wells is necessary or advisable.”*

**Response:** We requested our hydrogeological engineer to expand on his report to include the Planning Board’s concerns regarding the testing and/or monitoring of neighboring wells. His response (Appendix F), dated February 3, 2020, describes the potential effects of all three wells pumping simultaneously at the projected rate and concludes that the project will have no significant groundwater drawdown outside of the project boundaries.



- *"Page 20: The pace and location of where the excess rock is being exported to should be identified to better understand the impact, if any, of the associated truck traffic."*

**Response:** We estimate that 162,000 CY of stone will need to be removed from the site. This will occur during the first 2-3 years of construction activity. Assuming that a tandem-axle dump truck can haul approximately 12 CY of material, this translates to approximately 375 loads per month (or 80 loads per day with 20 workdays per month) leaving the site over a 3-year period.

This material is useful as structural fill and will help meet the local demand for such product, as there are several large projects currently under construction in the area. Market conditions during the time of extraction will ultimately determine where the material will be exported to but given the transportation costs associated with moving this material, it will most likely be within a 30-mile radius of the site.

- *"Pages 20 and 22: The Applicant has stated, 'All excavation is for the sole purpose of constructing the two manufacturing buildings and is therefore an exempt activity as defined in Article 23, Title 27, Section 23-2705 of the NYSDEC Mined Land Reclamation Law.' BMGN will review the limits of this exemption. The Applicant should also provide a final determination from DEC on this issue, if any exists; the DEC's noted response that 'the construction project as proposed may not be subject' to the Mined Land Reclamation Law is not determinative or adequate in this regard."*

**Response:** The DEC letter referenced above (Appendix D) also states "In order to aid in this determination, all permits required (state, federal, local) need to be submitted to the Department as well as a detailed description of the time frames associated with the excavation and subsequent construction," and "These permit applications, however, cannot be determined complete until the Town of Kingston Planning Board reaches a determination of significance pursuant to the State Environmental Quality Review Act." Therefore, a final determination from the DEC cannot be provided until the Town had made their determination of significance.

The DEC's construction exemption to the mine reclamation law is predicated on four determinations:

- 1) all other necessary permits (Local, State and Federal) have been obtained,
- 2) the excavation is necessary for the approved construction,
- 3) the excavation is solely within the project area and
- 4) construction will begin concurrently or soon after the completion of site preparation activities.

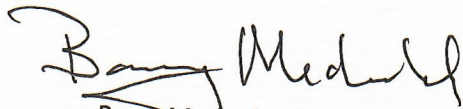
The project would meet all these criteria once the required permits are obtained, given the following:

- a) the rock to be removed is solely within the project area
- b) the excavation is limited to what is needed to level the site for the proposed facility, and
- c) construction of the buildings is to commence as soon as Phase 1 site preparation is complete.

As an aside, while researching the parcel we found an article (attached) published in the Poughkeepsie Journal illustrating that in the late 1980s, the NYSDEC was about to purchase a 395-acre parcel of land that included Onteora Lake and the lot containing the project site. When news of the impending sale was made public, Boccard Industries, a manufacturer of concrete bridge decking, pipes and highway barriers, approached Assemblyman Maurice Hinchey, then Chairman of the State Assembly's Environmental Conservation Committee, about purchasing the parcel in order to develop the abandoned quarry for a proposed manufacturing facility and offer the remaining lands to the NYSDEC at no profit. Recognizing the value of over 100 jobs for the Town of Kingston, Mr. Hinchey facilitated the sale of the parcel to Boccard and the remaining lands were conveyed to the NYSDEC.

If you have any additional concerns or comments, please feel free to contact me at (845) 687-0047 x101.

Yours Truly,



Barry Medenbach, P.E.  
NYS License No. 60142

cc: Ryan Loucks, Crawford Engineering  
Tom Auringer  
Dominic Cordisco

Att: PJ artice



# L.I. manufacturer to build \$10M plant in Kingston

By Harvey Auster  
Journal staff

**SAWKILL** — A Long Island manufacturer of heavy concrete products will build a \$10 million, 150,000-square-foot plant in the Town of Kingston that will employ more than 100 people.

The plans were announced Monday by Boccard Industries of Bethpage at a joint press conference held by its president, Daniel Boccard, and Assemblyman Maurice D. Hinchey, D-Saugerties.

The firm recently purchased a 395-acre former quarry along Route 28 in the Town of Kingston, near the City of Kingston line.

The land was about to be sold to the state Department of Environmental Conservation when Boccard came to Hinchey, chairman of the State Assembly's Environmental Conservation Committee, with a proposal to locate the plant in his 101st Assembly District.

With Hinchey's help, the state deferred

its purchase to allow Boccard to obtain the property, the two men said.

Boccard produces such concrete products as pipes, highway barriers and bridge decking. Its customers include the Department of Transportation.

The firm decided to move north because of traffic congestion and high operating costs on Long Island, the officials said. They said a good traffic pattern and proximity to the Hudson River were major factors.

"This site has access to the 200-mile region they've been looking for," said Hinchey.

Boccard will develop part of the site and resell the remaining 300 acres — including a mile-long lake — to the state at no profit. The acreage will be added to the Catskill Park complex as a recreation area.

Groundbreaking is scheduled for the summer. Operations will begin in the spring of 1988, officials said.

See KINGSTON, page 11A

## Kingston plant to create more than 100 jobs

Continued from page 9A

Hinchey said the complex will double the tax base of the Town of Kingston, which has less than 1,000 residents. According to the Ulster County Real Property Tax Office, the total town assessment is \$1.6 million, because it assesses at only 7 percent of true market value.

Boccard was established in 1966 as a father-son operation by Wilbur and Daniel Boccard. Wilbur, the father, now is chairman of the board and Daniel is president.

The firm employs about 140 people in Bethpage, though few of those employees are expected to move north with the firm.

Boccard said the firm had been looking to relocate for a year.

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Tues. Jan 6, 1987  
Poughkeepsie Journal