



US Army Corps
Of Engineers
Wilmington District

PUBLIC NOTICE

Issue Date: March 15, 2018
Comment Deadline: April 16, 2018
Corps Action ID Number: SAW-2007-01841

The Wilmington District, Corps of Engineers (Corps) received an application from Martin Marietta Materials, Inc. seeking Department of the Army (DA) authorization to impact 1,887 linear feet (lf) of stream for a proposed mine expansion, associated with the Salem Stone Quarry, in Kernersville, in Forsyth County, North Carolina. Note that the Salem Stone Quarry Mine Expansion was previously authorized under the same Corps Action ID (SAW-2007-01841) on November 6, 2007, with an expiration date of December 31, 2012. However, the project was not completed before the permit's expiration. The applicant is seeking authorization to complete the work that was previously authorized under the expired permit.

Specific plans and location information are described below and shown on the attached plans. This Public Notice and all attached plans are also available on the Wilmington District Web Site at:

<http://www.saw.usace.army.mil/Missions/RegulatoryPermitProgram.aspx>

Applicant: Martin Marietta Materials, Inc.
Attn: Mr. Larry Roberts
413 S. Chimney Rock Rd.
Greensboro, North Carolina 27409

Agent: Martin Marietta Materials, Inc.
Attn: Mr. Brian K. North
413 S. Chimney Rock Rd.
Greensboro, North Carolina 27409

Authority

The Corps evaluates this application and decides whether to issue, conditionally issue, or deny the proposed work pursuant to applicable procedures of the following Statutory Authorities:

- Section 404 of the Clean Water Act (33 U.S.C. 1344)
- Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403)
- Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413)

Location

Location Description: The project site is located immediately south of the existing Salem Stone Quarry which is situated west of High Point Road, east of Hastings Road, south of US Hwy 311, near the Town of Kernersville, in Forsyth County, North Carolina. The address for the Salem Stone Quarry is 4572 High Point Road, Kernersville, North Carolina 27284.

Project Area (acres): 96 acres Nearest Town: Kernersville
Nearest Waterway: Spurgeon Creek River Basin: Upper Pee Dee
Latitude and Longitude: 36.0262382 N, -80.1103207 W

Existing Site Conditions

The Salem Stone Quarry mine expansion site is located in the piedmont physiographic region of North Carolina. Forests within the proposed project area are dominated by red maple (*Acer rubrum*) and sweetgum (*Liquidambar styraciflua*) with an understory that consists of Chinese privet (*Ligustrum sinense*) and Japanese honeysuckle (*Lonicera japonica*). Two jurisdictional streams are located within the project area's boundaries and both are unnamed tributaries of Spurgeon Creek. No wetlands exist within the site. According to the Soil Survey of Forsyth County, on-site soils consist mostly of Fairview and Pacolet soil series. The eastern portion of the project site is located within the 100-year floodplain of Spurgeon Creek, a tributary of Abbotts Creek. The property that makes up the Salem Stone Quarry and the expansion site was acquired by Martin Marietta in 1987, and the quarry has been in operation since 1989. Land use in the vicinity of the existing quarry operation consists of low density residential neighborhoods and open pasture farm land.

Applicant's Stated Purpose

The applicant's stated purpose of the proposed project is to cost-effectively expand the existing crushed stone quarry operation at Salem Stone Quarry into known suitable stone reserves in order to serve market demand for crushed stone in the geographic area that encompasses Forsyth, Stokes, Guilford, Davidson, Davie and Yadkin counties.

Project Description

On November 6, 2007, the applicant received a DA permit to expand the Salem Stone Quarry into an approximately 106 acre tract of land located immediately south of the existing quarry, but the permit expired on December 31, 2012, before the work was completed. The permit authorized impacts to 3,527 lf of jurisdictional streams. Under the permit, 2,872 lf of stream impact required mitigation and 655 lf of stream impacts did not require mitigation due to the minimal aquatic function observed in the stream.

The applicant has indicated that only 10 acres (approximately 1,640 lf of stream impacts) of the proposed expansion area was completed under the permit before it expired. The applicant is requesting a DA permit to re-authorize impacts to the remaining 1,887 lf of stream that exists within the proposed mine expansion area so that the proposed project may be completed.

The applicant has already satisfied mitigation requirements for permanent impacts to all jurisdictional waters that were authorized by the original permit, including the impacts that have not yet occurred and are the subject of this application.

Avoidance and Minimization

The applicant provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment:

The applicant has nearly exhausted the stone reserves at its Salem Quarry in Forsyth County, North Carolina. In order to cost-effectively mine additional stone reserves which have been identified on site and to continue quarry operations to meet area demand for construction aggregates, the applicant proposes to expand its existing mining operations to the south, which would allow access to an estimated 85 million tons of stone reserves (estimated to provide approximately 125 years of product supply at current mining rates). The existing quarry operation is constrained to the north by US 311, to the east by High Point Road, and to the west by the main branch of Spurgeon Creek. No off-site alternatives for the proposed project would meet the project purpose and need, which is defined as cost-effective expansion of the existing facility to the original permitted boundaries to serve the market area. Furthermore, because the proposed expansion is dependent on the existing facility, any off-site alternative would be financially unfeasible for the applicant and would likely result in increased impacts to jurisdictional waters of the U.S. due to the size of the site required.

The applicant studied three alternatives on their preferred project site. One alternative that was considered was to mine around the two existing intermittent stream channels on the site. However, due to the close proximity of the stream channels to each other and the amount of the existing overburden (material above the rock reserves) on the site, it was determined that adequate reserves would not be achieved with this alternative. The constraints of the stream channels would significantly reduce the available stone for mining. Therefore, this alternative is not feasible for this location. Another alternative that was considered was to relocate the two intermittent stream channels on the site. However, due to the topographical challenges on the site, the relocated stream channels would have to be placed in 300 foot wide open cuts to achieve the necessary grade for natural stream channel slopes. This would result in an unstable and unnatural conveyance of stream channel flows plus would greatly impact the available access to the stone reserves on the 106 acre tract.

The applicant proposes that by allowing the water within the two tributaries to enter the pit of the proposed quarry expansion, the quality of the water entering Spurgeon Creek from these impacted tributaries would be improved. The onsite treatment and stormwater control resulting from the quarry operations could be a net benefit to the water quality of Spurgeon Creek as the existing stream channels are highly erosive. This alternative maximizes the amount of the available stone in a concentrated area while avoiding and minimizing impacts to the main branch of Spurgeon Creek.

Compensatory Mitigation

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: Mitigation requirements for all impacts authorized under the original permit have been satisfied, including those that have not yet occurred and are requested in this application. The applicant provided supporting documentation in a letter, dated November 29, 2007, from the North Carolina Ecosystem Enhancement Program (NCEEP) that indicates that compensatory mitigation requirements associated with the previously authorized activity have been satisfied.

Essential Fish Habitat

Pursuant to the Magnuson-Stevens Fishery Conservation and Management Act, this Public Notice initiates the Essential Fish Habitat (EFH) consultation requirements. The Corps' initial determination is that the proposed project would not effect EFH or associated fisheries managed by the South Atlantic or Mid Atlantic Fishery Management Councils or the National Marine Fisheries Service.

Cultural Resources

Pursuant to Section 106 of the National Historic Preservation Act of 1966, Appendix C of 33 CFR Part 325, and the 2005 Revised Interim Guidance for Implementing Appendix C, the District Engineer consulted district files and records and the latest published version of the National Register of Historic Places and initially determines that:

- Should historic properties, or properties eligible for inclusion in the National Register, be present within the Corps' permit area; the proposed activity requiring the DA permit (the undertaking) is a type of activity that will have no potential to cause an effect to an historic properties.
- No historic properties, nor properties eligible for inclusion in the National Register, are present within the Corps' permit area; therefore, there will be no historic properties affected. The Corps subsequently requests concurrence from the SHPO (or THPO).

- Properties ineligible for inclusion in the National Register are present within the Corps' permit area; there will be no historic properties affected by the proposed work. The Corps subsequently requests concurrence from the SHPO (or THPO).
- Historic properties, or properties eligible for inclusion in the National Register, are present within the Corps' permit area; however, the undertaking will have no adverse effect on these historic properties. The Corps subsequently requests concurrence from the SHPO (or THPO).
- Historic properties, or properties eligible for inclusion in the National Register, are present within the Corps' permit area; moreover, the undertaking may have an adverse effect on these historic properties. The Corps subsequently initiates consultation with the SHPO (or THPO).
- The proposed work takes place in an area known to have the potential for the presence of prehistoric and historic cultural resources; however, the area has not been formally surveyed for the presence of cultural resources. No sites eligible for inclusion in the National Register of Historic Places are known to be present in the vicinity of the proposed work. Additional work may be necessary to identify and assess any historic or prehistoric resources that may be present.

The District Engineer's final eligibility and effect determination will be based upon coordination with the SHPO and/or THPO, as appropriate and required, and with full consideration given to the proposed undertaking's potential direct and indirect effects on historic properties within the Corps-identified permit area.

Endangered Species

Pursuant to the Endangered Species Act of 1973, the Corps reviewed the project area, examined all information provided by the applicant and consulted the latest North Carolina Natural Heritage Database. Based on available information:

- The Corps determines that the proposed project would not affect federally listed endangered or threatened species or their formally designated critical habitat.
- The Corps determines that the proposed project may affect federally listed endangered or threatened species or their formally designated critical habitat.
 - The Corps initiates consultation under Section 7 of the ESA and will not make a permit decision until the consultation process is complete.
 - The Corps will consult under Section 7 of the ESA and will not make a permit decision until the consultation process is complete.

- The Corps has initiated consultation under Section 7 of the ESA and will not make a permit decision until the consultation process is complete.
- The Corps determines that the proposed project may affect federally listed endangered or threatened species or their formally designated critical habitat. Consultation has been completed for this type of activity and the effects of the proposed activity have been evaluated and/or authorized by the National Marine Fisheries Service (NMFS) in the South Atlantic Regional Biological Opinion or its associated documents, including 7(a)(2) & 7(d) analyses and Critical Habitat assessments. A copy of this public notice will be sent to the NMFS.
- The Corps is not aware of the presence of species listed as threatened or endangered or their critical habitat formally designated pursuant to the Endangered Species Act of 1973 (ESA) within the project area. The Corps will make a final determination on the effects of the proposed project upon additional review of the project and completion of any necessary biological assessment and/or consultation with the U.S. Fish and Wildlife Service and/or National Marine Fisheries Service.

Other Required Authorizations

The Corps forwards this notice and all applicable application materials to the appropriate State agencies for review.

North Carolina Division of Water Resources (NCDWR): The Corps will generally not make a final permit decision until the NCDWR issues, denies, or waives the state Certification as required by Section 401 of the Clean Water Act (PL 92-500). The receipt of the application and this public notice, combined with the appropriate application fee, at the NCDWR Central Office in Raleigh constitutes initial receipt of an application for a 401 Certification. A waiver will be deemed to occur if the NCDWR fails to act on this request for certification within sixty days of receipt of a complete application. Additional information regarding the 401 Certification may be reviewed at the NCDWR Central Office, 401 and Buffer Permitting Unit, 512 North Salisbury Street, Raleigh, North Carolina 27604-2260. All persons desiring to make comments regarding the application for a 401 Certification should do so, in writing, by April 5, 2018 to:

NCDWR Central Office
Attention: Ms. Karen Higgins, 401 and Buffer Permitting Unit
(USPS mailing address): 1617 Mail Service Center, Raleigh, NC 27699-1617

Or,

(physical address): 512 North Salisbury Street, Raleigh, North Carolina 27604

North Carolina Division of Coastal Management (NCDCM):

- The application did not include a certification that the proposed work complies with and would be conducted in a manner that is consistent with the approved North Carolina Coastal Zone Management Program. Pursuant to 33 CFR 325.2 (b)(2) the Corps cannot issue a Department of Army (DA) permit for the proposed work until the applicant submits such a certification to the Corps and the NCDCM, and the NCDCM notifies the Corps that it concurs with the applicant's consistency certification. As the application did not include the consistency certification, the Corps will request, upon receipt, concurrence or objection from the NCDCM.
- Based upon all available information, the Corps determines that this application for a Department of Army (DA) permit does not involve an activity which would affect the coastal zone, which is defined by the Coastal Zone Management (CZM) Act (16 U.S.C. § 1453).

Evaluation

The decision whether to issue a permit will be based on an evaluation of the probable impacts including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values (in accordance with Executive Order 11988), land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. For activities involving the discharge of dredged or fill materials in waters of the United States, the evaluation of the impact of the activity on the public interest will include application of the Environmental Protection Agency's 404(b)(1) guidelines.

Commenting Information

The Corps of Engineers is soliciting comments from the public; Federal, State and local agencies and officials, including any consolidated State Viewpoint or written position of the Governor; Indian Tribes and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal.

To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment (EA) and/or an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA). Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Requests for a public hearing will be granted, unless the District Engineer determines that the issues raised are insubstantial or there is otherwise no valid interest to be served by a hearing.

The Corps of Engineers, Wilmington District will receive written comments pertinent to the proposed work, as outlined above, until 5pm, April 16, 2018. Comments should be submitted to Mr. Ross Sullivan, Raleigh Regulatory Field Office, 3331 Heritage Trade Drive, Suite 105 , Wake Forest, North Carolina 27587, at (919) 554-4884, ext. 25.