US Army Corps
Of Engineers
Wilmington District

PUBLIC NOTICE

Issue Date: December 21, 2021
Comment Deadline: January 19, 2022
Corps Action ID Number: SAW-2020-00436

The Wilmington District, Corps of Engineers (Corps) received an application from Hedrick Gravel and Sand Company- Lake Norman Quarry seeking Department of the Army authorization to impact 3,170 linear feet (lf) (2.18 acres) of Forney Creek, associated with a proposed expansion of an existing aggregate quarry at 6941 Quarry Lane in the Stanley community of Lincoln County, North Carolina.

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: https://www.saw.usace.army.mil/Missions/Regulatory-Permit-Program/Public-Notices/

Applicant:
Hedrick Industries
Attn: Mr. Jason Conner
Post Office Box 425
Swannanoa, North Carolina 28778
jconner@hedrickind.com

AGENT (if applicable):
Civil and Environmental Consultants, Inc.
Attn: Mr. Kevin Thomas
3701 Arco Corporate Drive, Suite 400
Charlotte, North Carolina 28273
kthomas@cecinc.com

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: Project is located at 6941 Quarry Lane, off Highway 16 approximately one mile south of Highway 73, near the Town of Stanley in Lincoln County, North Carolina.

Project Area (acres): 499.5 Nearest Town: Stanley, NC
Nearest Waterway: Killian Creek River Basin: Catawba
Latitude and Longitude: 35.260888N, -81.012457W

Existing Site Conditions

The proposed project is located within the current permitted mine boundary at the Lake Norman Quarry (LNQ) Mine operated by Hendrick Industries in the eastern portion of Lincoln County. Hedrick Industries plans to operate under the current permit (NCDEQ Division of Land Quality Quarry Permit #55-01) to meet the continued and growing need for construction aggregate product (i.e., crushed stone) in Lincoln County and the Charlotte Metro Region of North Carolina.

The site is currently providing aggregate product for multiple businesses and organizations. Land use within the permitted LNQ Mine footprint consists of the pit, the processing plant(s), overburden storage, pond fine storage, ponds, an asphalt plant and a concrete plant (Reference Figure 1 and Figure 2). Land use surrounding the area of LNQ Mine currently consists of a residential housing development (Trilogy Home development) to the North; a permitted Landfill (Republic Services) to the East; a Natural Gas Combustion Power Plant (Duke Power Combustion Turbine Plant) and the Killian Creek Wastewater Treatment Facility to the West and Southwest. The Southern boundary is occupied by an existing overhead transmission line Right-of-Way (ROW) that services the combustion power plant. An additional natural gas line ROW exists along the southern border. Blum Manufacturing facilities and the Earnhardt Grading Company are located to the South (Reference Figure 3).

The project site is located within North Carolinas Piedmont Ecoregion. Vegetation communities and habitats include old fields, rock outcrops, streams, and woodlands, where species diversity for some animal groups, such as amphibians, reptiles and birds, is relatively high. The current NCDEQ permitted mine boundary is comprised mostly of forested land, dense thickets of tall shrubs, riparian areas, and developed or disturbed lands.

The USDA Web Soil Survey of Lincoln County identifies the following soil mapping units within the project area:

Table 1. Project Area Soils

Soil Type	Soil Description	Hydric Status	Acres
CeB2	Cecil sandy clay loam, 2 to 8 percent slopes moderately eroded	No	47.86
ChA	Chewacla loam, 0 to 2 percent slopes, frequently flooded	Partially	44.71
LdB2	Lloyd sandy clay loam, 2 to 8 percent slopes, moderately eroded	NO	4.65
LdC2	Lloyd sandy clay loam 8 to 15 percent slopes, moderately eroded	No	6.32
MaD	Madison Sandy Loam, 15 to 25 percent slopes	No	8.98
MdB2	Madison Sandy Clay Loam, 2 to 8 percent slopes, moderately eroded	No	0.73
MdC2	Madison Sandy Clay Loam, 8 to 15 percent slopes, moderately eroded	No	2.50
PaD	Pacolet Sandy loam, 15 to 25 percent slopes	No	24.28
PeB2	Pacolet Sandy Clay loam, 2 to 8 percent slopes, moderately eroded	No	95.32
PeC2	Pacolet Sandy Clay loam, 8 to 15 percent slopes, moderately eroded	No	145.62
Pt	Pits/ Quarry	No	19.82
RvA	Riverview Loam, 0 to 2 percent slopes, occasionally flooded	Partially	1.53
Ud	Urdorthents, Loamy	No	89.83
W	Water	yes	6.49
WyC	Wynott-Winnsboro-Rowan Complex, 8 to 15 percent slopes	No	1.09
WyD	Wynott-Winnsboro-Rowan Complex, 15 to 25 percent slopes	No	0.78

The FEMA FIRMs mapping identifies portions of the project area inside the 100-year floodplain. Under the preferred alternative, the mine wall expansion would encroach into the 100-year FEMA floodplain. Floodway alterations would occur due to the realignment of Forney Creek. The applicant is preparing a FEMA Conditional Letter of Map Revision (CLOMR) submittal package.

An aquatic resources delineation was completed within the project site and was verified by the Corps on March 8, 2021. The project area contains 15,722 linear feet streams (Table 2), 4.5 acres wetlands (Table 3), and 10.9 acres open waters (Table 3).

Table 2: Project Area Streams

Stream Name	Stream Classification	Approximate Length of Perennial Stream (linear feet)
SA 1 (Forney Creek)	Perennial	5,194
SA 2	Perennial	77
SA 3	Perennial	3391
SA 4	Perennial	296
SA 5	Perennial	3257
SA6	Perennial	3507
	TOTAL	**15,722 linear feet**

Table 3: Project Area Wetlands and Waters

Wetland Name	Approximate Acreage
WA 1	4.5
Pond 1	6.8
Pond 2	0.8
Pond 3	0.9
Pond 4	0.3
Pond 5	1.2
Pond 6	0.9

The site is located within the Catawba River Basin. The waters on site drain to Killian Creek, a tributary within the 030501011303 USGS HUC. A functional assessment of the aquatic resources was not submitted as part of the application package.

Applicant's Stated Purpose

The applicant proposes to extend the Life of Mine (LOM) expectancy and projected reserve base of the LNQ Mine from 15 years, to between 75-100 years to meet the current and future economic production demands of aggregate product.

Project Description

The proposed action area footprint encompasses approximately 11 acres. Under the preferred alternative, the existing mine pit would be expanded laterally, to the northwest ranging from 100 to 300 lf allowing the pit floor to be deepened, vertically by, by an extra 100 feet from the current 95 feet below the exiting ground surface. The proposed action area footprint encompasses approximately 11 acres and would require an estimated 3,170 LF of Forney Creek (SA-1) to be relocated. Forney Creek is an impaired EPA listed 303d aquatic resource, characterized by low water quality and highly unstable banks. Within Forney Creek a low head dam is located along the Eastern portion of the project action area and would be removed. An existing

undersized culvert would also be replaced with a bridge span. Stream relocation and enhancement would occur by realigning Forney Creek to a more stable configuration using Natural Channel Design methodologies.

Avoidance and Minimization

The applicant did not specifically address efforts to avoid and/or minimize impacts to the aquatic environment , however, they did lead provide information regarding their alternative analysis.

In order for Hedrick Industries to fully preform the functions for which aggregate production can be achieved, the following screening and design criteria were considered when developing the practicable alternatives analysis.

1. The alternative must consider the geophysical integrity of the site, choosing areas that would not hinder mining activities, such as overburden stability and or depth to viable product.
2. The alternative must contain soils/geology that meet the American Society of Testing and Material (ASTM) standards and requirements set by the North Carolina Department of Transportation, Standard Specifications for Roads and Structure (NCDOT 2018).
3. The alternative shall consider areas that would not significantly impact sensitive resource areas (including but not limited to state and federally protected species' habitats, water resources (such as wetlands), and/or cultural resource areas.
4. The alternative shall consider areas that would not significantly impact the surrounding land uses, considering adverse impacts to the surrounding residential and industrial areas.
5. The alternative area must be located within a one-mile radius from the LNQ Mine to meet the requisite aggregate product trucking/transportation needs. Specifically, the proposed expansion areas would need to be located close enough to the LNQ Mine as to minimize travel distances, particularly on public roadways.
6. The alternative must be sited on property owned by the proponent, or on at least 100 acres of contiguous industrial zoned land available for purchase.
7. The alternative must consider areas that would not conflict with existing high voltage transmission power lines, as mining could take place underneath.
8. The alternative area must be constructed in an area in which slope stability concerns do not create a safety hazard.

During the design of the proposed project, the applicant has identified and evaluated five on-site alternatives, and one potential off-site alternative (Table 4).

Table 4: Screening Criteria Constraints for Alternative Analysis

Alternative Number	SCREENING CRITERIA CONSTRAINTS						
	Infrastructure, geophysical integrity	Impacts to existing infrastructure	Impacts to sensitive resource areas	Impacts to surrounding land use	Meets safety requirements	Impacts to NWI resources	Impacts to floodplains
1	*	X/ +	*	*	*	X/ +	X / -
2	X	*	*	*	X	*	NA
3	X	*	*	X	X	X / -	X/ -
4	X	X	*	*	*	X / -	X/ -
5	X	X	*	*	*	X/ -	X/ -

Notes: * = meets criteria/no impacts: **X**= does not meet criteria/ will impact: **+** = impacts would be beneficial: **-** = impacts would be negative

The alternatives analysis includes consideration of five on-site design alternatives located adjacent or near the existing quarry (Alternative 1-5), as well as a potential off-site alternative, considered for a Greenfield Site Location (Alternative 6). The No-action alternative has also been included for comparison. A short description of each alternative is listed below.

Alternative 1: (Preferred Alternative)
Under alternative one, an existing mine wall would be expanded laterally, to the northwest ranging from 100 to 300 lf allowing the pit floor to be deepened, vertically by an extra 100 ft from the current 95 feet below the exiting ground surface. In order to expand the mine wall to the northwest Forney Creek would be realigned and subsequentially restored. Under this action approximately 3,170 Linear Feet of Forney Creek would be impacted.

Alternative 2: No-wall expansion, Deepen Current Pit
Hedrick Industries considered no aerial footprint expansion, only a deepening of the current mine pit by approximately 100 feet. Safety requirements could not be met due to wall, bank, and slope stability requirements. Dewatering the pit at this elevation would also be required.

Alternative 3: New Quarry Pit, North Side
A new 22.8-acre quarry pit would be excavated on the north side of the LNQ Mine. The overburden resulting from alternative 3 is proposed to be moved to the southern portion of the site resulting in permanent impacts to 2,601 lf of stream. The cost to remove the overburden was deemed prohibitive.

Alternative 4: South Expansion
The existing quarry mine would be expanded to the south by approximately 56 acres. The proposed expansion area includes infrastructure within the project footprint. This includes an existing plant and roads to the south, ponds to the southeast, and Duke Energy's Transmission line and ROW. Approximately 3,544 linear feet of stream would be impacted and floodplain impacts. Cost, and movement of ROW lines was prohibitive.

Alternative 5: East Mine Wall Expansion
An existing mine wall to be expanded to the east, extending the area to approximately 40.1 acres. Aerial imagery reveals that storage and series ponds currently reside within the proposed alternative expansion aera, and those would need to be moved to the southern portion of the site. Resulting in approximately 3,310 linear feet of stream impacts along with floodplain impacts. Additional infrastructure in addition to adverse stream impacts. The pond fine stockpile that would need to be relocated would pose another constraint.

Alternative 6: Greenfield Site
Hedrick Industries would move its current operating facilities to a proposed Greenfield Site location. The following screening criteria: the potential site to contain at least 100 acres of land, after the required NC DEQ 50 ft property buffer boundary is applied, available for purchase, be zoned as industrial, be one contiguous parcel or have the same owner of multiple parcels. The potential site locations could not contain existing companies or infrastructure and must have minimal potential to impact streams and wetlands. All sites were deemed insufficient.

Alternative 7: No-Action
The proposed action would not occur and the quarry mine would not be expanded. As a result, the LOM and potential reserve base would expire within 15 to 25 years, pending aggregate product demand.

Compensatory Mitigation

The applicant attempted to avoid and minimize impacts where possible and will use permittee-responsible mitigation to offset the remaining unavoidable losses to the best extent practicable. The applicant proposes the following permittee-responsible plans for the unavoidable impacts to Waters of the United States.

The applicant's plan includes a design that will relocate Forney Creek away from the LNQ Mine, using priority 1 and priority 2 restoration, and brings the stream invert to the current invert of the low head dam (Reference Drawing 1- Nature of Activity Display). Stream relocation and enhancement would occur by realigning Forney Creek to a more stable configuration using Natural Channel Design methodologies. Priority 1 restoration and enhancement techniques would be applied to 2,848 linear feet of the existing stream, while Priority 2 restoration and enhancement techniques would be applied to

the remaining 322 lf of stream. Priority 1 restoration and enhancement of Forney Creek will include establishing bank full stage at historical floodplain elevation, replacing incised channel with a new, stable stream at a higher elevation.

To ensure that there would be no net loss of habitat, approximately 2,879 linear feet of stream would be restored and enhanced, creating an additional 31 linear feet of priority 1 stream work. Priority 2 restoration would begin where priority 1 work would end and extend the life of the proposed tie-in for a total of 160 linear feet of priority 2 restoration and enhancement. Priority 2 restoration and enhancement will create a new floodplain and stream alignment with the streambed remaining at present elevation.

Applicant provided Goals and Objectives (Table 5).

Table 5: Goals and Objectives

Stream	Goals	Objectives
Forney Creek	Maintain and improve floodplain connectivity	Reduce BHR to 1.2 or less and increase entrenchment ratio range from 3.6 to 6.5 to ensure long-term stability of the design reach
	Maintain or improve bedform diversity	Install riffle structures to increase length and restore natural pool to pool spacing and pool depth ratio
	Maintain or improve lateral ability	Install in channel habitat consisting of large woody debris, and in channel structures for lateral stability
	Maintain and improve riparian vegetation buffer	Establish riparian buffers with native vegetation
	Establish long term protection	Protect the sites with the creation of a conservation easement.

Essential Fish Habitat

The Corps' 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.

☐ This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. Implementation of the proposed project would impact (CHOOSE ALL THAT APPLY- marine substrate, estuarine substrate, water columns, emergent wetlands, submerged aquatic vegetation, artificial reefs, hardbottoms) (see project description) utilized by various life stages of the following species: (CHOOSE ALL THAT APPLY – coastal migratory pelagics, corals, golden crab, shrimp, snapper grouper, spiny lobster,

Atlantic highly migratory species). Our initial determination is that the proposed action would not have a substantial individual or cumulative adverse impact on EFH or fisheries managed by Fishery Management Councils and the National Marine Fisheries Service (NMFS). Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the NMFS.

☐ The Corps will consult under the Magnuson-Stevens Act and will not make a permit decision until the consultation process is complete.

☐ The Corps has initiated consultation the Magnuson-Stevens Act and will not make a permit decision until the consultation process is complete.

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 property.

☒ 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, not likely to adversely affect federally listed endangered or threatened species or their formally designated critical habitat.

☐ By copy of this public notice, 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. Unless NCDWR is granted a time review extension, a waiver will be deemed to occur if the NCDWR fails to act on this request for certification within 120 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 February 18, 2022 to:

NCDWR Central Office
Attention: Mr. Paul Wojoski, 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, January 19, 2022. Comments should be submitted to Mr. Steven Kichefski, Asheville Regulatory Field Office, 151 Patton Avenue, Room 208, Asheville, North Carolina 28801.