



**US Army Corps  
Of Engineers**  
Wilmington District

# PUBLIC NOTICE

Issue Date: May 23, 2022  
Comment Deadline: June 21, 2022  
Corps Action ID Number: SAW-2011-01934

The Wilmington District, Corps of Engineers (Corps or USACE) received an application from Martin Marietta Materials, Inc. (MMM or Martin Marietta), seeking Department of the Army authorization for 430 linear feet [lf, (0.039 acres)] of permanent stream impacts (clearing and grading) and 0.25 acres (ac) of permanent wetland impacts (clearing and grading), associated with the expansion of the overburden storage area at the existing Martin Marietta quarry in Hickory, Catawba 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:** Martin Marietta Materials, Incorporated  
Attn: Ronald Kopplin  
2235 Gateway Access Point  
Suite 400  
Raleigh, North Carolina 27607

## 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 a portion of a tract land (parcel no. 3712 1564 0891) within the existing Martin Marietta quarry at 1989 11<sup>th</sup> Avenue SE in Hickory, Catawba County, North Carolina.

Project Area: Approximate 32-acre portion of larger tract  
Nearest Town: Hickory  
Nearest Waterway: Unnamed (UT) Clark Creek and Clark Creek  
River Basin: South Fork Catawba (03050102)  
Latitude and Longitude: 35.72039N, -81.30806W

### Existing Site Conditions

The project site is within the existing Martin Marietta Hickory Quarry. The quarry operations include an operating granite quarry pit, stockpile yard, plant and infrastructure, overburden storage areas, and wooded buffers. The current NC Department of Environmental Quality (DEQ) Division of Energy, Mineral and Land Resources (DEMLR) permit (No. 18-01), issued on October 11, 2017, allows the project site to be used for overburden storage.

The project site is a wooded swathe between two existing overburden storage areas. Timber was cut at the project site in 2012 and is now dominated by thick shrub species and immature trees. Soils within the project area consist of Clifford Sandy Loam soils on the hill tops with Fairview Sandy loam and clay loam on the hill slopes. Areas near Clark Creek are mapped as Codorus loam.

Waters at the project site are part of the Catawba River system and are within the South Fork Catawba River watershed (HUC 03050102). The stream at the site is a UT of Clark Creek and generally flows toward the north. Clark Creek is adjacent to the north boundary of the project site and flows through the quarry property and exits the property in the southeast portion of the property. Clark Creek flows into the South Fork Catawba River at Lincolnton, NC.

As designated by the DEQ – Division of Water Resources (DWR), the stream at the site is classified as fresh water secondary recreation-aquatic life class C. There is a wetland located within the project boundary and has been identified as an emergent wetland. The mapped FEMA 100-year floodplain is located along Clark Creek. However, the project's limits of grading and land disturbance will not be within the FEMA floodplain. The project site contains the following amounts of potential jurisdictional waters of the U.S. (WoUS).

#### Summary of Potential Jurisdictional Waters

Aquatic Resource	Amount
Stream	430 lf (0.039 ac)
Wetland	0.25 ac

The Corps verified the field delineation of potential jurisdictional waters for the project site in August 2021. The applicant has not submitted a request for a jurisdictional determination.

The applicant conducted a file review of records maintained by the U.S. Fish and Wildlife Service (FWS) and the North Carolina Natural Heritage Program (NHP). The review provided an inventory of current and historic occurrences of protected species within a mile of the project area. This review also provided an overall catalogue of federal protected species for the general vicinity of the project site.

**Summary of Federal Listed Protected Species  
In the General Vicinity of the Project Site**

Common Name	<i>Scientific Name</i>	Federal Status
Bog turtle	<i>Glyptemys muhlenbergii</i>	T (S/A)
Dwarf-flowered heartleaf	<i>Hexastylis naniflora</i>	T
Schweinitz’s sunflower	<i>Helianthus schweinitzii</i>	E

- E - Endangered. A taxon “in danger of extinction throughout all or a significant portion of its range.”
- T - Threatened. A taxon “likely to become endangered within the foreseeable future throughout all or a significant portion of its range.”
- S/A – Threatened due to similar appearance.

Martin Marietta reviewed of existing site conditions and conducted a search of the project site, which revealed no federal endangered or threatened species are in the project area. Conditions on the site, being recently timbered and overgrown with shrub species, is not indicative to habitat for dwarf-flowered heartleaf. Furthermore, the site has been searched and no occurrences of this species were found. The project area includes a maintained powerline easement. This power line corridor could be considered habitat for Schweinitz’s sunflower. As such, the powerline corridor was searched and a species similar to Schweinitz’s sunflower was found. This species was identified as small woodland sunflower (*Helianthus microcephalus*). Schweinitz’s sunflower was not found on site.

Martin Marietta is not aware of any properties or structures that are listed or eligible for listing with the National Register of Historic Properties (NRHP) within the immediate vicinity of the project area. Due to the fact that this is not an expansion of the existing quarry site boundaries, no impacts to historic properties or structures would be expected.

**Applicant’s Stated Purpose**

The basic purpose of this project is to cost-effectively mine construction grade aggregate reserves at the existing Hickory quarry facility. The overall project purpose is to cost-effectively continue operation of the aggregate quarry facility at Hickory by providing storage for overburden to uncover valuable market needed aggregate reserves. Hickory quarry has currently exhausted all of its current overburden storage options. Without augmentation of overburden storage, MMM will be unable to uncover reserves to serve market demand.

## Project Description

The quarry has exhausted all open space available for overburden storage. Any additional storage options at the current quarry property would require impacts to waters. This project involves filling a wooded valley between two existing overburden storage areas for the purposes of storing additional overburden. Within that valley there exists a small perennial stream. This stream flows down into an emergent wetland which is adjacent to Clark Creek.

In order to continue mining operations at the Hickory quarry, an estimated 750,000 cubic yards of overburden must be removed to uncover aggregate reserves. This project involves filling the stream and valley with approximately 340,000 cubic yards of material which will bring the project area grade up to the same level as the two existing adjacent overburden storage areas. After the two existing storage areas have been connected and leveled across this existing valley, another lift can be built on the entire area that will allow storage of the remaining 410,000 cubic yards. The impacts to waters associated with the project are summarized in the table below:

<b>Summary of Proposed Impacts to WoUS</b>			
<b>Stream &amp; Wetland Impacts</b>			
<b>Waters</b>	<b>Impact Amount (all impacts are permanent)</b>		<b>Purpose</b>
	<b>Liner Feet</b>	<b>Acre</b>	
Stream A	430	0.039	Fill and grading
Wetland	0	0.250	Fill and grading

## Avoidance and Minimization

The applicant provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment. Pre-project site planning was conducted to delineate, and field verify jurisdictional WoUS within the proposed project area. In preparing the project plans, the applicant considered a variety of constraints, including impacts to wetlands and other WoUS.

Martin Marietta has avoided higher quality areas of Clark Creek and its floodplain and is only proposing to impact a small stream (Stream A) and an emergent wetland. To minimize impacts to other waters, the applicant proposes use of stormwater management and erosion control techniques that preserve downstream water quality. Martin Marietta will use stripping techniques that will limit the loss of material downstream or into adjacent wetlands and streams. As the overburden is removed or stripped from the site, all runoff will be directed to the quarry pit or an erosion/sediment control structure. As overburden is stored, all runoff will be directed into appropriate erosion control structures and stabilized by planting vegetation as soon as possible. A minimum 50ft wooded buffer will be maintained around all wetlands and waters not directly impacted by the proposed project.

## Compensatory Mitigation

The proposed project does involve permanent impacts to jurisdictional WoUS. Upon completion and implementation of practical avoidance and minimization efforts, 430 lf of stream channel and 0.25 acres of wetland impacts associated with fill and grading activities are unavoidable. These impacts result in the permanent loss of 430 lf of stream and 0.25 acres of wetlands.

The applicant proposes to mitigate for 430 lf of proposed stream impacts and 0.25-ac of proposed wetland impacts through NC Division of Mitigation Services (DMS). By letter dated May 4, 2022, DMS has indicated they are willing to accept payment for impacts associated with this project. The applicant proposes a credit ratio of 1:1 for the impacted stream and a 2:1 ratio for the impacted wetland. The Corps will base the required mitigation ratio and credits based upon review of the submitted aquatic resource functional assessment data, comments received to the public notice, a site evaluation of the aquatic resources, and information submitted by FWS, DWR, and WRC.

## 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 affect 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.

North Carolina State Historic Preservation Office (SHPO) and applicable tribal historic preservation offices (THPO) will be notified via public notice about the project and will be given the opportunity to comment on the project and its potential effects on cultural resources. 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' 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.
- 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.

The FWS will be notified via public notice about the project and will be given the opportunity to comment on the project and its potential effects on threatened and endangered species. The District Engineer's final effects determination will be based upon submitted comments to this public notice from FWS; and further coordination with the FWS, as appropriate and required; and with full consideration given to the proposed undertaking's potential direct and indirect effects on federally threatened or endangered listed species and/or their formally designated critical habitat within the Corps' permit area.

### **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 applicant did not provide or satisfy all the elements required for a complete 401 certification request. Therefore, the 401 Certification process has not started. 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 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 the date of this public notice. 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 June 21, 2022, to:

NCDWR Central Office  
Attention: Mr. Paul Wojowski, 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 (NCDWM):**

- 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 NCDWM, and the NCDWM 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 NCDWM.
- 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, June 21, 2022. Comments should be submitted to:

Mr. David Brown  
USACE Wilmington District  
Asheville Regulatory Field Office  
151 Patton Avenue, Room 208  
Asheville, North Carolina, 28801-5006