

PUBLIC NOTICE

US Army Corps Of Engineers Wilmington District

> Issue Date: May 24, 2024 Comment Deadline: June 23, 2024 Corps Action ID Number: SAW-2020-00234

The Wilmington District, Corps of Engineers (Corps) received an application on May 10, 2024, from Luck Stone Corporation seeking Department of the Army authorization to discharge dredged or fill material into approximately 0.24 acre (3,433 linear feet) of stream channel and 0.53 acre of riparian non-riverine wetlands, associated with constructing a granite quarry in Lee 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:	Mr. Mark Williams
	Luck Stone Corporation
	Post Office Box 29682
	Richmond, VA 23242

AGENT (if applicable):	Ms. Kate Hefner
	Timmons Group
	5410 Trinity Road, Suite 102
	Raleigh, NC 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 area is located east of the eastern terminus of Fred Stone Road, west and south of Upper Little River, and north of Juniper Creek, near Sanford, in southeast Lee County, North Carolina (Figure 1).

Project Area (acres): 167.9 Nearest Town: Sanford Nearest Waterway: Upper Little River, Juniper Creek River Basin: Cape Fear; Hydrologic Unit Code (HUC) 03030004 Latitude and Longitude: 35.396551 N, -79.131738 W





Existing Site Conditions

Of the total approximately 416.3-acre property evaluated by the Applicant, the proposed project site (Site) includes 167.9 acres in the central portion of the property.

The Site consists of cattle pastures, which are dominated by successional growth and unmanaged forested land along the borders. Forested wetland communities within the site can be characterized as Headwater Forest and Bottomland Hardwood Forest, according to the North Carolina Wetland Assessment Method (NCWAM), which are dominated by American hornbeam (*Carpinus caroliniana*), American holly (*Ilex opaca*), sweetgum (*Liquidambar styraciflua*), red maple (*Acer rubrum*) and loblolly pine (*Pinus taeda*) within the tree, sapling, and shrub strata. Other notable species observed within these communities include black cherry (*Prunus serotina*), smooth alder (*Alnus serrulate*), and Chinese privet (*Ligustrum sinense*). The herb stratum is dominated by woolgrass (*Scirpus cyperinus*), soft rush (*Juncus effusus*), sedge (*Carex spp.*), greenbrier (*Smilax rotundifolia*), and Japanese honeysuckle (*Lonicera japonica*).

Portions of the wetlands also occurred within a cow pasture. The vegetative communities in those areas were dominated by herbaceous vegetation such as soft rush, woolgrass, and broomsedge bluestem (*Andropogon virginicus*).

The property is located within the Piedmont physiographic province. It is located within the Headwaters Upper Little River and Upper Little River-Lake Trace Subwatersheds (HUC 030300040201 and 030300040202), part of the Upper Cape Fear River Basin (HUC 03030004). The site drains northeast into the Upper Little River and southeast into Juniper Creek.

The majority of the Site is located within Zone X, areas of minimal flood hazard located outside of the 100-year floodplain. Portions of the site in the vicinity of the Upper Little River and Juniper Creek are located within Zone AE, the 100-year floodplain with base-flood elevations ranging from 264 to 278-feet above mean sea level.

Based on information obtained from the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) Soil Survey for Lee County, the soils within the Site are comprised of 15 soil series summarized in Table 1 below.

Map Unit Symbol	/lap Unit Symbol Map Unit Name			
CfB	Cecil fine sandy loam, 2 to 8 percent slopes			
CfD	Cecil fine sandy loam, 8 to 15 percent slopes			
Ch	Chewacla silt loam, 0 to 2 percent slopes, frequently flooded			
DuB	Durham loamy sand, 2 to 8 percent slopes			
FuB	Fuquay loamy sand, 0 to 6 percent slopes			
GhD	Gilead loamy sand, 8 to 15 percent slopes			
NaB	Nanford silt loam, 2 to 8 percent slopes			
NaD	Nanford silt loam, 8 to 15 percent slopes			
PaF	Pacolet fine sandy loam, 15 to 40 percent slopes			
TaB	Tarrus silt loam, 2 to 8 percent slopes			
TaD	Tarrus silt loam, 8 to 15 percent slopes			
TaE	Tarrus silt loam, 15 to 30 percent slopes			
ТоВ	Tillery fine sandy loam, 1 to 4 percent slopes, rarely flooded			
W	Water			

Table 1. Onsite soils

Wn	Wehadkee fine sandy loam, 0 to 2 percent slopes, frequently
	flooded

The Site was delineated by Timmons Group for potential waters of the United States (WOTUS) in February 2019, and a Preliminary Jurisdictional Determination (PJD) was issued by the Corps on June 29, 2021. There are 33 onsite wetlands, including approximately 34.84 acres of palustrine forested, 0.19 acres of palustrine scrub-shrub, and 4.12 acre of palustrine emergent wetlands according to Cowardin Classification. The site also contains 0.82 acre of open waters. In addition, there are 27 streams onsite, including 14,617 linear feet of perennial stream and 7,379 linear feet of intermittent stream.

Applicant's Stated Purpose

The project purpose, as stated by the applicant is to construct a granite quarry in Sanford, North Carolina to continue meeting current and future demands for stone in the market. The proposed quarry would be positioned to service the Sanford and Fayetteville markets with the potential to service areas east of the Fall Line. The Sanford market includes future growth outlined in the Carolina Core plan which proposes a new interstate (I-685) to connect I-40 with I-95. The proposed location would also be the closest stone source to the Fayetteville market which includes the ongoing expansion at Fort Liberty. In addition to the local markets, the proposed quarry may service the growing coastal markets. The strategic position of the proposed quarry would be closest to the Fall Line to service the coastal markets. Due to the geology of the region, there is a lack of granite stone deposits east of the Sanford location. Stone demands from coastal regions, like the ongoing expansion of Wilmington, would rely on quarries west of the Fall Line. The Applicant believes the proposed quarry would be able to meet local and coastal needs.

According to the applicant the need for additional stone deposits is apparent due to current and expected demands, and their experience with their nearby quarry in Pittsboro, North Carolina. Currently, the Pittsboro quarry is primarily supplying aggregate to the rapidly expanding Raleigh region. Though the proposed quarry is nearby, there would be limited overlap with the Pittsboro market. The proximity allows the Applicant to continue providing service to the same customers that have projects to the south. Additionally, the competitive market is more advantageous towards the south (Fayetteville area). Most of the quarries to the north (in the Pittsboro quarry market) are focused on serving the rapid growth of the Raleigh market. The proposed quarry would be focused on growth to the south which has faced service issues from competitors trying to keep up with demand from the Raleigh market.

Project Description

The Applicant provided the following project description: The project would include excavation of a granite quarry with appurtenant support facilities. Specifically, the target stone is a meta-volcanic rock being mined for construction aggregate. The pit area

would utilize downward spiraling concentric circles to advance on stone reserves. As extraction proceeds downwards, the benches would follow for ingress/egress of the pit. The pit would be dewatered to three contained, inline settling ponds. Solids would be removed to an onsite overburden pile and water would be routed to the storage pond. The storage pond would serve as a stormwater BMP and a source for dust suppression. Two overburden locations would be utilized to store overburden until mine reclamation. Appropriate erosion and sediment controls including perimeter earthen berms and temporary stabilization would be used to ensure no sediment transport to the adjacent wetlands.

The project would also include construction of appurtenant support facilities for mining operations. A scale and scale office would be constructed at the primary entrance to the facility. An equipment and maintenance shop would be constructed between the pit area and overburden storage. Interior access roads would be constructed for customer traffic and navigation throughout the facility. Finally, a bridge would be constructed over the Upper Little River to tie into the access road from NC Highway 87. The access road is being constructed by others and the Applicant would tie into the terminus of the public road for the primary quarry access.

The Applicant states that, in order to achieve the goals of the Project, impacts to WOTUS are unavoidable. As proposed, 0.53 acre of riparian non-riverine wetlands would be permanently impacted during construction of the facility and access roads. Additionally, 0.24 acre (3,433 linear feet) of stream channel would be impacted. Details regarding impacts are outlined in Table 2 below.

Impact ID	Impact Description	Impact Type	Wetland Area (sq. ft.)			Stream Length (LF) and Area (sq. ft.)			
			PFO	PSS	PEM	Perennial (R3)		Intermittent (R4)	
						Length	Area	Length	Area
1	Fill/Grading	Permanent	8,201						
2a	Excavation	Permanent		1,089				177	177
2b	Excavation	Permanent			9,950				
3	Excavation	Permanent			1,345		0.000		
4	Excavation	Permanent	204	1.1	1.122			82.6	100
5	Fill/Grading	Permanent	206						-
6	Fill/Grading	Permanent	32						
7	Fill/Grading	Permanent	2,087	122				1 122	-
8a	Excavation	Permanent				335	1,239	0.77	
8b	Excavation	Permanent						923	2,429
9	Excavation	Permanent					244	67	131
10	Excavation	Permanent					0.000	795	2,228
11	Excavation	Permanent		122			19 <u>11</u> 1	614	2,132
12	Fill/Grading	Permanent						410	1,406
13	Fill/Grading	Permanent						289	820
	A CONTRACTOR OF STREET	TOTALS:	10,730	1,089	11,295	335	1,239	3,098	9,146
		ACRES:	0.25	0.02	0.26		0.03		0.21

Table 2. Impacts Summary

Impact 1 would result in the permanent fill impact of 0.19 acre of palustrine forested wetlands for the grading and construction of the proposed aerial span bridge. This impact is unavoidable and necessary to access the site from the stub of the access road being constructed by others.

Impacts 2, 3, and 4 would result in the permanent excavation of 0.005 acre of palustrine forested wetlands, 0.02 acre of palustrine scrub-shrub wetlands, and 0.26 acre of palustrine emergent wetlands. These impacts are associated with the initial mining pit to meet the purpose and need of the project.

Impacts 5 and 7 would result in the permanent fill of 0.05 acre of palustrine forested wetlands. The Applicant states that these impacts are the minimum necessary to store overburden from the pit excavation. The grading associated with these impacts would ensure slopes can be stabilized to prevent offsite sediment migration.

Impact 6 would result in the permanent fill of 0.0007 acre of palustrine forested wetland. This impact is necessary for the construction of the perimeter access road within the quarry. Slopes have been designed so that stabilization can be achieved to prevent any offsite sediment migration.

Impacts 8, 9, 10, and 11 would result in the permanent excavation of 0.028 acre (335 linear feet) of perennial channel and 0.055 acre (2,399 linear feet) of intermittent channel. These impacts are associated with the initial mining pit to meet the purpose and need of the project.

Impact 12 would result in the permanent fill of 0.032 acre (410 linear feet) of intermittent channel. This impact is associated with overburden storage. Without this impact there would not be adequate area for overburden storage.

Impact 13 would result in the permanent fill of 0.019 acre (289 linear feet) of intermittent stream channel. This impact is associated with the construction of the perimeter access road within the quarry. Slopes have been designed so that stabilization can be achieved to prevent any offsite sediment migration.

The Applicant does not anticipate secondary impacts as a result of this Project. The Applicant would adhere to County and state-mandated erosion and sediment control measures to minimize the possibility of downstream impacts.

Avoidance and Minimization

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

Impacts to jurisdictional features were avoided and minimized to the maximum extent practicable by incorporating resourceful site selection and site planning including the utilization of an updated preliminary wetland delineation to ensure all jurisdictional features within the Project Area were accurately mapped. The proposed site was selected due to its strategic location within Sanford, which can readily service the local market, markets to the south, and future developments east of the fall line. This location would be able to service a market where suppliers are currently not able to meet demand. With such, sizing the quarry to meet current and future demands was challenging considering the jurisdictional feature constraints. The first avoidance and minimization efforts were concentrated on site access. County proffers require site access from NC Highway 87 due to the nature of the vehicles regularly entering and exiting the quarry. The Applicant evaluated a standalone access road to the quarry but determined that would be more costly and require more jurisdictional impacts than utilizing the access road being constructed by others. This multi-user access road minimizes impacts to jurisdictional features while still meeting project needs. Crossing the Upper Little River was the next concern. The proposed crossing would utilize a bridge on pilings to minimize disturbance to the stream channel.

The crossing is proposed at the least sinuous and narrowest portion of the channel in effort to minimize impacts. Due to the size of the bridge, impacts could not be avoided entirely as the grading prism would need to accommodate the weight of the traffic and height off of the channel. As previously mentioned, the proposed quarry would include a phased pit area. The initial pit area is located adjacent to the proposed access road, support facilities, and in close proximity to the overburden storage. The proposed location of the initial pit meets the logistical needs for the conceptual advance of the quarry. The final buildout would include areas remaining to the south and west of the proposed pit. The intent of the initial pit location is to not splice any jurisdictional systems. Considering the jurisdictional features continue through a large portion of the site, impacts could not be avoided entirely.

In order to avoid secondary impacts, a project-specific Erosion and Sediment Control (ESC) plan would be prepared in accordance with the North Carolina Department of Energy, Mineral, and Land Resources (NCDEMLR) mining permit. All regulated landdisturbing activities associated with the Project would be covered by the project-specific ESC plan. During construction activities, these measures would be inspected and maintained throughout the life of the construction activity providing for enhanced protection of the jurisdictional areas.

Compensatory Mitigation

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment:

Compensatory mitigation for these unavoidable impacts would be achieved through the purchase of off-site mitigation credits from Wetland Mitigation Banks. If credits are unavailable at the time of permitting, compensatory mitigation would be achieved through payment into the North Carolina Division of Mitigation Services (NCDMS) in-lieu fee program.

North Carolina Stream Assessment Method (NCSAM) and NCWAM reviews were conducted to gauge feature quality and determine if a lower mitigation ratio is feasible. If features were determined to be high quality, it is understood that a 2:1 ratio would be required for wetland and stream mitigation credits. The required compensatory mitigation for wetlands was determined by first totaling the square footage of wetland impacts by Cowardin Classification and then converting to acres and rounding to the nearest hundredth decimal. For streams, the required compensatory mitigation was determined by totaling the linear feet of stream impacts for both perennial and intermittent streams and then applying the appropriate mitigation ratio. Based on the NCSAM and NCWAM ratings, the Applicant proposes 5,401 warm water stream credits and 0.87 riparian non-riverine wetland credits. A summary of the findings is included below in Tables 3 and 4.

Impact Site	Data Form ID	Classification	USACE Rating (All Streams)	NCDWR Rating (Intermittent)	Impact Linear Feet	Proposed Ratio	Proposed Mitigation (linear feet)
8a	SAM-33A1-2	Perennial	High		335	2:1	670
8b	SAM-33A1-1	Intermittent	Low	Medium	923	1:1	923
9	SAM-33D1-1	Intermittent	High	High	67	2:1	134
10 & 13	SAM-41C1-1	Intermittent	Medium	High	795	1.5:1	1193
11	SAM-54C1-1	Intermittent	High	High	614	2:1	1228
12	SAM-54F1-1	Intermittent	High	High	410	2:1	820
13	SAM-41D1-1	Intermittent	Medium	Medium	289	1.5:1	433.5
Total	-	-	-	-	3,433	-	5,401

 Table 3. NCSAM Ratings and Mitigation at Proposed Impact Locations

Table 4. NCWAM Ratings and Mitigation at Proposed Impact Loca	tions
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		Wetland					
Impact Site	Data Form ID	Wetland Type	WAM Rating	Impact Square Feet	Impact Acres	Proposed Ratio	Proposed Mitigation
1	WAM-41E1-1	Bottomland Hardwood Forest	Low	8,201	0.19	1:1	0.19
2	WAM-33C1-1	Headwater Forest	High	11,039	0.25	2:1	0.51
3	WAM-33B1-1	Headwater Forest	Medium	1,345	0.03	1.5:1	0.05
4	WAM-54A1-1	Headwater Forest	High	204	0.00	2:1	0.01
5	WAM-54E1-1	Seep	High	206	0.00	2:1	0.01
6	WAM-54B1-1	Headwater Forest	High	32	0.00	2:1	0.00
7	WAM-54D1-1	Headwater Forest	High	2,087	0.05	2:1	0.10
Total	-	-	-	23,114	0.53	-	0.87

Essential Fish Habitat (EFH)

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.

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:

No resources listed in or eligible for inclusion in the National Register of Historic Places are known to be present in the vicinity of the proposed work; however, the permit area has not been formally surveyed for the presence of cultural resources. Additional work may be necessary to identify and assess any cultural resources that may be present. This notice serves as a request to SHPO, THPO, and/or other interested parties to provide any information they may have regarding historic properties.

The Applicant states that "Circa ~ Cultural Resources Management, LLC to conduct a Phase 1 Cultural Resource Survey on the property. The survey will be coordinated with the NC State Historic Preservation Office (NCSHPO) for review."

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 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 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 180 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 should do so in writing, within 30 days of the issue date of the notice by emailing comments to publiccomments@deq.nc.gov with the subject line of "401 Water Quality Certification" or by mail to:

NCDWR Central Office Attention: Stephanie Goss, 401 and Buffer Permitting Branch (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):

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 23, 2024. Comments should be submitted to Caitlin S. Westerfield, Raleigh Regulatory Field Office, 3331 Heritage Trade Drive, Suite 105, Wake Forest, North Carolina 27587, or via email at Caitlin.S.Westerfield@usace.army.mil. The Corps Project Manager can be contacted at (919) 430-3690. Comments may also be submitted to RaleighNCREG@usace.army.mil.