



US Army Corps
Of Engineers
Wilmington District

PUBLIC NOTICE

Issue Date: May 9, 2014
Comment Deadline: June 10, 2014
Corps Action ID Number: SAW-2014-00845

The Wilmington District, Corps of Engineers (Corps) received an application from Mr. John J. Tiberi with Martin Marietta Materials, Inc. seeking Department of the Army authorization to mechanically landclear and discharge fill material into 26 acres of jurisdictional wetlands, associated with the Benson Quarry Expansion in Johnston 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

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

Applicant: Mr. John J. Tiberi
Martin Marietta Materials, Inc.
2710 Wycliff Road
Raleigh, North Carolina 27607

AGENT (if applicable): Mr. Robert T. Turnbull
Environmental Services, Inc. (ESI)
524 South New Hope Road
Raleigh, North Carolina 27610

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

Directions to Site: From Interstate 40, take Exit 325 for NC 242. Go east on Woodall Dairy Road and travel for approximately 1.5 miles to the intersection of Woodall Dairy Road and Raleigh Road. The existing Benson Quarry facility is located at this intersection. To access the expansion site, turn left onto Raleigh Road and travel for approximately 0.5 mile. Turn Right onto Camilla Road. The expansion site is located on the right (south) side of Camilla Road.

Project Area (acres): 380.5 acres Nearest Town: Benson
Nearest Waterway: Stony Fork River Basin: Neuse (03020201)
Latitude and Longitude: 35.43085 N, 78.49652 W

Existing Site Conditions

The Benson Quarry Expansion site is located in the Middendorf formation in the Cretaceous portion of the coastal plain physiographic region. The project area encompasses 206 acres of land and includes mixed hardwood and pine/hardwood forest, recently logged areas, approximately 40 acres of jurisdictional forested bottomland hardwood wetlands, a non-jurisdictional pond, agricultural fields, and the existing Benson rock quarry and aggregate processing facility. Elevations on the site range from a low of approximately 140 feet above Mean Sea Level (MSL) in the wetland system to a high of approximately 210 feet of MSL near Camilla Road. The *Soil Survey of Johnston County, North Carolina* (USDA, 1994) shows the project area as being underlain by Altavista fine sandy loam, Augusta sandy loam, Gilead sandy loam, with the wetlands being underlain by either Leaf silt loam or Bibb sandy loam. The hydrologic regime of the onsite forested wetlands is primarily driven by elevated culverts located under the railroad to the southeast of the property. These culverts act to partially impound Stony Fork and inundate the site for long periods of time throughout the year. The ordinary high water mark (OHWM) of Stony Fork is not present throughout the onsite wetlands. Stony Fork regains an OHWM downstream of the railroad and eventually flows into the Neuse River. The forested wetlands are dominated by tree-sized black gum (*Nyssa sylvatica*), red maple (*Acer rubrum*), and river birch (*Betula nigra*). The understory in the wetland includes shrub-sized individuals of the canopy species, along with Chinese privet (*Ligustrum sinsense*), titi (*Cyrilla racemiflora*), swamp smartweed (*Persicaria hydropiperoides*), Japanese silt grass (*Microstegium bimineum*), and common greenbrier (*Smilax rotundifolia*).

The quarry was originally opened in 1996 in preparation for the construction of Interstate 40. The mine site was selected by the applicant due to the strategic location and the unique and high quality geologic deposit.

Applicant's Stated Purpose

The applicant's stated purpose is to maximize the life of the Benson Quarry facility, due to the amount of limited reserves that are available for mining at this time. Under the current size and configuration of the facility, the Benson Quarry facility will deplete the existing permitted reserves in approximately 4-6 years, based on current and expected sales volumes for this facility.

Project Description

The project involves the expansion of the existing mining pit through approximately 26 acres of jurisdictional wetlands located to the north of the existing pit. The applicant provided 8 alternative mining options, including the "no action" alternative in their permit submittal. The applicant's preferred alternative involves mining through 26 acres of bottomland hardwood forest, resulting in expansion of the existing pit by 64 acres. This alternative involves the construction of a permanent diversion channel above the forested wetlands and to the south of a proposed overburden disposal area. The proposed diversion channel would require the removal and disposal of approximately 400 thousand cubic yards of material but allow for on-site disposal of up to 2.70 million cubic yards of overburden to the south of Camilla Road. The proposed channel and overburden storage area meet required zoning restrictions by off-setting land disturbances outside of the 250' setback from Camilla Road and along the east and west boundaries of the property. The proposed channel would be constructed in uplands and avoid impacts to additional wetlands on the property as depicted in Alternative 3.1.4. This channel would also allow Martin Marietta to meet the permitting requirements of FEMA by constructing a permanent bridge access across the new channel to access the future disposal area to the north. Based on the FEMA model currently being evaluated, the diversion channel would have a bottom width ranging from 100-150' (Trapezoidal channel) with a base flow channel approximately 26' wide.

Avoidance and Minimization

The applicant provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: While the applicant's preferred proposal directly impacts more jurisdictional wetlands than Alternative 3.1.4, it avoids the possibility of future secondary indirect impacts through alterations to hydrologic regimes to the wetland system upstream and downstream of the proposed future pit. The undisturbed wetlands on the property are directly upstream and downstream of the proposed diversion channel; therefore, the possibility of changes in hydrology to the undisturbed wetland would be avoided.

Compensatory Mitigation

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: The applicant initially consulted with the resource agencies to perform some on-site permittee-responsible mitigation in conjunction with the relocation of Stony Fork through the proposed by-pass channel on the north side of the property. Considering the minimal amount of credit that would be generated through wetland creation, the applicant decided to pursue another alternative. Their proposal involves the purchase of 3.23 acres from a mitigation bank, with the remaining wetland mitigation acreage being purchased from the North Carolina Ecosystem Enhancement Program. The applicant provided supporting documentation in a letter dated November 18, 2013, from the North Carolina Ecosystem Enhancement Program that they are willing to accept compensatory mitigation payment for up to 25 acres of impacts to riparian wetlands in the Neuse (03020201) River Basin.

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 North Carolina Department of Cultural Resources stated in their letter dated July 30, 2013, state that they have conducted a review of the project and are aware of no historic resources which would be affected by the project.
- 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 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 June 10, 2014 to:

NCDWR Central Office
Attention: Ms. Karen Higgins, 401 and Buffer Permitting Unit
(USPS mailing address): 1650 Mail Service Center, Raleigh, NC 27699-1650

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 shall 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 10, 2014. Comments should be submitted to Mr. David Shaeffer, Raleigh Regulatory Field Office, 3331 Heritage Trade Drive, Suite 105, Wake Forest, North Carolina 27587, at (919)