



US Army Corps  
Of Engineers  
Wilmington District

# PUBLIC NOTICE

Issue Date: August 28, 2015  
Comment Deadline: September 28, 2015  
Corps Action ID Number: SAW-2014-01246

The Wilmington District, Corps of Engineers (Corps) received an application from Mr. Jack Garvey of Hanson Aggregates Southeast, LLC seeking Department of the Army authorization to mechanically landclear and discharge fill material into 2,523 linear feet of jurisdictional streams and 0.04 acre of jurisdictional wetlands, associated with the Crabtree Quarry Expansion, in Raleigh, in Wake 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:** Hanson Aggregates Southeast, LLC  
Attn: Mr. Jack Garvey  
2101 Gateway Centre Blvd., Suite 100  
Morrisville, North Carolina 27560

**Agent:** Soil & Environmental Consultants, PA (S&EC)  
Attn: Mr. Bob Zarzecki  
8412 Falls of Neuse Road, Suite 104  
Raleigh, North Carolina 27614

## 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: The existing Crabtree Quarry is located at 5100 Duraleigh Road, in Raleigh, in Wake County, NC. From the intersection of the I-440/Beltline and US-70/Glenwood Ave., travel northwest on Glenwood Ave. for 3 miles, turn left (south) onto Durleigh Rd., travel south for 1 mile, and the quarry entrance will be on the right (west).

Project Area (acres): 197.37                      Nearest Town: Raleigh  
Nearest Waterway: Crabtree Creek              River Basin: Neuse (03020201)  
Latitude and Longitude: 35.8474N, -78.7146W

## Existing Site Conditions

The Hanson Crabtree Quarry Expansion site is located in the piedmont physiographic region of North Carolina. Mining operations at the quarry began in 1949 and have remained active through the present. The project area encompasses 197 acres of land. The existing developed portions of the property include the existing 40-acre pit, quarry office, stockyard, crusher facility, maintenance facilities, and stormwater management infrastructure. The undeveloped portions of the property include mixed hardwood and pine forests and recently cleared land. The water resources on the property include: Crabtree Creek, Richlands Creek, unnamed tributary streams, and wetlands. Elevations on the site range from a low (not including the pit) of 224 feet above Mean Sea Level (MSL) along Crabtree Creek near Duraleigh Road, to a high of approximately 384 feet MSL at the quarry office. The *Soil Survey of Wake County, North Carolina* (USDA, 1970) shows the project area as being underlain by Cecil sandy loam, Cecil gravelly sandy loam, Wake soils, and Chewacla soils. The hydrologic regime is predominately driven by uncontrolled off site stormwater runoff from residential and commercial developments north of the project area. Some of the 1<sup>st</sup> order tributary streams originating on the property are connected to groundwater seeps/springs. The riparian areas along the tributary streams are dominated by various oak (*Quercus spp.*) and hickory (*Carya spp.*) species, Loblolly Pine (*Pinus taeda*), American Beach (*Fagus grandifolia*), American hornbeam (*Carpinus caroliniana*), Red Maple (*Acer rubrum*), and Tulip Poplar (*Liriodendron tulipifera*). The understory vegetation includes Christmas Fern (*Polystichum acrostichoides*), Japanese Stiltgrass (*Microstegium vimineum*), Poison Ivy (*Toxicodendron radicans*) and various other species common to the area. The bluffs along Crabtree Creek and Richlands Creek include a diverse vegetated community, to include an area with Catawba Rhododendron (*Rhododendron catawbiense*). These areas are not included within the proposed expansion area and have been protected under a conservation easement, greenway easement or property donation to the City.

## Applicant's Stated Purpose

The applicant's stated purpose is to expand the existing pit to allow for mining operations to continue through either February 4, 2052, or the removal of 30 million tons of

aggregate (whichever comes first). These are the maximum cessation date and reserve thresholds allow for under a settlement agreement with the City of Raleigh. Without the pit expansion, the quarry would only have enough reserves for approximately three more years and would be forced to close around 2019.

## **Project Description**

The project would expand the existing pit to the north and would result in the construction of the *Northern Boundary Berm*, which would be a permanent overburden storage area. This berm would also be landscaped to provide a visual, noise and vibration barrier buffer between the pit and existing residential developments to the north. These planned expansion activities would impact a total of 2,523 linear feet of headwater streams. Of the proposed stream channel impacts, 1,126 linear feet would be piped under the proposed *Northern Boundary Berm*, 1,190 linear feet would be excavated for the proposed pit expansion, and 207 linear feet would be temporarily impacted as transition areas. In addition, 0.04 acre of wetlands would be impacted by the applicant's preferred alternative. The applicant provided five (5) alternative mining options in their permit submittal, including an off-site ("no action") alternative. The applicant's preferred alternative involves the expansion of the existing 40-acre pit to approximately 60-acres. The applicant's preferred alternative incorporates a "*Conceptual Stream Relocation Plan*" which would relocate approximately 950 linear feet of the 2,523 linear feet of the proposed stream impacts around the pit using natural channel design techniques. The applicant's preferred alternative would allow the mine to continue operations through approximately the cessation date.

## **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 alternative plan would directly impact more jurisdictional streams and wetlands than three of the other alternatives provided (Alternatives 1, 2, & 3), the plan was reduced in scope to avoid a 1st order stream ("Stream No. 7", approximately 430 linear feet long). The plan would also avoid all impacts to Crabtree Creek and Richlands Creek, and other tributary streams and wetlands located south of Crabtree Creek, all located on properties owned by Hanson and within the existing mine permit boundary. The "Conceptual Stream Relocation Plan", described above, would also minimize the total length of stream loss by relocating 950 feet of stream using natural channel design techniques. The end result of these avoidance and minimization efforts would be a cumulative "loss" of 1,366 feet of tributary streams of the 2,316 feet of permanent impact.

## **Compensatory Mitigation**

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: Since there is currently, no active mitigation bank within HUC 03020201, the applicant proposes mitigation for all permanent impacts via the purchase of stream mitigation credits from the North Carolina Division of

Mitigation Services (DMS) (formerly the Ecosystem Enhancement Program (EEP)). The applicant provided supporting documentation in a letter dated July 21, 2015, from DMS, that they are willing to accept compensatory mitigation payment for up to 2,316 linear feet of stream impacts within the Neuse River Basin (03020201).

### **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, given the location of the project within the piedmont region of North Carolina and the potential for anadromous fish to access the larger streams in the Neuse Basin, there is potential that the project may affect EFH or associated fisheries managed by the South Atlantic or Mid Atlantic Fishery Management Councils or the National Marine Fisheries Service. This is noted as Crabtree Creek drains into the Neuse River below the Milburnie Dam, where anadromous fish populations are known to occur.

### **Cultural Resources**

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

- Should historic properties, or properties eligible for inclusion in the National Register, be present within the Corps' permit area; the proposed activity requiring the DA permit (the undertaking) is a type of activity that will have no potential to cause an effect to an historic properties.
- No historic properties, nor properties eligible for inclusion in the National Register, are present within the Corps' permit area; therefore, there will be no historic properties affected. The Corps subsequently requests concurrence from the SHPO (or THPO).
- Properties ineligible for inclusion in the National Register are present within the Corps' permit area; there will be no historic properties affected by the proposed work. The Corps subsequently requests concurrence from the SHPO (or THPO).
- Historic properties, or properties eligible for inclusion in the National Register, are present within the Corps' permit area; however, the undertaking will have no adverse effect on these historic properties. The Corps subsequently requests concurrence from the SHPO (or THPO).
- Historic properties, or properties eligible for inclusion in the National Register, are present within the Corps' permit area; moreover, the undertaking may have an adverse effect on these historic properties. The Corps subsequently initiates consultation with the SHPO (or THPO).

- The proposed work takes place in an area known to have the potential for the presence of prehistoric and historic cultural resources; however, the area has not been formally surveyed for the presence of cultural resources. No sites eligible for inclusion in the National Register of Historic Places are known to be present in the vicinity of the proposed work. Additional work may be necessary to identify and assess any historic or prehistoric resources that may be present.

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

### **Endangered Species**

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

- The Corps determines that the proposed project would not affect federally listed endangered or threatened species or their formally designated critical habitat.
- The Corps determines that the proposed project “*may affect, but is not likely to adversely affect*” federally listed endangered or threatened species or their formally designated critical habitat. The determination was made as the project is located within Wake County, where according to the U.S. Fish and Wildlife Service (FWS) there are documented occurrences of Northern Long-eared Bat (NLEB) (*Myotis Septentrionalis*). The project involves the clearing of hardwood forest (potential habitat for the NLEB); however, much of the project area was cleared prior to NLEB listing. The only remaining hardwood areas within the project area exist in the streamside management zones (SMZs) along the stream channels. Also, the clearing is anticipated to occur outside of the pup season (June 1<sup>st</sup> to July 31<sup>st</sup>), pending the final outcome of the permit approval. The Corps initiates consultation under Section 7 of the ESA and will not make a permit decision until the consultation process is complete. The project is not anticipated to affect any other Federally listed species.
- 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 September 21, 2015 to:

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

Or,

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

## **North Carolina Division of Coastal Management (NCDCM):**

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

## **Evaluation**

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

## **Commenting Information**

The Corps of Engineers is soliciting comments from the public; Federal, State and local agencies and officials, including any consolidated State Viewpoint or written position of the Governor; Indian Tribes and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment (EA) and/or an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA). Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Requests for a public hearing 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, September 28, 2015. Comments should be submitted to David Shaeffer, Raleigh Regulatory Field Office, 3331 Heritage Trade Drive, Suite 105 , Wake Forest, North Carolina 27587, at ( 919) 554-4884, Extension 31.