



PUBLIC NOTICE

**US Army Corps
Of Engineers**
Wilmington District

Issue Date: January 29, 2025
Comment Deadline: February 28, 2025
Corps Action ID Number: SAW-2023-02470

The Wilmington District, Corps of Engineers (Corps) received an application on January 13, 2025 from Feldspar Corp seeking Department of the Army authorization to discharge fill material into 0.095 acres of wetland and 0.278 acres (610 linear feet) of stream, associated with construction of a reservoir, access roads, and replacement of an existing dam at the Quartz Corp facility in Spruce Pine, Mitchell 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: Jeffrey Curtis
The Quartz Corp USA
797 Altapass Highway
Spruce Pine, NC 28777

AGENT (if applicable): Joey Lawler
S&ME, Inc.
2016 Aytsley Town Blvd, Suite 2A
Charlotte, NC 28273

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)

Location

Location Description: The project/review area is located on northeast of NC Highway 226 and south of a portion of the North Toe River as well as north of the North Toe River and southwest of Altapass Highway along a railroad corridor in Spruce Pine, Mitchell County, North Carolina. Parcel Identification Number 079900273171. The project location is depicted in Figure 1.

Project Area (acres): 24.64 acres

Nearest Town: Spruce Pine

Nearest Waterway: Grassy Creek

River Basin: French Broad River Basin

Latitude and Longitude: 35.902620 N, -82.063506 W

Existing Site Conditions

The project area is located in the Grassy Creek-North Toe River sub-watershed (hydrologic unit code (HUC) 060101080104) of the French Broad River Basin. Review of the USGS topographic map (Figure 2) depicts three blue-line streams and one waterbody within the larger Quartz Corp property area, one of which is Grassy Creek, one is an unnamed tributary that flows southeast across the site to Grassy Creek, and the other is an unnamed tributary that flows northwest into the site and converges with Grassy Creek. The existing reservoir behind the dam on Grassy Creek is also depicted. Grassy Creek then flows to the north and west to its confluence with the North Toe River.

Soils mapped within the proposed project area/LOD (Figure 3) include Saunook silt loam, 8 to 15 percent slopes, stony (ScC); Saunook-Thunder complex, 15 to 30 percent slopes, stony (SdD); Udorthents, loamy (Ud); Udorthents, loamy, stony (Un); Watauga sandy loam, 8 to 15 percent slopes, stony (WgC); Watauga sandy loam, 15 to 30 percent slopes, stony (WgD); and Watauga sandy loam, 30 to 50 percent slopes, stony (WgE). These soil types are not considered hydric.

The site consists of a mixture of wooded land and smaller open or developed areas. Grassy Creek, the existing impoundment, numerous tributaries and small wetland areas are located on the site, as evidenced by S&ME's delineation of the review area (Figures 4-4G) and supported by the appropriate NWI and LiDAR mapping (Figures 5 and 6). Review of the FEMA floodplain and floodway datasets indicates that a portion of the project abuts the FEMA floodway and 100-year/500-year Grassy Creek floodplains (Figure 7). The North Toe River FEMA floodway and 100-year/500-year floodplains also abut a portion of the project area.

Based on the Guide to the Natural Communities Of North Carolina (Schafale, 2012), the larger Quartz Corp property area consists of a mix of community types. Along portions

of the Grassy Creek floodplain, the natural community consists of montane alluvial forest (small river subtype). This natural community consists of a mix of species associated with alluvial or floodplain settings combined with those of rich cove forests and other upland communities. Evidence of flooding and characteristic wetland or alluvial indicator species occurs in these types of forests.

Further up the slope, the natural community changes to rich cove forest (montane intermediate subtype). These areas occur at low to middle elevations with a mixture of mesophytic hardwoods and a lush herb layer. Cove forests are similar to North Carolina's hardwood forests, naturally occurring primarily as old-growth, uneven-aged stands. At the highest elevations within the project area, the natural community can be described as northern hardwood forest. This forest type typically has a mixed canopy of moderate diversity but lacks the dense herbaceous layer present in the cove forest. The northern hardwood forest cover ranges from exposed to sheltered, is present at mid to high elevations, and dominated by mesophytic hardwoods.

Prior to Hurricane Helene, typical herbaceous plant species observed at the site included bearded beggarticks (*Bidens aristosa*), orange jewelweed (*Impatiens capensis*), broadleaf arrowhead (*Sagittaria latifolia*), Japanese knotweed (*Reynoutria japonica*), arrowvine (*Persicaria sagittata*), lady fern (*Athyrium filix-femina*), sweet white violet (*Viola blanda*), Japanese clover (*Kummerowia striata*), New York fern (*Parathelypteris noveboracensis*), Christmas fern (*Polystichum acrostichoides*), cat greenbrier (*Smilax glauca*), white snakeroot (*Ageratina altissima*), common cinquefoil (*Potentilla simplex*), common blue violet (*Viola sororia*), golden ragwort (*Packera aurea*), fan clubmoss (*Diphasiastrum digitatum*), American pokeweed (*Phytolacca americana*), and wrinkleleaf goldenrod (*Solidago rugosa*). Typical shrub/scrub plant species observed included witch hazel (*Hamamelis virginiana*), great laurel (*Rhododendron maximum*), smooth hydrangea (*Hydrangea arborescens*), Allegheny blackberry (*Rubus allegheniensis*), highland doghobble (*Leucothoe fontanesiana*), and mountain laurel (*Kalmia latifolia*).

Typical tree species observed included black walnut (*Juglans nigra*), Carolina silverbell (*Halesia carolina*), black oak (*Quercus velutina*), red maple (*Acer rubrum*), sweet birch (*Betula lenta*), pawpaw (*Asimina triloba*), tulip poplar (*Liriodendron tulipifera*), American holly (*Ilex opaca*), sourwood (*Oxydendrum arboreum*), and eastern white pine (*Pinus strobus*).

It should be noted that observations taken during visits to the site after Hurricane Helene (October 15 and November 26, 2024) indicated that conditions along Grassy Creek and its associated tributaries had changed significantly, as flooding has resulted in the destruction of riparian zone vegetation, bank erosion, and mass wasting throughout many streamside portions of the site.

Applicant's Stated Purpose

The purpose of the proposed project as stated by the applicant is to construct a new freshwater reservoir that will create a secondary source of water for the quartz and mica mining production process, along with a new access road and replacement of the aging, low head dam on Grassy Creek.

Project Description

Quartz Corp plans to construct a new freshwater reservoir and a road that will provide access to the portion of their property where the reservoir will be constructed. The freshwater reservoir will be constructed on the east side of Grassy Creek.

The access road will connect the site to North Carolina Highway 226. The entrance to the proposed access road is located approximately 1,500 linear feet from the intersection of Carters Ridge Road (SR-1117) and North Carolina Highway 226. Culverts are proposed where the access road will cross Stream SB-2 and SB-4 (unnamed tributaries to Grassy Creek); resulting in permanent stream impacts at these crossings. The access road will also cross several small wetlands; resulting in permanent wetland impacts. A segment of stream (SB-9) near the southeastern property boundary (unnamed tributary to Grassy Creek) will also be rerouted to discharge downstream of the new proposed dam. A segment of a second small tributary (SB-10) that drains to SB-9 will not be impacted. This work is to prevent off-site water from the neighboring operation from flowing into the Grassy Creek impoundment.

Quartz Corp also plans to construct a new dam to replace the existing dam, which was constructed approximately 80 years ago, and was recently damaged during Hurricane Helene. The new dam will tie into the access road to provide access across Grassy Creek and to the proposed freshwater reservoir location on the east side of the creek. Construction of the new dam will also result in permanent and temporary stream impacts to Grassy Creek.

Avoidance and Minimization

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

The access road was routed to avoid on-site streams and wetlands to the extent practicable. However, because Stream SB-2 bisects the property and prevents access to the site's interior from the highway, avoidance of the feature entirely is not possible. Similarly, Stream SB-4 originates near the property boundary and flows across the site to Grassy Creek, making its avoidance impracticable. However, the culverts and dissipators have been sited to minimize unavoidable impacts and sized according to the necessary flow requirement. The proposed LOD has been further reduced to the area necessary for grading and construction. Additionally, construction equipment operating

near the streams and wetland areas will be limited to that necessary for grading, construction, culvert placements, and stabilization activities.

Impacts to Grassy Creek have been minimized by constructing the new dam just upstream at a narrow segment of the creek, and by designing the dam such that it can also be used for vehicular access to the reservoir. The new normal pool elevation of the instream reservoir will not exceed its original elevation, thereby eliminating additional upstream flooding impacts.

Instream work will be performed “in the dry”. Erosion control matting and other E&SC devices made of plastic mesh or twine will not be used along streambanks. The use of biodegradable and wildlife-friendly E&SC devices will be employed where practicable. Mitigative measures associated with minimizing potential impact to bat species will entail the following:

- General tree clearing activities associated with construction of the project will be avoided from May 15 to July 31 or as otherwise directed by the USACE in consultation with the USFWS.
- If evidence of bats or sightings are made during tree cutting operations, tree cutting will cease and the USFWS will be notified immediately.

Compensatory Mitigation

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

The applicant has proposed to purchase 379 LF of stream credits from the North Carolina Division of Mitigation Services In-Lieu Fee Program. Compensatory mitigation would not be required for permanent wetland loss given it does not exceed the mitigation threshold.

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:

- ☒ An archaeological survey has been conducted of the proposed project area. Results of this investigation are being reviewed by the Corps and will be provided to SHPO, the Catawba Indian Nation THPO, Cherokee Nation THPO, Eastern

Band of Cherokee Indians THPO, Muscogee (Creek) Nation THPO, United Keetoowah Band of Cherokee Indians THPO, and any other interested federally recognized Tribes that request to be consulted as part of the Section 106 review process.

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:

- ☒ For the proposed project, the Corps has made the following determination for federally listed endangered or threatened species or their formally designated critical habitat: May Affect
- ☒ The Corps will consult under Section 7 of the ESA and will not make a permit decision until the consultation process is complete.

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, February 28, 2025. Comments should be submitted to Tasha Alexander, Asheville Regulatory Field Office, 151 Patton Avenue, Room 208, Asheville, North Carolina 28801-5006, or via email at Tasha.L.Alexander@usace.army.mil, or electronically via the Regulatory Request System (RRS) at <https://rrs.usace.army.mil/rrs>. The Corps Project Manager can be contacted at (828) 271-7980 ext. 4225. Comments may also be submitted to AshevilleNCREG@usace.army.mil.