

Correction of Reclamation Condition #5: "Donation to State"

1. *Please provide all documentation (emails, electronic documents, hardcopy documents) in your possession related to the 2011 and 2018 requests for modification of Condition 5.B. and the subsequent permit modification.*

Wake Stone believes the discrepancy in language ("later" vs "sooner") between the April 3, 1981 "Final Decision" of the Mining Commission and the language incorporated into the original mining permit was an error. Wake Stone staff became aware of this discrepancy during review of a draft renewal permit in early 2011 (at that time, all mining permits required a renewal application every 10 years).

In an email dated March 7, 2011 from David Lee to Ms. Judy Wehner, Assistant State Mining Specialist, Wake Stone requested that this error be corrected. This email never received a response, and the mining permit was reissued on March 30, 2011, without this correction. At that time Wake Stone estimated that mining would not be completed at Triangle Quarry for close to twenty years and that there would again be an opportunity to have this correction made in 2021, during the next ten-year renewal. However, in October 2017 the North Carolina General Assembly amended the Mining Act of 1971, removing the requirement for renewals every 10 years, incorporating an annual fee schedule instead.

In February 2018, in a continuing effort to get the existing mining permit and associated referenced maps as accurate and current as possible (based on improved mapping technologies and updated aerial photography), and to correct typographical errors, discrepancies, or outdated language in the permit, Wake Stone did a thorough review of the permit, including how buffers had been incorrectly illustrated on site maps. These suggested corrections were submitted to Ms. Judy Wehner, Assistant State Mining Specialist, for DEMLR consideration under the Department's Administrative Permit Modification procedures. The request was reviewed by DEMLR staff, and to our understanding, DEMLR's in-house legal counsel and staff of the NC Attorney General's Office. Wake Stone received a revised permit on March 26, 2018 which contained several editorial/typographical errors. These errors were brought to the attention of DEMLR staff, and the final corrected permit was signed by Acting Director Vinson and issued on March 28, 2018. We believe all requested corrections to the mining permit document were fully justified and thoroughly vetted by DEMLR.

Documents from our records that are responsive to your request concerning the 2011 and 2018 correction of Condition 5.B. of Permit 92-10, are attached.

2. *Please provide an explanation of how the modification requests described in item 1 relate to the current quarry expansion modification request for Permit 92-10. Specifically, how does the modification of Condition 5.B. effect the viability and long-term operation of the proposed quarry expansion?*

Wake Stone's 2011 request to have the permit language corrected to accurately reflect the Mining Commission's Final Decision predated the company's potential expansion of the Triangle Quarry onto the RDU property. Not until 2015 did such an expansion become a possibility.

As Wake Stone has previously stated, the 2018 modification request was intended to correct several errors and discrepancies in Mining Permit No. 92-10. At the time of the 2018 modification, Wake Stone had begun investigating the viability of expanding the Triangle Quarry onto property controlled by RDU Airport under a mineral lease agreement. Careful review of the existing Mining Permit at that time suggested that two specific errors in the permit needed correcting prior to submittal of a permit modification application for the anticipated expansion, should negotiations with RDUAA be successful.

The errors in need of correction involved the inaccurate/inconsistent illustration of buffers on site maps, and correction of the Mining Commission stated language related to when the depleted pit would become available for possible donation to the State as described in the reclamation conditions (specifically, Condition 5.B.). Having the corrected permit language in place would provide Wake Stone ample time to be able to fully capture the stone reserves from the expansion site.

Wake Stone determined that to transport equipment efficiently and safely to and from the RDU-owned property (commonly referred to as the Odd Fellows tract) under its lease agreement with RDU, improvements to the existing Triangle Quarry northern perimeter road would be necessary. We recognized at that time the possible use of this perimeter road for hauling excavated material back to the existing primary crusher located in the original quarry pit. A thorough review of the history of the buffers, particularly the 100-foot and 250-foot buffers along the northern permit boundary, revealed that these buffers were intended to be "property" buffers rather than "riparian" buffers. Riparian buffers of 10-50 feet are typically considered sufficient to prevent offsite sedimentation and contain pollutants such as phosphorus, nitrogen, and pesticides. Since the property boundaries between the existing quarry and both Umstead State Park and RDU Airport are the centerline of Crabtree Creek, the buffers should have been illustrated as being measured from this boundary rather than from the OHWM (ordinary high-water mark, or "streambank"). These corrections were not critical to the viability of the potential future expansion but were desirable for safety and efficiency of transport along the northern perimeter of the Triangle Quarry pit and for having maps which accurately showed the permanent buffer lines.

The reclamation condition (Condition 5.B.) regarding the possible donation of the "quarry site" to the State referenced two different scenarios: A. "When all quarryable stone has been removed..." or B. "If all quarryable stone is not removed...". The incorrect inclusion of the word "sooner" in the mining permit instead of "later" (in the Mining Commission's final decision) in the second scenario could be interpreted as a condition that would force the operation to close by 2031. Wake Stone estimated that quarrying in the existing pit would be completed by 2031, but an expansion onto the RDU property would require additional time to allow capture of all available reserves. In recognizing that the 105-acre RDU tract could not be utilized for a stand-alone quarry, processing, and sales facility due to limited size of the tract and poor highway access, Wake Stone determined that if the language was corrected to that of the 1981 Final Decision of the Mining Commission, an expansion onto RDU property would be permissible under a modification of Permit 92-10.

At the time of the Mining Permit issuance Wake Stone had not purchased or leased the parcels which came to constitute the permitted quarry. In no language in the Final Decision nor in the Mining Permit is there a limitation to what parcels would be included. The Mining Commission's final decision supports this position as it dictated when the potential donation to the State might occur, "when all quarryable stone has been removed from all of the land belonging to or under the control of Wake Stone Corporation during the period of its quarrying operations and which lies between Umstead State Park and Interstate Highway 40". With the Odd Fellows 105-acre tract now under the control of Wake Stone, having the corrected permit language in place provides the permit protection necessary for Wake Stone to be able to fully capture the stone reserves from the expansion site which lies between Umstead State Park and I-40. Continued utilization of the existing pit (for overburden storage and primary crushing) will postpone Wake Stone's earlier commitment to make portions of the original quarry site (pit plus 50' surrounding area) available for donation to the State should the State decide to assume ownership and liability upon completion of mining. Wake Stone remains committed to the offer to make the original Triangle Quarry pit available for donation to the State once all quarrying operations are completed. We expect that to be no longer than 35 years from receiving the permit modification and beginning operations on the expansion site.

- 3. Please describe any discussion or correspondence between Wake Stone and state official (other than the DEQ mining program) about the modification of Condition 5.B.. Please provide copies of any documents or other records of such discussions or correspondence.*

Since 2016, Wake Stone has had numerous meetings and discussions about the currently pending Mining Permit Modification Application with state officials, including but not limited to Governor Cooper, former DEQ Secretary Regan, current DNCR Secretary Wilson, AG Stein, and many members of the Wake County legislative delegation of senators and representatives. However, none were specifically about Condition 5B other than in response to some legislators who were bombarded by emails from the Umstead Coalition and members of Triangle Off Road Cyclists (plaintiffs in litigation against RDUAA and Wake Stone) and needed an explanation of the issue. There were no notes kept of those conversations. One email was sent to Senators Sydney Batch and Sarah Crawford, with the attachments of the 1981 Mining Commission Final Decision (with the critical word "later" underlined in Condition 5), as well as a copy of an email from the State Mining Engineer David Miller indicating to a citizen why the change was made and that it had been reviewed by the Attorney Generals' office. A copy of the email (and attachments) is attached.

- 4. What is the expected timeline for ceasing quarrying operations at the existing site?*

Wake Stone will maintain production of stone reserves from the existing Triangle Quarry pit until the opening of the expansion pit on the RDU property. Stone reserves in the existing pit are anticipated to be depleted in 2-4 years (depending on market conditions). During this period, site development work including bridge construction, fencing, installation of erosion control measures, logging, and construction of noise/visual barriers can be completed. Once the expansion pit is open, mining in the existing pit will cease. However, quarry operations (overburden storage, crushing and processing, stockpiling, and sales) will continue at the existing site until such time as all quarryable stone is removed from the expansion pit. Stone reserves on the expansion site are currently estimated to yield 25-35 years of production, although significant changes in market demand could greatly alter those projections.

Documents pertaining to 2011 request for correction of Condition 5.B. language

David Lee

From: David Lee
Sent: Monday, March 7, 2011 3:21 PM
To: Judy Wehner; Wehner, Judy
Subject: Language

Judy-

Thanks for the opportunity to review the Triangle Quarry permit with you this morning by phone. I have spent some more time reviewing the permit since you and I last spoke by phone and believe the section on "Donation to State" would benefit from some revision. The original permit for Triangle was issued before I joined Wake Stone so I'm not as familiar with offer to "donate to the State" as I probably should be. However, I've located the Mining Commission's FINAL DECISION document of April 3, 1981 (copy attached) and compared the "donation to the state" language there (pages 3-6) with what is in the current version of the permit (pages 18-19). The "donation to the state" language in the permit seems confusing to me - discussion of "option" before its even made know what the "option" is all about. I think it would be beneficial to incorporate the Commission's language more nearly verbatim.

I've taken the liberty of drafting suggested language you might consider in place of existing section 5. beginning on page 17 of the permit. Feel free to run it by Tracy and/or Jim and see what they think.

Let me know if you have any questions or need any additional information. I'm not trying to write my own permit, just trying to be helpful.

Thanks!



Mining
Commission Fin...



Language for
Donation to Stat...

-David

David F. Lee
Geologist/Environmental Supervisor
Wake Stone Corporation
PO Box 190
Knightdale, North Carolina 27545
Office: 919-266-1100, ext. 134
Cell: 919-369-3449
Home: 919-553-4666

BEFORE THE MINING COMMISSION

In the Matter of Denial of
Permit Application of
Wake Stone Corporation

FINAL DECISION

In accordance with this Commission's initial Findings of Fact, Conclusions, and Decision of January 27, 1981, as amended and corrected, and with the March 12, 1981 Agreement of Wake Stone Corporation and the Division of Land Resources, Department of Natural Resources and Community Development, concerning the Conditions enumerated below as 1, 2, 4, and 5; and upon consideration of the supplementary arguments of the parties concerning Condition 3, *infra*, the Mining Commission hereby orders that the Division of Land Resources grant to Wake Stone Corporation the permit applied for with the following conditions:

Condition No. 1 - Minimize noise, dust, and other possible adverse effects.

Noise

1. Noise barriers between crushers and screening towers to minimize noise levels at the park shall be provided from the outset of the operation. Noise barriers may be enclosures, walls, bins, structures, stockpiles, or natural terrain. In the event there is disagreement over the required noise control measures, the final design and emplacement of noise barriers shall be determined by qualified noise and engineering consultants mutually agreed upon by both parties.
2. The plant shall be located at a lower elevation as indicated on the required site plan.
3. The plant shall be designed so that the primary crusher can be relocated in the pit at the earliest possible date.
4. The chutes used in processing shall be rubberized.

5. Compressors with noise abatement enclosures (currently called whisperized compressors) shall be used with track drills to open the quarry. Once the quarry is opened, either hydraulic or down-in-the-hole drills shall be used to further reduce noise.
6. Only such blasting techniques as minimize noise shall be employed.
7. Pit haul trucks shall be equipped to exhaust through the beds of the trucks to muffle engine noise.
8. Conveyors rather than trucks shall be used for stockpiling material.
9. The quarry shall be operated only on Monday through Friday and shall not be operated on State-recognized holidays.

Dust

1. The access road to the quarry, from the scale house to SR 1790, shall be paved. Wake Stone Corporation agrees to cooperate with the Department of Transportation in paving SR 1790 from the entrance to the quarry to the intersection with SR 1654.
2. The provisions of the air quality permit No. 4386 shall be followed.
3. A water wagon with sprays shall be used for wetting roads to prevent dust.
4. Sprays shall be used throughout the plant at transfer points to control dust.
5. Drill hole dust shall be controlled by wetting or other means.
6. Dust control shall be maintained by the use of water sprays.
7. A water spray shall be provided for highway haul trucks.
8. Washed stone shall be stockpiled within the part of the designated plant area which is closest to the park.

Condition No. 2 - Optimize processing and stockpiling facilities to minimize possible effects on the park.

1. The processing and stockpiling facilities shall be relocated as indicated on the Wake Stone revised site plan submitted February 18, 1981. The purpose of this relocation shall be to screen the park from the sight and sound of the operation, reduce erosion, and shield the operation from public view along Interstate 40.
2. The relocation shall place the processing and stockpiling facilities at a lower elevation to reduce visibility and noise.
3. The stockpiles shall be located close to the quarry entrance roads.
4. The plant and stockpile area shall be close to the intersection of SR 1790 and SR 1654.
5. The initial site disturbance from both quarry excavation and plant site development shall be confined to one drainage system, which is now already protected by ponds which will serve as sediment basins. The purpose of this relocation is to aid erosion and sediment control.
6. The new location of the pit shall be such that, once the overburden is removed, the quarry excavating equipment - i.e. compressor and drill, shovels, and trucks - can be placed below the surrounding land at the initial phases of quarrying.

Condition No. 3 - Buffer Zone Plan

1. The extent of the completely undisturbed buffer zone to be maintained between the park boundary during the 10 year permit shall be as indicated on the revised plan and modified by Exceptions 2, 3, and 4 listed on Page 3 of Wake Stone Corporation's memorandum of March 10, 1981, except all of the area north of the ten-year buffer line shall be left as a natural buffer.

zone and not be developed or altered for commercial purposes.

Condition No. 4 - Construction of Berms

1. A vegetated earthen berm shall be constructed between the Wake Stone Corporation plant and the western boundary of the park as shown on Wake Stone Corporation's revised site plan.
2. Berm dimensions shall be no less than indicated on Wake Stone Corporation's revised site plan and may be higher and longer than shown, ~~except the berm shall not encroach on the permanent buffer zone.~~
3. ~~The side slopes of the berm shall be graded to a stable grade of 2 horizontal to 1 vertical grade or flatter and revegetated on the sides and top with grasses and evergreen trees.~~ ~~The toe of the berm shall not encroach on the park property boundary and shall be at least 50 feet from the boundary.~~
4. Other berms may be required as mining progresses to reduce the noise and visual impact upon the quarry.

Condition No. 5 - Donation of Quarry to the State

Pursuant to Wake Stone Corporation's offer to donate the quarry site to the State as part of its reclamation plan, the terms and conditions of the offer and acceptance shall be set forth in the reclamation plan as follows.

The term, "quarry site", shall include the entire pit as it exists after quarrying has been completed, a strip extending at least 50 feet back from the top of the slope of the pit on all sides (see the reclamation plan for the requirements applying to the slope), and a reasonable area to connect the pit and surrounding strip to Umstead Park, constituting a total area of at least 75 acres.

The method by which the quarry site will be donated to the State is as follows: Upon acquisition of the land by Wake Stone (by the exercise of its options to purchase), Wake Stone will grant to the State an option which, if exercised by the State, will require that Wake Stone convey a fee simple title to the quarry site to the State. The State shall have no obligation to exercise its option to accept a conveyance of the quarry site.

The terms and conditions of the option shall be as follows:

1. When all quarryable stone has been removed from all of the land belonging to or under the control of Wake Stone Corporation during the period of its quarrying operations and which lies between Umstead Park and Interstate Highway 40, it shall be the duty of Wake Stone to notify the State of this fact. Upon receipt of such notice, the State shall have six months within which it may elect to have Wake Stone convey the quarry site to the State. If the State elects to have Wake Stone convey the quarry site to the State, it shall notify Wake Stone of such election within said six month period. All notices shall be by certified mail with return receipt requested. If the State fails to make an election within said six month period or shall elect not to accept a conveyance of the quarry site, the option shall thereupon terminate and Wake Stone shall have no further obligation to convey the quarry site to the State.

2. If all quarryable stone is not removed, the right of the State to acquire the quarry site shall accrue at the end of 50 years from the date quarrying commences or 10 years after quarrying operations have ceased without having been resumed, whichever is later, and notices shall be exchanged at that time in the same manner and with the same time limitations as set forth in paragraph 1 above.

3. Until the option has expired Wake Stone will not encumber by mortgage or deed of trust any of the area designated "BUFFER AREA" on Wake Stone's site plan dated February 17, 1981, revised March 10, 1981, except for purchase money security interests.

4. During the option period, Wake Stone shall have the right to encumber all of its remaining property from time to time by mortgage, deed of trust or other security agreement then in common use for the purpose of securing one or more bona fide obligations of Wake Stone, such as the payment of money or the providing of any goods or services. The option to the State shall be subordinate to each such encumbrance in the same manner and to the same extent as if such option had been recorded after the recordation of each such encumbrance.

5. The right of the State to exercise its option shall be subject to:

(a) Wake Stone not being prohibited by the U.S. Government, State of North Carolina, Wake County, any municipality having jurisdiction, or by any court from removing from Wake Stone's property all quarryable stone which is outside of the BUFFER AREA referred to in paragraph 3 above. The requirement by the State that Wake Stone comply with laws and rules and regulations generally applicable to stone quarries shall not be deemed a prohibition of quarrying for the purpose of the option agreement.

(b) The operation of a quarry on Wake Stone's property for a minimum period of five years.

6. The conveyance of the quarry site shall be by deed containing the usual covenants of warranty and conveying the quarry site free and clear of all encumbrances except those existing at the time of Wake Stone's purchase, ad valorem taxes at the time of conveyance (which shall be prorated), and such drainage and utility easements as shall have been installed in connection with the development of the property.

7. The option may include such other terms as are mutually acceptable to the State and Wake Stone.

The Mining Commission concludes from the evidence submitted in this case that the operation of the quarry, under the conditions set forth in this decision, will not have a significant adverse effect on the purposes of the park.

For the unanimous Mining Commission, this the APR 3 1981, 1981.
day of

Original signed by

Henry B. Smith, Chairman

Original signed by

T.W. Tysinger

Original signed by

W.W. Woodhouse

Commissioners Barkalow and Long took no part in the disposition of the case.

Donation to State

Pursuant to Wake Stone Corporation's offer to donate the quarry site to the State as part of its final reclamation plan, Wake Stone Corporation will grant to the State an option which, if exercised by the State, will require that Wake Stone Corporation convey to the State a fee simple title to the quarry site. The State shall have no obligation to exercise its option to accept a conveyance of the quarry site.

The term "quarry site" shall include the entire pit as it exists after quarrying has been completed, a strip extending at least 50 feet back from the top of the slope of the pit on all sides, and a reasonable area to connect the pit and surrounding strip to the Park, constituting a total area of at least 75 acres.

The terms and conditions of the option shall be as follows:

1. When all quarryable stone has been removed from all of the land belonging to or under the control of Wake Stone Corporation during the period of its quarrying operations and which lies between Umstead Park and Interstate Highway 40, it shall be the duty of Wake Stone to notify the State of this fact. Upon receipt of such notice, the State shall have six months within which it may elect to have Wake Stone convey the quarry site to the State. If the state elects to have Wake Stone convey the quarry site to the State, it shall notify Wake Stone of such election within said six-month period. All notices shall be by certified mail with return receipt requested. If the State fails to make an election within said six-month period or shall elect not to accept a conveyance of the quarry site, the option shall thereupon terminate and Wake Stone shall have no further obligation to convey the quarry site to the State.
2. If all quarryable stone is not removed, the right of the State to acquire the quarry site shall accrue at the end of 50 years from the date quarrying commences or 10 years after quarrying operations have ceased without having been resumed, whichever is later, and notices shall be exchanged at that time in the same manner and with the same time limitations as set forth in paragraph 1 above.
3. Until the option has expired Wake Stone will not encumber by mortgage or deed of trust any of the area designated "BUFFER AREA" on Wake Stone's site plan dated February 17, 1981, revised March 10, 1981, except for purchase money security interests.
4. During the option period, Wake Stone shall have the right to encumber all of its remaining property from time to time by mortgage, deed of trust or other security agreement then in common use for the purpose of securing one or more bona fide obligations of Wake Stone, such as the payment of money or the providing of any goods or services. The option to the State shall be subordinate to each such encumbrance in the same manner and to the same extent as if such option had been recorded after the recordation of each such encumbrance.
5. The right of the State to exercise its option shall be subject to:

- (a) Wake Stone not being prohibited by the U.S. Government, State of North Carolina, Wake County, any municipality having jurisdiction, or by any court from removing from Wake Stone's property all quarryable stone which is outside of the BUFFER AREA referred to in paragraph 3 above. The requirement by the State that Wake Stone comply with laws and rules and regulations generally applicable to stone quarries shall not be deemed a prohibition of quarrying for the purpose of the option agreement.
- (b) The operation of a quarry on Wake Stone's property for a minimum period of five years.

6. The conveyance of the quarry site shall be by deed containing the usual covenants of warranty and conveying the quarry site free and clear of all encumbrances except those existing at the time of Wake Stone's purchaser, ad-valorem taxes at the time of conveyance (which shall be prorated), and such drainage and utility easement as shall have been installed in connection with the development of the property.

7. The option may include such other terms as are mutually acceptable to the State and Wake Stone.

The terms and conditions relating to the donation are placed herein to prescribe generally the boundaries of the Wake Stone Corporation offer. The acceptance by the State is subject to approval by the Department of Administration and the council of State and the ascertaining that the offer is in accord with the laws of the State and lawfully adopted rules and regulations. Further, the Department's analysis of the conditions of the land to be transferred will be in accordance with the criteria identified in the "Principles Governing the Establishment of Extension and Development of State Parks, State Recreation Areas and State Natural Areas".

David Lee

From: Wehner, Judy <judy.wehner@ncdenr.gov>
Sent: Thursday, February 3, 2011 10:34 AM
To: David Lee
Subject: RE: Triangle Quarry Renewal

5. Only time we need six is for new or adding land to permit.

From: David Lee [mailto:davidlee@wakestonecorp.com]
Sent: Thursday, February 03, 2011 10:22 AM
To: Wehner, Judy
Subject: RE: Triangle Quarry Renewal

How many copies of application booklet and maps do you need?

From: Wehner, Judy [mailto:judy.wehner@ncdenr.gov]
Sent: Thursday, February 03, 2011 10:15 AM
To: David Lee
Subject: RE: Triangle Quarry Renewal

It doesn't matter who you address it to. The fee is \$1,000.00. Tell Cole that Floyd is gone. He addressed the ARRs to him. See you Monday. We will be in a meeting at 9:30.

From: David Lee [mailto:davidlee@wakestonecorp.com]
Sent: Thursday, February 03, 2011 10:10 AM
To: Wehner, Judy
Subject: Triangle Quarry Renewal

Judy-

I'm putting the finishing touches on the renewal application for Triangle Quarry. I should hand deliver it to you on Monday. Two questions:

1. Should I address the cover letter to Janet?
2. What's the renewal fee for a 233 acre site?

Thanks!
-David

David F. Lee
Chief Geologist/Environmental Supervisor
Wake Stone Corporation
PO Box 190
Knightdale, North Carolina 27545
Office: 919-266-1100, ext. 134
Cell: 919-369-3449
Home: 919-553-4666

David Lee

From: David Lee
Sent: Thursday, February 3, 2011 10:33 AM
To: 'Wehner, Judy'
Subject: RE: Triangle Quarry Renewal

Great, thanks.

From: Wehner, Judy [mailto:judy.wehner@ncdenr.gov]
Sent: Thursday, February 03, 2011 10:34 AM
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Home: 919-553-4666

David Lee

From: David Lee
Sent: Thursday, February 3, 2011 10:22 AM
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[How many copies of application booklet and maps do you need?](#)

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From: David Lee [mailto:davidlee@wakestonecorp.com]
Sent: Thursday, February 03, 2011 10:10 AM
To: Wehner, Judy
Subject: Triangle Quarry Renewal

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Wake Stone Corporation
PO Box 190
Knightdale, North Carolina 27545
Office: 919-266-1100, ext. 134
Cell: 919-369-3449
Home: 919-553-4666

David Lee

From: David Lee
Sent: Thursday, February 3, 2011 10:17 AM
To: 'Wehner, Judy'
Subject: RE: Triangle Quarry Renewal

Thanks, I'll call before I come down town.
-David

From: Wehner, Judy [mailto:judy.wehner@ncdenr.gov]
Sent: Thursday, February 03, 2011 10:15 AM
To: David Lee
Subject: RE: Triangle Quarry Renewal

It doesn't matter who you address it to. The fee is \$1,000.00. Tell Cole that Floyd is gone. He addressed the ARRs to him. See you Monday. We will be in a meeting at 9:30.

From: David Lee [mailto:davidlee@wakestonecorp.com]
Sent: Thursday, February 03, 2011 10:10 AM
To: Wehner, Judy
Subject: Triangle Quarry Renewal

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Wake Stone Corporation
PO Box 190
Knightdale, North Carolina 27545
Office: 919-266-1100, ext. 134
Cell: 919-369-3449
Home: 919-553-4666

Documents pertaining to 2018 request for correction of Condition 5.B. language

Cole Atkins

From: Wehner, Judy <judy.wehner@ncdenr.gov>
Sent: Thursday, April 5, 2018 11:48 AM
To: Cole Atkins
Attachments: 92-10 MOD 2018.pdf

Judy Wehner
Assistant State Mining Specialist
Land Quality Section

919-707-9227 office
Judy.Wehner@ncdenr.gov Email

1612 Mail Service Center
Raleigh, North Carolina 27699-1512
512 N. Salisbury Street
Raleigh, North Carolina 27604

Mining Program Website:
<https://deq.nc.gov/about/divisions/energy-mineral-land-resources/energy-mineral-land-permits/mining-program>



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ROY COOPER
Governor

MICHAEL S. REGAN
Secretary

WILLIAM E. (TOBY) VINSON, JR.
Interim Director

March 28, 2018

Mr. David F. Lee
Wake Stone Corporation
PO Box 190
Knightdale, North Carolina 27545

RE: Permit No. 92-10
Triangle Mine
Wake County
Neuse River Basin

Dear Mr. Lee:

Your recent request to have the above referenced mining permit modified has been approved. The modification includes the correction of discrepancies on the mine map and in several mining permit conditions. A copy of the modified permit is enclosed.

The conditions in the modified permit were based primarily upon the initial application. Modifications were made as indicated by the modification request and as required to insure compliance with The Mining Act of 1971. The expiration date, mine name and permit number shall remain the same as before the modification. I would like to draw your particular attention to the following conditions where minor additions or changes were made: Operating Condition Nos. 3 (C and D were removed, and E was relabel as C), 4B, 7A, 12B and 15 and Reclamation Condition No. 5B.

The issuance of a mining permit and/or any modification to it does not supersede local zoning regulations. The responsibility of compliance with any applicable zoning regulations lies with you.

As a reminder, your permitted acreage at this site is 223 acres and the amount of land you are approved to disturb is 164.45 acres.

Please review the modified permit and contact Judy Wehner, Assistant Mining Specialist, at (919) 707-9220 should you have any questions concerning this matter.

Sincerely,

David Miller, PE
State Mining Engineer

DM/jw

Enclosures

cc: Mr. Bill Denton, PE
Mr. William Geringer-Mine and Quarry Bureau, w/o enclosures

Nothing Compares

DEPARTMENT OF ENVIRONMENTAL QUALITY

**DIVISION OF ENERGY, MINERAL AND LAND
RESOURCES**

P E R M I T

for the operation of a mining activity

In accordance with the provisions of G.S. 74-46 through 68, "The Mining Act of 1971," Mining Permit Rule 15A NCAC 5 B, and other applicable laws, rules and regulations

Permission is hereby granted to:

Wake Stone Corporation

Triangle Quarry

Wake County - Permit No. 92-10

for the operation of a

Crushed Stone Quarry

which shall provide that the usefulness, productivity and scenic values of all lands and waters affected by this mining operation will receive the greatest practical degree of protection and restoration.

In accordance with the application for this mining permit, which is hereby approved by the Department of Environment and Natural Resources hereinafter referred to as the Department, and in conformity with the approved Reclamation Plan attached to and incorporated as part of this permit, provisions must be made for the protection of the surrounding environment and for reclamation of the land and water affected by the permitted mining operation. This permit is expressly conditioned upon compliance with all the requirements of the approved Reclamation Plan. However, completed performance of the approved Reclamation Plan is a separable obligation, secured by the bond or other security on file with the Department, and may survive the revocation or suspension of this permit.

This permit is not transferable by the permittee with the following exception: If another operator succeeds to the interest of the permittee in the permitted mining operation, by virtue of a sale, lease, assignment or otherwise, the Department may release the permittee from the duties imposed upon him by the conditions of his permit and by the Mining Act with reference to the permitted operation, and transfer the permit to the successor operator, provided that both operators have complied with the requirements of the Mining Act and that the successor operator agrees to assume the duties of the permittee with reference to reclamation of the affected land and posts a suitable bond or other security.

In the event that the Department determines that the permittee or permittee's successor is not complying with the Reclamation Plan or other terms and conditions of this permit, or is failing to achieve the purposes and requirements of the Mining Act, the Department may give the operator written notice of its intent to modify, revoke or suspend the permit, or its intent to modify the Reclamation Plan as incorporated in the permit. The operator shall have right to a hearing at a designated time and place on any proposed modification, revocation or suspension by the Department. Alternatively and in addition to the above, the Department may institute other enforcement procedures authorized by law.

Definitions

Wherever used or referred to in this permit, unless the context clearly indicates otherwise, terms shall have the same meaning as supplied by the Mining Act, N.C.G.S. 74-49.

Modifications

April 1, 1991: This permit has been modified to include three pit expansions, the construction of a pit perimeter road, and the construction of the visual barrier berm along the 250 foot permanent buffer zone as indicated on the revised Site Plan and supplemental information dated February 14, 1991.

February 5, 1992: This permit has been modified to include and require compliance with the January 20, 1992 blast and rock slide investigative report prepared by Wake Stone Corporation in its entirety.

October 11, 1996: This permit has been modified to allow the shipping of material after 1:00 PM on Saturdays until such time as the Umstead State Park reopens or the repair of the Raleigh Outer Loop Project near RDU Airport is completed, whichever comes first.

November 24, 2010: This permit has been modified to increase the affected acreage at this site to 156.6 acres as indicated on the Site Plan Maps last revised November 22, 2010. The modification includes the construction of a stockpile area contiguous to the existing plant and stockpile yard and includes the installation and maintenance of all associated erosion and sediment control measures.

December 1, 2017: This permit has been legislatively modified to issue the permit for the life of the site or the duration of the lease term.

March 28, 2018: This permit has been modified to correct discrepancies on the mine map and in several mining permit conditions.

This permit is valid for the life of the site or life of lease, if applicable, as defined by Session Law 2017-209 and has no expiration date. However, all provisions of GS 74-51 and GS 74-52 still apply for new, transferred and modified mining permits.

Conditions

This Permit shall be subject to the provisions of the Mining Act, N.C.G.S. 74-46, et. seq., and to the following conditions and limitations:

OPERATING CONDITIONS:

1. Wastewater and Quarry Dewatering

- A. Any wastewater processing or mine dewatering shall be in accordance with the permitting requirements and rules promulgated by the N.C. Environmental Management Commission.
- B. Any storm water runoff from the affected areas at the site shall be in accordance with any applicable permit requirements and regulations promulgated by the Environmental Protection Agency and enforced by the N.C. Environmental Management Commission. It shall be the permittee's responsibility to contact the Division of Water Quality to secure any necessary storm water permits or other approval documents.

2. Air Quality and Dust Control

- A. Any mining related process producing air contaminant emissions including fugitive dust shall be subject to the requirements and rules promulgated by the N.C. Environmental Management Commission and enforced by the Division of Air Quality.
- B. The provisions of Air Quality Permit No. 4386 shall be followed.

- C. The permanent access (plant entrance) road shall be paved from the scale house to SR 1790. During quarry operation, water trucks or other means that may be necessary shall be utilized to prevent dust from leaving the permitted area.
- D. Dust suppression systems shall be used throughout the plant to control dust.
- E. Drill hole dust shall be controlled by wetting or other means.
- F. Dust control at the crushers and screens shall be maintained by the use of water sprays.
- G. A water spray shall be provided for highway haul trucks.
- H. Washed stone shall be stockpiled within the part of the designated plant area which is closest to the park.

3. Buffer Zones

- A. Any mining activity affecting waters of the State, waters of the U. S., or wetlands shall be in accordance with the requirements and regulations promulgated and enforced by the N. C. Environmental Management Commission.
- B. Sufficient buffer shall be maintained between any affected land and any adjoining waterway or wetland to prevent sedimentation of that waterway or wetland from erosion of the affected land and to preserve the integrity of the natural watercourse or wetland.
- C. All buffer zones shown on the Site Plan Map revised February 26, 2018 shall be maintained to protect adjoining property. These buffer zones, with the exception of the installation of required sediment control measures and approved earthen berms, shall remain undisturbed

4. Erosion and Sediment Control

- A. Adequate mechanical barriers including, but not limited to diversions, earthen dikes, check dams, sediment retarding structures, rip rap pits, or ditches shall be provided in the initial stages of any land disturbance and maintained to prevent sediment from discharging onto adjacent surface areas or into any lake, wetland or natural watercourse in proximity to the affected land.
- B. All mining activities, including the installation and maintenance of all erosion and sedimentation control measures, shall be conducted as indicated on the Site Plan Map revised February 26, 2018 and the supplemental information received on February 7, 2011.

- C. An erosion and sediment control plan(s) shall be submitted to the Department for approval prior to any land disturbing activities not indicated on the revised erosion control plan or mine maps submitted with the approved application for a mining permit and any approved revisions to it. Such areas include, but are not limited to, expansion outside of the approved pit area, creek crossings, or expansion of overburden or waste disposal areas.

5. Groundwater Protection

Groundwater monitoring wells shall be installed and monitored as deemed appropriate by the Department.

6. Noise Abatement

All reasonable precautions shall be taken to minimize the impacts of operational noise upon Umstead Park. Said measures shall include, but not be limited to the following:

- A. Noise barriers between the park boundary and the crushers and screening towers to minimize noise levels at the park shall be provided from the onset of the operation. Noise barriers may be enclosures, walls, bins, structures, stockpiles or natural terrain. In the event there is disagreement over the required noise control measure, the final design and placement of noise barriers shall be determined by qualified noise and engineering consultants mutually agreed upon by both parties.
- B. The plant shall be located at the lowest feasible elevation.
- C. The plant shall be designed so that the primary crusher can be relocated in the pit at the earliest possible date.
- D. The chutes used in processing shall be rubberized.
- E. Compressors with noise abatement enclosures (currently called whispered compressors) shall be used with track drills to open the quarry. Once the quarry is opened, either hydraulic or down-in-the-hole drills shall be used to further reduce noise.
- F. Pit haul trucks shall be equipped to exhaust through the beds of the trucks to muffle engine noise.
- G. Conveyors rather than trucks shall be used for stockpiling material.

- H. The quarry and stone process operations shall be operated on Monday through Friday and shall not be operated on the following recognized holidays: New Years Day, Easter Monday, Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day. A reasonable amount of hauling of processed stone from the stockpile areas is permitted until 1:00 PM on Saturdays but hauling shall not be done at any other time on weekends or on holidays without prior approval from the Department.

7. Processing Plant Location

- A. The processing and stockpiling facilities shall be located as indicated on the Site Plan Map revised February 26, 2018.
- B. The plant shall be located to place the processing and stockpiling activities at the lowest possible elevation to reduce visibility and noise impacts on Umstead State Park.
- C. The location of the pit shall be such that once the overburden is removed, the quarry excavating equipment (i.e., compressor and drill, shovels, and trucks) can be placed at an elevation lower than the surrounding natural ground in the initial phases of quarrying.

8. Graded Slopes and Fills

- A. The angle for graded slopes and fills shall be no greater than the angle which can be retained by vegetative cover or other adequate erosion control measure, structure, or device. In any event, exposed slopes or any excavated channels, the erosion of which may cause off-site damage because of siltation, shall be planted or otherwise provided with groundcover, devices or structures sufficient to restrain such erosion.
- B. Overburden cut slopes along the perimeter of the quarry opening shall be graded to a minimum 2 horizontal to 1 vertical or flatter and shall be stabilized within 60 days of completion. Furthermore, a minimum ten (10) foot wide horizontal safety bench shall be provided at the top of the rock and at the toe of any overburden slope.

9. Surface Drainage

The affected land shall be graded so as to prevent collection of pools of water that are, or likely to become, noxious or foul. Necessary structures such as drainage ditches or conduits shall be constructed or installed when required to prevent such conditions.

10. Blasting

The operator shall monitor each blast with a seismograph located at a distance no farther than the closest off site regularly occupied structure not owned or leased by the operator. A seismographic record including peak particle velocity, air overpressure, and vibration frequency levels shall be kept for each blast (except as provided under Operating Condition Nos. 8B and 8D of this permit). The following blasting conditions shall be observed by the mine operator to prevent hazard to persons and adjacent property from surface blasting:

A. Ground Vibration with Monitoring:

In all blasting operations, the maximum peak particle velocity of any component of ground motion shall not exceed Figure 1 (below) at the immediate location of any regularly occupied building outside of the permitted area such as a dwelling house, church, school, or public, commercial or institutional building.

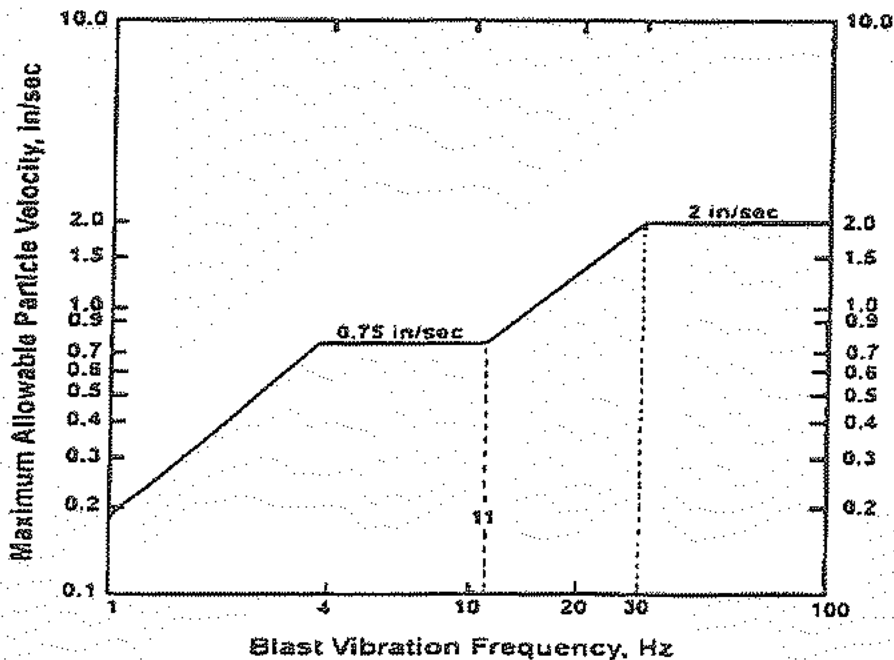


Figure 1 Alternative blasting level criteria
(Source modified from figure B-1. Bureau of Mines R18507)

B. Ground Vibration without Monitoring:

In the event of seismograph malfunction or other condition which prevents monitoring, blasting shall be conducted in accordance with the following formulas:

$$W = (D/D_s)^2 \quad D_s = \frac{D}{W^{1/2}}$$

$$V = 160(D_s)^{-1.6}$$

- W = Maximum charge weight of explosives per delay period of 8.0 milliseconds or more (pounds).
 D = Distance from the blast site to the nearest inhabited building not owned or leased by the mine operator (feet).
 D_s = Scaled distance factor.
 V = Peak Particle Velocity (inches per second).

The peak particle velocity of any component shall not exceed 1.0 inch per second, for the purposes of this Section.

C. Air Blast with Monitoring:

Air blast overpressure resulting from surface blasting shall not exceed 129 decibels linear (dBL) as measured at the immediate location of any regularly occupied building not owned or leased by the operator outside of the permitted area such as a dwelling house, church, school, or public, commercial or institutional building, unless an alternate level based on the sensitivity of the seismograph microphone as specified below is being used:

<u>Lower Frequency Limit of Measuring System, in Hz</u>	<u>Max Level, in dBL</u>
0.1 Hz or lower-flat response	134 peak
2.0 Hz or lower-flat response	133 peak
6.0 Hz or lower-flat response	129 peak

D. Air Blast without Monitoring:

In the event of seismograph malfunction or other condition which prevents monitoring, blasting shall be conducted in accordance with the following formulas:

$$U = 82 (D/W^{0.33})^{-1.2}$$

To convert U (psi) to P (dBL):

$$P = 20 \times \log (U/2.9 \times 10^{-9})$$

Confined Air blast/Overpressure (dBL)
for quarry situation:

$$A = P - 35$$

- U = Unconfined air overpressure (pounds per square inch).
- W = Maximum charge weight of explosives per delay period of 8.0 milliseconds or more (pounds).
- D = Distance from the blast site to the nearest inhabited building not owned or leased by the mine operator (feet).
- P = Unconfined air overpressure (decibels).
- A = Air blast or air overpressure for typical quarry situations (decibels).

The air blast/overpressure shall not exceed 129 decibels, for the purposes of this Section.

E. Record Keeping:

The operator shall maintain records on each individual blast describing: the total number of holes; pattern of holes and delay of intervals; depth and size of holes; type and total pounds of explosives; maximum pounds per delay interval; amount of stemming and burden for each hole; blast location; distance from blast to closest offsite regularly occupied structure; and weather conditions at the time of the blast. Records shall be maintained at the permittee's mine office and copies shall be provided to the Department upon request.

F. Excessive Ground Vibration/Air Blast Reporting:

If ground vibration or Air blast limits are exceeded, the operator will immediately report the event with causes and corrective actions to the Department. Use of explosives at the blast site that produced the excessive reading shall cease until corrective actions approved by the Department are taken. However, blasting may occur in other approved areas within the permitted boundary. Authorization to blast at the blast site may be granted at the time of the verbal reporting of the high ground vibration or high air blast reading if the circumstances justify verbal approval. Failure to report will constitute a permit violation.

G. Flyrock Prevention:

The operator shall take all reasonable precautions to ensure that flyrock is not thrown beyond areas where the access is temporarily or permanently guarded by the operator. Failure to take corrective measures to prevent flyrock and repeated instances of flyrock shall be considered a violation of the Mining Permit.

H. Flyrock Reporting:

Should flyrock occur beyond the permitted and guarded areas, the operator shall immediately report the incident to the Department. Further use of explosives on the mine site shall be suspended until the following actions have been taken:

1. A thorough investigation as to the cause(s) of the incident shall be conducted.
2. A report detailing the investigation shall be provided to the Department within 10 days of the incident. The report shall, at a minimum, document the cause(s) of the incident along with technical and management actions that will be taken to prevent further incidents. The report shall meet with the approval of the Department before blasting may resume at the mine site.

I. Studies:

The operator shall provide to the Department a copy of the findings of any seismic studies conducted at the mine site in response to an exceedence of a level allowed by these blasting conditions. The operator shall make every reasonable effort to incorporate the studies' recommendations into the production blasting program.

J. Notice:

The operator shall, when requested by the Department, give 24-hour advanced notice to the Division of Energy, Mineral and Land Resources Regional Office prior to any blast during a period for which notice is requested.

- K. Regarding blasting activities conducted to lower the haul road along the western boundary of the "Pit Expansion Initiated During 1989" area and Crabtree Creek, all of the corrective actions/steps outlined in the blast and rock slide investigation report prepared by Wake Stone Corporation dated January 20, 1992 shall be followed. In addition, any areas disturbed as a result of the previous rock slide and its subsequent removal shall be restored to its natural, pre-disturbed state or an alternative acceptable to the Department.

11. High Wall Barrier

A physical barrier consisting of large boulders placed end-to-end, fencing or other acceptable barrier materials shall be maintained at all times along the perimeter of any highwall to prevent inadvertent public access. In addition, a minimum 10 foot wide horizontal safety bench shall be provided at the junction between the top of rock and the toe of any overburden cut slope.

12. Visual Screening

- A. Existing vegetation shall be maintained between the mine and public thoroughfares to screen the operation from the public. Additional screening methods, such as constructing earthen berms, shall be employed as deemed appropriate by the Department.
- B. Vegetated earthen berms shall be located and constructed as shown on the Site Plan Map revised February 26, 2018. In addition to grasses, long leaf and/or Virginia pines or other acceptable evergreen species shall be planted as deemed appropriate by the Department to improve visual and noise buffering.
- C. Other berms may be required as mining progresses to reduce the noise and visual impact upon Umstead State Park.

13. Plan Modification

The operator shall notify the Department in writing of the desire to delete, modify or otherwise change any part of the mining, reclamation, or erosion/sediment control plan contained in the approved application for a mining permit and any approved revisions to it. Approval to implement such changes must be obtained from the Department prior to on-site implementation of the revisions.

14. Refuse Disposal

- A. No on-site disposal of refuse or other solid waste that is generated outside of the mining permit area shall be allowed within the boundaries of the mining permit area unless authorization to conduct said disposal has first been obtained from both the Division of Waste Management and the Division of Energy, Mineral and Land Resources, Department of Environmental Quality. The method of disposal shall be consistent with the approved reclamation plan.
- B. Mining refuse as defined by G.S. 74-49 (14) of The Mining Act of 1971 generated on-site and directly associated with the mining activity may be disposed of in a designated refuse area. All other waste products must be disposed of in a disposal facility approved by the Division of Waste Management. No petroleum products, acids, solvents or their storage containers or any other material that may be considered hazardous shall be disposed of within the permitted area.
- C. For the purposes of this permit, the Division of Energy, Mineral and Land Resources considers the following materials to be "mining refuse" (in addition to those specifically listed under G.S. 74-49 (14) of the N.C. Mining Act of 1971):
 - 1. on-site generated land clearing debris
 - 2. conveyor belts
 - 3. wire cables

4. v-belts
5. steel reinforced air hoses
6. drill steel

D. If mining refuse is to be permanently disposed within the mining permit boundary, the following information must be provided to and approved by the Division of Energy, Mineral and Land Resources prior to commencement of such disposal:

1. the approximate boundaries and size of the refuse disposal area;
2. a list of refuse items to be disposed;
3. verification that a minimum of 4 feet of cover will be provided over the refuse;
4. verification that the refuse will be disposed at least 4 feet above the seasonally high water table; and
5. verification that a permanent vegetative groundcover will be established

15. Annual Reclamation Report and Annual Operating Fee Submittal

An Annual Reclamation Report and Annual Operating Fee of \$400.00 shall be submitted to the Department by July 1 of each year until reclamation is completed and approved for release by the Department.

16. Bonding

The security, which was posted pursuant to N.C.G.S. 74-54 in the form of a \$1,000,000.00 blanket bond, is sufficient to cover the operation as indicated in the approved application. This security must remain in force for this permit to be valid. The total affected land shall not exceed the bonded acreage.

17. Archaeological Resources

Authorized representatives of the Division of Archives and History shall be granted access to the site to determine the presence of significant archaeological resources.

APPROVED RECLAMATION PLAN

The Mining Permit incorporates this Reclamation Plan, the performance of which is a condition on the continuing validity of that Mining Permit. Additionally, the Reclamation Plan is a separable obligation of the permittee, which continues beyond the terms of the Mining Permit.

The approved plan provides:

Minimum Standards as Provided By G.S. 74-53:

1. The final slopes in all excavations in soil, sand, gravel and other unconsolidated materials shall be at such an angle as to minimize the possibility of slides and be consistent with the future use of the land.
2. Provisions for safety to persons and to adjoining property must be provided in all excavations in rock.
3. All overburden and spoil shall be left in a configuration which is in accordance with accepted conservation practices and which is suitable for the proposed subsequent use of the land.
4. No small pools of water shall be allowed to collect or remain on the mined area that are, or are likely to become noxious, odious or foul.
5. The revegetation plan shall conform to accepted and recommended agronomic and reforestation practices as established by the North Carolina Agricultural Experiment Station and the North Carolina Forest Service.
6. Permittee shall conduct reclamation activities pursuant to the Reclamation Plan herein incorporated. These activities shall be conducted according to the time schedule included in the plan, which shall to the extent feasible provide reclamation simultaneous with mining operations and in any event, provide reclamation at the earliest practicable time after completion or termination of mining on any segment of the permit area and shall be completed within two years after completion or termination of mining.

RECLAMATION CONDITIONS:

1. Provided further, and subject to the Reclamation Schedule, the planned reclamation shall be to allow the quarry excavation to fill with water, provide a permanent barricade (fence) along the top of any high wall, and grade and revegetate any areas in unconsolidated material.
2. The specifications for surface gradient restoration to a surface suitable for the planned future use are as follows:

- A. All areas of unconsolidated material such as overburden or waste piles shall be graded to a 2 horizontal to 1 vertical or flatter slope and terraced as necessary to insure slope stability.
- B. Any settling ponds and sediment control basins shall be backfilled, graded, and stabilized or cleaned out and made into acceptable lake areas.
- C. The processing, stockpile, and other disturbed areas neighboring the mine excavation shall be leveled and smoothed.
- D. Compacted surfaces shall be disced, subsoiled or otherwise prepared before revegetation.
- E. No contaminants shall be permanently disposed of at the mine site. On-site disposal of waste shall be in accordance with Operating Conditions Nos. 14A through D.
- F. The affected land shall be graded to prevent the collection of noxious or foul water.
- G. Any diverted or re-established drainage channels shall be restored to a stable condition.

3. Revegetation Plan:

Disturbed areas shall be permanently revegetated according to the following provisions:

Site Preparation: The land surfaces shall be graded and/or shaped as necessary to create grades applicable to the subsequent use of the site, but in no case will any slope greater than 26 degrees in unconsolidated material be left. Loose rock, woody material and other obstructions that would interfere with the establishment of vegetation planned for the site shall be removed and either buried or properly disposed of off-site in accordance with Operating Condition Nos. 14A through D above. Surface runoff shall be controlled by terraces or diversions to allow discharge through protected outlets.

Lime and Fertilizer: Lime and fertilizer shall be applied in accordance with soil test result or at a rate of 2,000 lbs/acre of lime and 1000 lbs/acre of 10-20-20 fertilizer.

Seedbed Preparation: Lime and fertilizer shall be mixed with the soil to a depth of three to four inches where conventional equipment can be used. On slopes steeper than about 2:1, soils shall be grooved or scarified along the contour to provide for retention of seeds and nutrients on the slope until germination and growth is started. On steep slopes not accessible to seeding equipment, seed, nutrients and mulch, shall be applied by hand.

Revegetation: Typical seed mixtures to be utilized include fescue-rye, fescue-rye-lespedeza, and fescue-lespedeza, where the lespedeza used may be Korean or Kobe or Sericea. All rye species to be utilized shall be rye grain rather than rye grass. In fall or spring plantings, seeding mixtures shall utilize 100 lbs. Fescue and 50 lbs. Rye per acre to be planted. Late spring plantings in certain areas may contain up to 40 lbs. Kobe/Korean per acre where desirable to supplement natural deer browse. Sericea lespedeza shall be utilized at a rate of 20 to 40 lbs. per acre in combination with Fescue when planting excessively droughty soils or steep slopes. When using lespedeza species in fall plantings, non-scarified seed shall be utilized. Scarified seed shall be utilized in spring plantings. Newly seeded areas shall be mulched with unchopped small grain straw applied at a rate of 1.5 to 2 tons per acre, or until approximately 75% of the soil is hidden.

Loblolly pines (or other acceptable evergreen species) and red cedar seedlings shall be planted at selected sites to provide visual screens and revegetation. Evergreen seedling plantings shall be done on a staggered 4 feet by 4 feet pattern.

Maintenance: Plant placement and other maintenance that may be required to establish vegetative cover appropriate to the reclamation plan for this site shall be carried out until vegetation is properly established.

Whenever possible, disturbed areas should be vegetated with native warm season grasses such as switch grass, Indian grass, bluestem and gamma grass.

In addition, the permittee shall consult with a professional wildlife biologist with the N.C. Wildlife Resources Commission to enhance post-project wildlife habitat at the site.

4. Reclamation Plan:

Reclamation shall be conducted simultaneously with mining to the extent feasible. In any event, reclamation shall be initiated as soon as feasible after completion or termination of mining of any mine segment under permit. Final reclamation, including revegetation, shall be completed within two years of completion or termination of mining.

5. Donation to State:

This provision is pursuant to Wake Stone Corporation's offer to donate the quarry site to the State as part of its reclamation plan.

The term "quarry site" shall include the entire pit as it exists after quarrying has been completed, a strip extending at least 50 feet back from the top of the slope of the pit on all sides, and a reasonable area to connect the pit and surrounding strip to the Park, constituting a total area of at least 75 acres.

The method by which the quarry site may be donated to the State is as follows: Wake Stone Corporation will grant to the State an option which, if exercised by the State, will require that Wake Stone Corporation convey a fee simple title to the quarry site to the State. The State shall have no obligations to exercise its option to accept a conveyance of the quarry site. The option may include such other terms as are mutually acceptable to the State and Wake Stone Corporation.

During the option period, Wake Stone Corporation shall have the right to encumber all of its remaining property from time to time by mortgage, deed of trust or other security agreement then in common use for the purpose of securing one or more bona fide obligations of Wake Stone Corporation, such as the payment of money or the providing of any goods or services. The option to the State shall be subordinate to each such encumbrance in the same manner and to the same extent as if such option has been recorded after the restoration of each such encumbrance.

The right of the State to exercise its option shall be subject to:

Wake Stone Corporation not being prohibited by the US Government, State of North Carolina, Wake County, any municipality having jurisdiction, or by any other court from removing from Wake Stone Corporation's property all quarryable stone which is outside of the buffer zones referred to in Operating Condition No.3 of this permit. The requirements by the State that Wake Stone Corporation comply with laws and rules and regulations generally applicable to stone quarrying shall not be deemed a prohibition of quarrying for the purpose of the option agreement.

The conveyance of the quarry site, if approved by the State, shall be by deed containing the usual covenants of warranty and conveying the quarry site free and clear of all encumbrances except those existing at the time of Wake Stone Corporation's purchase, ad valorem taxes at the time of conveyance (which shall be prorated), and such drainage and utility easements as shall have been installed in connection with the development of the property.

The terms and conditions of the option shall be as follows:

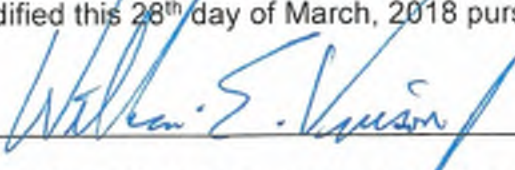
- A. When all quarryable stone has been removed from all of the land and belonging to or under the control of Wake Stone Corporation during the period of its quarrying operations and which lies between Umstead State Park and Interstate Highway 40, it shall be the duty of Wake Stone Corporation to notify the State of this fact. Upon receipt of such notice, the State shall have six months within which it may elect to have Wake Stone Corporation convey the quarry site to the State. If the State elects to have Wake Stone Corporation convey the quarry site to the State, it shall notify Wake Stone Corporation of such election within said six month period. All notices shall be by certified mail and return receipt requested.

If the State fails to make election within said six month period or shall elect not to accept a conveyance of the quarry site, the option shall be thereupon terminate and Wake Stone Corporation shall have no further obligation to convey the quarry site to the State.

- B. If all quarryable stone is not removed, the right of the State to acquire the quarry site shall accrue at the end of 50 years from the date quarrying commences or 10 years after quarrying operations have ceased without having been resumed, whichever is later, and notices shall be exchanged at that time in the same manner and with the same time limitations as set forth in Paragraph A above.
- C. Until the option has expired, Wake Stone Corporation shall not encumber by mortgage or deed of trust of any of the area designated "BUFFER AREA" on Wake Stone Corporation's Site Plan last revised February 26, 2018 except for purchase money security interests.

The terms and conditions relating to the donation are placed herein to prescribe generally the boundaries of the Wake Stone Corporation offer. The acceptance by the State is subject to approval by the Department of Administration and the council of State and the ascertaining that the offer is in accord with the laws of the State and lawfully adopted rules and regulations. Further, the Department's analysis of the conditions of the land to be transferred will be in accordance with the criteria identified in the "Principles" Governing the Establishment of Extension and Development of State Parks, State Recreation Areas and State Natural Areas."

This permit, issued May 13, 1981, modified April 15, 1986, renewed and modified April 1, 1991, modified February 5, 1992 and October 11, 1996, renewed April 20, 2001, modified November 24, 2010, renewed March 30, 2011 and modified December 1, 2017, is hereby modified this 28th day of March, 2018 pursuant to G.S. 74-52.

By:  _____

William E. Vinson, Jr., Interim Director
Division of Energy, Mineral and Land Resources
By Authority of the Secretary
Of the Department of Environmental Quality

Cole Atkins

From: David Lee
Sent: Monday, March 26, 2018 2:24 PM
To: Wehner, Judy
Cc: Sam Bratton; Cole Atkins
Subject: Triangle Quarry - Mining Permit 92-10
Attachments: Corrections for Permit 92-10.pdf

Judy-

Cole forwarded to me the revised Permit 92-10 for our Triangle Quarry which he received via email earlier today. After reading the revised permit, we have discovered several editorial/typographical errors that should be corrected. I am attaching a PDF of pages 3, 4, 14, and 17 with those needed corrections noted in red pen.

- Under Operating Condition 3. Buffer Zones, conditions C and D are unnecessary, should be deleted, and Condition E re-lettered as "C". Condition E, which references the February 26, 2018 Site Plan Map, adequately addresses all buffers.
- Modification history section: The December 1, 2018 date for life of mine should be December 1, 2017 (Session Law 2017-209).
- Same section: "correction of" should be "correct" under the March 19, 2018 modification reference.
- Operating Condition 2 – formatting - need a space between 2A and 2B.
- Reclamation Condition 2E should reference 14A through D (not 12A through D).
- Reclamation Condition 3 under Site Preparation should also refer to 14A through D, not 12A through D.
- Reclamation Condition 5C should be updated to reference the Site Plan revised February 26, 2018 as this condition relates to "BUFFER AREA" (not the old February 4, 2011 map).
- The Division and Department name under the signature on the last page need to be updated.

If necessary, Cole and/or I can meet with you and David at your convenience to discuss these needed corrections. Please let he or I know if that would be beneficial. The easiest fix may be to simply send corrected pages to be slip-sheeted into our copy of the permit.

Thank you for your prompt attention to this matter,
-David

David F. Lee
Geologist/Environmental Supervisor
Wake Stone Corporation
PO Box 190
Knightdale, North Carolina 27545
Office: 919-266-1100, ext. 134
website: www.wakestonecorp.com
Cell: 919-369-3449
Home: 919-553-4666

November 24, 2010: This permit has been modified to increase the affected acreage at this site to 156.6 acres as indicated on the Site Plan Maps last revised November 22, 2010. The modification includes the construction of a stockpile area contiguous to the existing plant and stockpile yard and includes the installation and maintenance of all associated erosion and sediment control measures.

²⁰¹⁷
December 1, 2018: This permit has been legislatively modified to issue the permit for the life of the site or the duration of the lease term.

March 19, 2018: This permit has been modified to ^{correct} ~~correction~~ of discrepancies on the mine map and in several mining permit conditions.

This permit is valid for the life of the site or life of lease, if applicable, as defined by Session Law 2017-209 and has no expiration date. However, all provisions of GS 74-51 and GS 74-52 still apply for new, transferred and modified mining permits.

Conditions

This Permit shall be subject to the provisions of the Mining Act, N.C.G.S. 74-46, et. seq., and to the following conditions and limitations:

OPERATING CONDITIONS:

1. Wastewater and Quarry Dewatering

- A. Any wastewater processing or mine dewatering shall be in accordance with the permitting requirements and rules promulgated by the N.C. Environmental Management Commission.
- B. Any storm water runoff from the affected areas at the site shall be in accordance with any applicable permit requirements and regulations promulgated by the Environmental Protection Agency and enforced by the N.C. Environmental Management Commission. It shall be the permittee's responsibility to contact the Division of Water Quality to secure any necessary storm water permits or other approval documents.

2. Air Quality and Dust Control

- A. Any mining related process producing air contaminant emissions including fugitive dust shall be subject to the requirements and rules promulgated by the N.C. Environmental Management Commission and enforced by the Division of Air Quality.
- ^{space} → B. The provisions of Air Quality Permit No. 4386 shall be followed.
- C. The permanent access (plant entrance) road shall be paved from the scale house to SR 1790. During quarry operation, water trucks or other means that

may be necessary shall be utilized to prevent dust from leaving the permitted area.

- D. Dust suppression systems shall be used throughout the plant to control dust.
- E. Drill hole dust shall be controlled by wetting or other means.
- F. Dust control at the crushers and screens shall be maintained by the use of water sprays.
- G. A water spray shall be provided for highway haul trucks.
- H. Washed stone shall be stockpiled within the part of the designated plant area which is closest to the park.

3. Buffer Zones

- A. Any mining activity affecting waters of the State, waters of the U. S., or wetlands shall be in accordance with the requirements and regulations promulgated and enforced by the N. C. Environmental Management Commission.
- B. Sufficient buffer shall be maintained between any affected land and any adjoining waterway or wetland to prevent sedimentation of that waterway or wetland from erosion of the affected land and to preserve the integrity of the natural watercourse or wetland.
- ~~C.~~ A minimum buffer zone of 250 feet shall be maintained between any mining activity and Crabtree Creek along the north side of the mine site.
- ~~D.~~ A minimum buffer zone of 100 feet shall be maintained between any mining activity and both the Umstead Park property and adjoining property along the east and south sides of the mine site, respectively.
- ~~E.~~ All buffer zones shown on the Site Plan Map revised February 26, 2018 shall be maintained to protect adjoining property. These buffer zones, with the exception of the installation of required sediment control measures and approved earthen berms, shall remain undisturbed.

OMIT

OMIT

Re-letter C.

*3C & 3C are redundant w/ 3E's
reference to 2/26/18 map depicted buffers.*

- B. Any settling ponds and sediment control basins shall be backfilled, graded, and stabilized or cleaned out and made into acceptable lake areas.
- C. The processing, stockpile, and other disturbed areas neighboring the mine excavation shall be leveled and smoothed.
- D. Compacted surfaces shall be disced, subsoiled or otherwise prepared before revegetation.
- E. No contaminants shall be permanently disposed of at the mine site. On-site disposal of waste shall be in accordance with Operating Conditions Nos. ~~12.A.~~ ^A through D.
- F. The affected land shall be graded to prevent the collection of noxious or foul water.
- G. Any diverted or re-established drainage channels shall be restored to a stable condition.

3. Revegetation Plan:

Disturbed areas shall be permanently revegetated according to the following provisions:

Site Preparation: The land surfaces shall be graded and/or shaped as necessary to create grades applicable to the subsequent use of the site, but in no case will any slope greater than 26 degrees in unconsolidated material be left. Loose rock, woody material and other obstructions that would interfere with the establishment of vegetation planned for the site shall be removed and either buried or properly disposed of off-site in accordance with Operating Condition Nos. ~~12A~~ through D above. Surface runoff shall be controlled by terraces or diversions to allow discharge through protected outlets.

Lime and Fertilizer: Lime and fertilizer shall be applied in accordance with soil test result or at a rate of 2,000 lbs/acre of lime and 1000 lbs/acre of 10-20-20 fertilizer.

Seedbed Preparation: Lime and fertilizer shall be mixed with the soil to a depth of three to four inches where conventional equipment can be used. On slopes steeper than about 2:1, soils shall be grooved or scarified along the contour to provide for retention of seeds and nutrients on the slope until germination and growth is started. On steep slopes not accessible to seeding equipment, seed, nutrients and mulch, shall be applied by hand.

terminate and Wake Stone Corporation shall have no further obligation to convey the quarry site to the State.

- B. If all quarryable stone is not removed, the right of the State to acquire the quarry site shall accrue at the end of 50 years from the date quarrying commences or 10 years after quarrying operations have ceased without having been resumed, whichever is later, and notices shall be exchanged at that time in the same manner and with the same time limitations as set forth in Paragraph A above.
- C. Until the option has expired, Wake Stone Corporation shall not encumber by mortgage or deed of trust of any of the area designated "BUFFER AREA" on Wake Stone Corporation's Site Plan dated February 4, ~~2011~~, ^{26, 2018} except for purchase money security interests.

The terms and conditions relating to the donation are placed herein to prescribe generally the boundaries of the Wake Stone Corporation offer. The acceptance by the State is subject to approval by the Department of Administration and the council of State and the ascertaining that the offer is in accord with the laws of the State and lawfully adopted rules and regulations. Further, the Department's analysis of the conditions of the land to be transferred will be in accordance with the criteria identified in the "Principles' Governing the Establishment of Extension and Development of State Parks, State Recreation Areas and State Natural Areas."

This permit, issued May 13, 1981, modified April 15, 1986, renewed and modified April 1, 1991, modified February 5, 1992 and October 11, 1996, renewed April 20, 2001, modified November 24, 2010, renewed March 30, 2011 and modified December 1, 2017, is hereby modified this 19th day of March, 2018 pursuant to G.S. 74-52.

By: 

William E. Vinson, Jr., Interim Director
Division of Land Resources ^{DEMLR}
By Authority of the Secretary
Of the Department of Environment and Natural Resources

^{DEQ}

David Lee

From: David Lee
Sent: Friday, March 16, 2018 1:36 PM
To: Wehner, Judy
Subject: FW: Triangle Quarry Permit Language Revisions

Judy-
Below is the original email I sent back in March 2011 concerning the Mining Commission's Final decision language. I'm resending this so that you have documentation.

Attached is a PDF of the Commission's final decision. Reclamation Condition 5B on Page 17 of the current permit should simply be changed to read "whichever is later", not "whichever is sooner", a simple one word change. I suggest cutting and pasting the following:

- B. If all quarryable stone is not removed, the right of the State to acquire the quarry site shall accrue at the end of 50 years from the date quarrying commences or 10 years after quarrying operations have ceased without having been resumed, whichever is later, and notices shall be exchanged at that time in the same manner and with the same time limitations as set forth in paragraph A above.

Thanks!
Call Cole or I if you have any questions.



Mining
Commission Fin...

-David

David F. Lee
Geologist/Environmental Supervisor
Wake Stone Corporation
PO Box 190
Knightdale, North Carolina 27545
Office: 919-266-1100, ext. 134
website: www.wakestonecorp.com
Cell: 919-369-3449
Home: 919-553-4666

From: David Lee
Sent: Monday, March 07, 2011 3:21 PM
To: Judy Wehner <judy.wehner@ncmail.net>; Wehner, Judy <judy.wehner@ncdenr.gov>
Subject: Language

Judy-
Thanks for the opportunity to review the Triangle Quarry permit with you this morning by phone. I have spent some more time reviewing the permit since you and I last spoke by phone and believe the section on "Donation to State" would benefit from some revision. The original permit for Triangle was issued before I joined Wake Stone so I'm not as familiar with offer to "donate to the State" as I probably should be. However, I've located the Mining Commission's FINAL DECISION document of April 3, 1981 (copy attached) and compared the "donation to the state" language there (pages 3-

6) with what is in the current version of the permit (pages 18-19). The "donation to the state" language in the permit seems confusing to me - discussion of "option" before its even made know what the "option" is all about. I think it would be beneficial to incorporate the Commission's language more nearly verbatim.

I've taken the liberty of drafting suggested language you might consider in place of existing section 5. beginning on page 17 of the permit. Feel free to run it by Tracy and/or Jim and see what they think.

Let me know if you have any questions or need any additional information. I'm not trying to write my own permit, just trying to be helpful.

Thanks!

-David

David F. Lee
Geologist/Environmental Supervisor
Wake Stone Corporation
PO Box 190
Knightdale, North Carolina 27545
Office: 919-266-1100, ext. 134
Cell: 919-369-3449
Home: 919-553-4666

BEFORE THE MINING COMMISSION

In the Matter of Denial of
Permit Application of
Wake Stone Corporation

FINAL DECISION

In accordance with this Commission's initial Findings of Fact, Conclusions, and Decision of January 27, 1981, as amended and corrected, and with the March 12, 1981 Agreement of Wake Stone Corporation and the Division of Land Resources, Department of Natural Resources and Community Development, concerning the Conditions enumerated below as 1, 2, 4, and 5; and upon consideration of the supplementary arguments of the parties concerning Condition 3, infra, the Mining Commission hereby orders that the Division of Land Resources grant to Wake Stone Corporation the permit applied for with the following conditions:

Condition No. 1 - Minimize noise, dust, and other possible adverse effects.

Noise

1. Noise barriers between crushers and screening towers to minimize noise levels at the park shall be provided from the outset of the operation. Noise barriers may be enclosures, walls, bins, structures, stockpiles, or natural terrain. In the event there is disagreement over the required noise control measures, the final design and emplacement of noise barriers shall be determined by qualified noise and engineering consultants mutually agreed upon by both parties.
2. The plant shall be located at a lower elevation as indicated on the required site plan.
3. The plant shall be designed so that the primary crusher can be relocated in the pit at the earliest possible date.
4. The chutes used in processing shall be rubberized.

5. Compressors with noise abatement enclosures (currently called whispered compressors) shall be used with track drills to open the quarry. Once the quarry is opened, either hydraulic or down-in-the-hole drills shall be used to further reduce noise.
6. Only such blasting techniques as minimize noise shall be employed.
7. Pit haul trucks shall be equipped to exhaust through the beds of the trucks to muffle engine noise.
8. Conveyors rather than trucks shall be used for stockpiling material.
9. The quarry shall be operated only on Monday through Friday and shall not be operated on State-recognized holidays.

Dust

1. The access road to the quarry, from the scale house to SR 1790, shall be paved. Wake Stone Corporation agrees to cooperate with the Department of Transportation in paving SR 1790 from the entrance to the quarry to the intersection with SR 1654.
2. The provisions of the air quality permit No. 4386 shall be followed.
3. A water wagon with sprays shall be used for wetting roads to prevent dust.
4. Sprays shall be used throughout the plant at transfer points to control dust.
5. Drill hole dust shall be controlled by wetting or other means.
6. Dust control shall be maintained by the use of water sprays.
7. A water spray shall be provided for highway haul trucks.
8. Washed stone shall be stockpiled within the part of the designated plant area which is closest to the park.

Condition No. 2 - Optimize processing and stockpiling facilities to minimize possible effects on the park.

1. The processing and stockpiling facilities shall be relocated as indicated on the Wake Stone revised site plan submitted February 18, 1981. The purpose of this relocation shall be to screen the park from the sight and sound of the operation, reduce erosion, and shield the operation from public view along Interstate 40.
2. The relocation shall place the processing and stockpiling facilities at a lower elevation to reduce visibility and noise.
3. The stockpiles shall be located close to the quarry entrance roads.
4. The plant and stockpile area shall be close to the intersection of SR 1790 and SR 1654.
5. The initial site disturbance from both quarry excavation and plant site development shall be confined to one drainage system, which is now already protected by ponds which will serve as sediment basins. The purpose of this relocation is to aid erosion and sediment control.
6. The new location of the pit shall be such that, once the overburden is removed, the quarry excavating equipment - i.e. compressor and drill, shovels, and trucks - can be placed below the surrounding land at the initial phases of quarrying.

Condition No. 3 - Buffer Zone Plan

1. The extent of the completely undisturbed buffer zone to be maintained between the park boundary during the 10 year permit shall be as indicated on the revised plan and modified by Exceptions 2, 3, and 4 listed on Page 2 of Wake Stone Corporation's memorandum of March 10, 1981, except all of the area north of the ten-year buffer line shall be left as a natural buffer

zone and not be developed or altered for commercial purposes.

Condition No. 4 - Construction of Berms

1. A vegetated earthen berm shall be constructed between the Wake Stone Corporation plant and the western boundary of the park as shown on Wake Stone Corporation's revised site plan.
2. Berm dimensions shall be no less than indicated on Wake Stone Corporation's revised site plan and may be higher and longer than shown, ~~except the berm shall not encroach on the parkment buffer zone.~~
3. ~~The side slopes of the berm shall be graded to a stable grade of 2 horizontal to 1 vertical grade or flatter and revegetated on the sides and top with grasses and evergreen trees. The top of the berm shall not encroach on the park property boundary and shall be at least 50 feet from the boundary.~~
4. Other berms may be required as mining progresses to reduce the noise and visual impact upon the quarry.

Condition No. 5 - Donation of Quarry to the State

Pursuant to Wake Stone Corporation's offer to donate the quarry site to the State as part of its reclamation plan, the terms and conditions of the offer and acceptance shall be set forth in the reclamation plan as follows.

The term, "quarry site", shall include the entire pit as it exists after quarrying has been completed, a strip extending at least 50 feet back from the top of the slope of the pit on all sides (see the reclamation plan for the requirements applying to the slope), and a reasonable area to connect the pit and surrounding strip to Umstead Park, constituting a total area of at least 75 acres.

The method by which the quarry site will be donated to the State is as follows: Upon acquisition of the land by Wake Stone (by the exercise of its options to purchase), Wake Stone will grant to the State an option which, if exercised by the State, will require that Wake Stone convey a fee simple title to the quarry site to the State. The State shall have no obligation to exercise its option to accept a conveyance of the quarry site.

The terms and conditions of the option shall be as follows:

1. When all quarryable stone has been removed from all of the land belonging to or under the control of Wake Stone Corporation during the period of its quarrying operations and which lies between Umstead Park and Interstate Highway 40, it shall be the duty of Wake Stone to notify the State of this fact. Upon receipt of such notice, the State shall have six months within which it may elect to have Wake Stone convey the quarry site to the State. If the State elects to have Wake Stone convey the quarry site to the State, it shall notify Wake Stone of such election within said six month period. All notices shall be by certified mail with return receipt requested. If the State fails to make an election within said six month period or shall elect not to accept a conveyance of the quarry site, the option shall thereupon terminate and Wake Stone shall have no further obligation to convey the quarry site to the State.

2. If all quarryable stone is not removed, the right of the State to acquire the quarry site shall accrue at the end of 50 years from the date quarrying commences or 10 years after quarrying operations have ceased without having been resumed, whichever is later, and notices shall be exchanged at that time in the same manner and with the same time limitations as set forth in paragraph 1 above.

3. Until the option has expired Wake Stone will not encumber by mortgage or deed of trust any of the area designated "BUFFER AREA" on Wake Stone's site plan dated February 17, 1981, revised March 10, 1981, except for purchase money security interests.

4. During the option period, Wake Stone shall have the right to encumber all of its remaining property from time to time by mortgage, deed of trust or other security agreement then in common use for the purpose of securing one or more bona fide obligations of Wake Stone, such as the payment of money or the providing of any goods or services. The option to the State shall be subordinate to each such encumbrance in the same manner and to the same extent as if such option had been recorded after the recordation of each such encumbrance.

5. The right of the State to exercise its option shall be subject to:

(a) Wake Stone not being prohibited by the U.S. Government, State of North Carolina, Wake County, any municipality having jurisdiction, or by any court from removing from Wake Stone's property all quarryable stone which is outside of the BUFFER AREA referred to in paragraph 3 above. The requirement by the State that Wake Stone comply with laws and rules and regulations generally applicable to stone quarries shall not be deemed a prohibition of quarrying for the purpose of the option agreement.

(b) The operation of a quarry on Wake Stone's property for a minimum period of five years.

6. The conveyance of the quarry site shall be by deed containing the usual covenants of warranty and conveying the quarry site free and clear of all encumbrances except those existing at the time of Wake Stone's purchase, ad valorem taxes at the time of conveyance (which shall be prorated), and such drainage and utility easements as shall have been installed in connection with the development of the property.

7. The option may include such other terms as are mutually acceptable to the State and Wake Stone.

The Mining Commission concludes from the evidence submitted in this case that the operation of the quarry, under the conditions set forth in this decision, will not have a significant adverse effect on the purposes of the park.

For the unanimous Mining Commission, this the APR day of 3 1981, 1981.

Original signed by

Henry B. Smith, Chairman

Original signed by

T.W. Tysinger

Original signed by

W.W. Woodhouse

Commissioners Barkalow and Long took no part in the disposition of the case.



Wake Stone Corporation

www.wakestonecorp.com

Quarry Phone Numbers:

919/266-9266 - Knightdale
919/677-0050 - Triangle
919/775-7349 - Moncure
252/985-4411 - Nash County
843/756-3400 - N. Myrtle Beach

Locations:

6811 Knightdale Blvd., Knightdale, N.C.
222 Star Lane, Cary, N.C.
9725 Stone Quarry Rd., Moncure, N.C.
7379 North Halifax Rd., Battleboro, N.C.
3990 Hwy 9 Business East, Loris, S.C.

Business Office Address:

P.O. Box 190
6821 Knightdale Blvd.
Knightdale, N.C. 27545
919/266-1100
Fax: 919/266-1149

February 26, 2018

Ms. Judith A. Wehner, Assistant State Mining Specialist
NC DEQ Division of Energy, Mineral, and Land Resources
Land Quality Section
1612 Mail Service Center
Raleigh, North Carolina 27699-1612

RE: Wake Stone Corporation Triangle Quarry
Mining Permit 92-10
Wake County

Dear Ms. Wehner:

During a recent review of the referenced Mining Permit and approved Site Plan Map for the Triangle Quarry, we discovered that the current Site Plan Map does not properly delineate the property boundary as the centerline of Crabtree Creek. This is inconsistent with the enclosed copy of the Composite Property Plat recorded at Page 364 in Book of Maps No. 1982 of the Wake County Public Registry. It appears that this discrepancy occurred during our company's transition to digital mapping. This discrepancy is critical in that the permit stipulated buffers are to be measured from the Property Boundary/Mining Permit Boundary (which are one and the same).

By this letter, we request that Operating Condition No. 3 on Page 4 of our mining permit be administratively revised to require that all buffers be maintained as referenced on the enclosed Site Plan Map revised February 26, 2018. The enclosed Site Plan Map graphically illustrates the corrected buffers measured from the centerline of Crabtree Creek which is the Property Boundary/Mining Permit Boundary along the north and west boundaries of the mine site. Please note that there are no changes proposed to the mining operation and that this mapping adjustment does not change the currently approved permitted and affected acreage at this site (the acreage approved in the permit was based upon the mining permit boundary being located at the centerline of the creek).

Ms. Judith Wehner
February 26, 2018
Page 2

As the requirements specified in Operating Conditions 3.C. and 3.D. are covered by Operating Condition 3.E.'s reference to such buffers on the approved Site Plan Map, we request that Operating Conditions 3.C. and 3.D. be removed from the permit and that Operating Condition 3.E. becomes the new Operating Condition 3.C. that reads as follows:

All buffer zones shown on the Site Plan Map revised February 26, 2018 shall be maintained to protect adjoining property. These buffer zones, with the exception of the installation of required erosion and sedimentation control measures and approved earthen berms, shall remain undisturbed.

As we are requesting that the mining permit document be updated to reflect these mapping adjustments, we assume that this administrative change to the mining permit is considered a mining permit modification. Please accept this letter and the enclosed \$750 check as our formal request to modify our mining permit. I assume that as there are no changes in the mining operation, this request can be reviewed internally by DEMLR's central and regional offices.

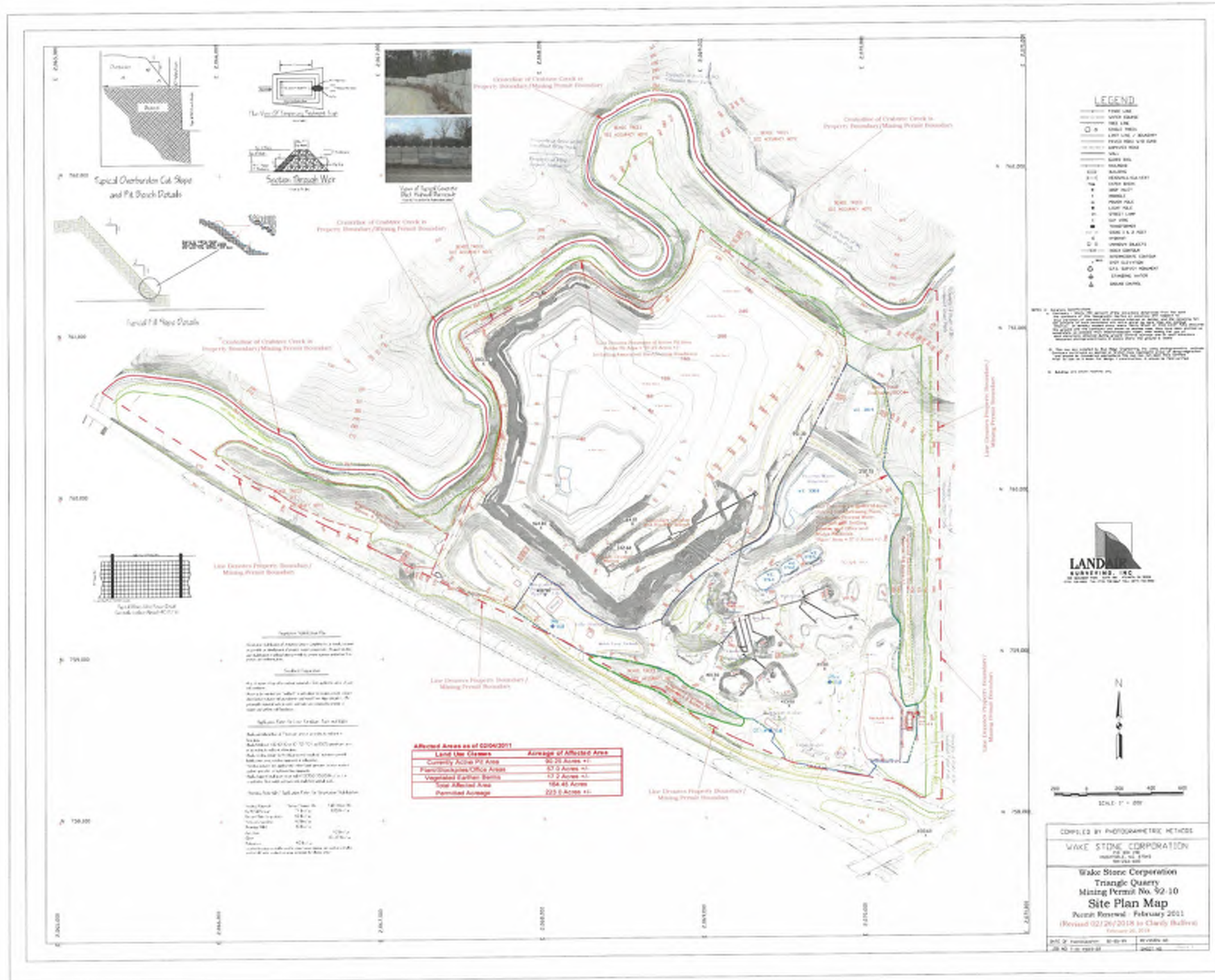
Thank you for your consideration of this request. If you should have any questions or need additional information, please contact me at (919) 266-1100, ext. 134.

Sincerely,
Wake Stone Corporation



David F. Lee, Environmental Supervisor

Enclosures: As noted



Cole Atkins

From: Wehner, Judy <judy.wehner@ncdenr.gov>
Sent: Wednesday, February 21, 2018 8:50 AM
To: Cole Atkins
Subject: RE: [External] File Review

I am here!

From: Cole Atkins [mailto:coleatkins@wakestonecorp.com]
Sent: Wednesday, February 21, 2018 8:32 AM
To: Wehner, Judy <judy.wehner@ncdenr.gov>
Subject: [External] File Review

CAUTION: External email. Do not click links or open attachments unless verified. Send all suspicious email as an attachment to [Report Spam](#).

Good morning Judy,
I just wanted to check to make sure that this morning was still convenient for me to come do a file review for our Triangle Quarry, **Mining Permit No. 92-10**. It shouldn't take very long.
Thanks,
Cole

L. Cole Atkins

Geologist/Environmental Specialist
[Wake Stone Corporation](#)
(919) 266-1100



Documents pertaining to ADI #6, Question #4

Tom Oxholm

From: Tom Oxholm
Sent: Friday, February 5, 2021 2:20 PM
To: Sydney Batch; Sen. Sarah Crawford; Mary-Ann Baldwin (baldwin.maryann@gmail.com); Matt Calabria@WakeGov.com
Cc: Sydney Dougan (Sen. Sydney Batch)
Subject: RE: Sunset Clause
Attachments: 2021 Response re Sunset Clause.pdf

Senators Batch and Crawford:

Thank you for letting us know about the emails you, and likely other elected officials, are getting regarding the "sunset clause" for Wake Stone Corporation's Triangle Quarry mining permit. Please share this email and attachments with the Wake delegation. I am copying Mayor Baldwin and Chairman Calabria for them to share as well.

In 1980, Wake Stone applied for a mining permit for its current Triangle Quarry adjacent to Umstead State Park. The State through its agency denied the permit request and Wake Stone appealed to the state Mining Commission. The Mining Commission reviewed the permit request in great detail with most of its concern being about the potential significant adverse impact on Umstead State Park. Their FINAL DECISION is attached. They approved the permit, reversing the agency, and in the process added a number of stipulations for the quarry and Wake Stone in its FINAL DECISION. One of those stipulations is in regards to some of the quarry site being offered to the State at the end of the quarry operations or at a time certain, and the state having the option to take it or not, as they would decide at that future point in time. As you can see on page 5, paragraph 2, the time that the state option "...shall accrue at the end of fifty years from the date quarrying commences or ten years after quarrying operations have ceased without having been resumed, whichever is later,..."

The Triangle Quarry Mining Permit included all of the stipulations in great detail as laid out by the Mining Commission FINAL DECISION, including the stipulation above. BUT, for some reason, the word "later" was changed to "sooner". This small, but very important change, was not caught by Wake Stone management in 1981.

At that time Mining Permits had to be renewed every ten years. The Triangle Quarry Permit was renewed in 1991, 2001, and 2011 as required. In the 2011 permit renewal Wake Stone personnel brought to the attention of the state agency the error. The agency decided not to correct the clause at that time.

In 2017, it became apparent that the continuation of the quarry was more likely if a permit modification was approved to expand the quarry to mine RDUAA land. And for that to be allowed, the original intent of the Mining Commission 1981 FINAL DECISION would need to be corrected.

Wake Stone again brought the issue to the attention of the DEQ's Division of Energy, Mineral, and Land Resources (DEMLR) and they processed a correction of the word "sooner" to "later". They reported to us that they had asked the NC Attorney General to review the matter before they corrected it and the AG's office approved. Right behind the FINAL Decision is a copy of an email from State Mining Specialist of DEMLR to a Mr. Johnson who inquired about this same manner. Mr. Miller's response affirms what I laid out above in a lot fewer words.

Please call me if you have any further questions.

Thank you.

Tom

From: Sydney Batch <sbatch@batchpoore.com>
Sent: Friday, February 5, 2021 10:34 AM
To: Tom Oxholm <tomoxholm@wakestonecorp.com>

Cc: Sydney Dougan (Sen. Sydney Batch) <sydney.dougan@ncleg.gov>

Subject: Quick question

Tom,

I hope you and your family are doing well! I received an email in my legislative account about Wake Stone. I have quoted the information below for your reference. I don't know what she is talking about and was hoping that you could give me some context about the issue.

She emailed and said: 'Please reinforce the sunset clause that wake stone mysteriously altered and save the Oddfellows tract adjacent to Umstead Park! What a terrible place for a quarry!'

I am not familiar with the sunset clause. Any help with me understanding the sunset clause would be appreciated.
Thanks!

Sydney J. Batch, J.D., M.S.W.
120 Penmarc Dr., Suite 101
Raleigh, NC 27603
Phone: (919) 870-0466
Fax: (919) 882-1004
Website: www.batchwilliams.com

BEFORE THE MINING COMMISSION

In the Matter of Denial of
Permit Application of
Wake Stone Corporation

FINAL DECISION

In accordance with this Commission's initial Findings of Fact, Conclusions, and Decision of January 27, 1981, as amended and corrected, and with the March 12, 1981 Agreement of Wake Stone Corporation and the Division of Land Resources, Department of Natural Resources and Community Development, concerning the Conditions enumerated below as 1, 2, 4, and 5; and upon consideration of the supplementary arguments of the parties concerning Condition 3, *infra*, the Mining Commission hereby orders that the Division of Land Resources grant to Wake Stone Corporation the permit applied for with the following conditions:

Condition No. 1 - Minimize noise, dust, and other possible adverse effects.

Noise

1. Noise barriers between crushers and screening towers to minimize noise levels at the park shall be provided from the outset of the operation. Noise barriers may be enclosures, walls, bins, structures, stockpiles, or natural terrain. In the event there is disagreement over the required noise control measures, the final design and emplacement of noise barriers shall be determined by qualified noise and engineering consultants mutually agreed upon by both parties.
2. The plant shall be located at a lower elevation as indicated on the required site plan.
3. The plant shall be designed so that the primary crusher can be relocated in the pit at the earliest possible date.
4. The chutes used in processing shall be rubberized.

5. Compressors with noise abatement enclosures (currently called whispered compressors) shall be used with track drills to open the quarry. Once the quarry is opened, either hydraulic or down-in-the-hole drills shall be used to further reduce noise.
6. Only such blasting techniques as minimize noise shall be employed.
7. Pit haul trucks shall be equipped to exhaust through the beds of the trucks to muffle engine noise.
8. Conveyors rather than trucks shall be used for stockpiling material.
9. The quarry shall be operated only on Monday through Friday and shall not be operated on State-recognized holidays.

Dust

1. The access road to the quarry, from the scale house to SR 1790, shall be paved. Wake Stone Corporation agrees to cooperate with the Department of Transportation in paving SR 1790 from the entrance to the quarry to the intersection with SR 1654.
2. The provisions of the air quality permit No. 4386 shall be followed.
3. A water wagon with sprays shall be used for wetting roads to prevent dust.
4. Sprays shall be used throughout the plant at transfer points to control dust.
5. Drill hole dust shall be controlled by wetting or other means.
6. Dust control shall be maintained by the use of water sprays.
7. A water spray shall be provided for highway haul trucks.
8. Washed stone shall be stockpiled within the part of the designated plant area which is closest to the park.

Condition No. 2 - Optimize processing and stockpiling facilities to minimize possible effects on the park.

1. The processing and stockpiling facilities shall be relocated as indicated on the Wake Stone revised site plan submitted February 18, 1981. The purpose of this relocation shall be to screen the park from the sight and sound of the operation, reduce erosion, and shield the operation from public view along Interstate 40.
2. The relocation shall place the processing and stockpiling facilities at a lower elevation to reduce visibility and noise.
3. The stockpiles shall be located close to the quarry entrance roads.
4. The plant and stockpile area shall be close to the intersection of SR 1790 and SR 1654.
5. The initial site disturbance from both quarry excavation and plant site development shall be confined to one drainage system, which is now already protected by ponds which will serve as sediment basins. The purpose of this relocation is to aid erosion and sediment control.
6. The new location of the pit shall be such that, once the overburden is removed, the quarry excavating equipment - i.e. compressor and drill, shovels, and trucks - can be placed below the surrounding land at the initial phases of quarrying.

Condition No. 3 - Buffer Zone Plan

1. The extent of the completely undisturbed buffer zone to be maintained between the park boundary during the 10 year permit shall be as indicated on the revised plan and modified by Exceptions 2, 3, and 4 listed on Page 2 of Wake Stone Corporation's memorandum of March 10, 1981, except all of the area north of the ten-year buffer line shall be left as a natural buffer

zone and not be developed or altered for commercial purposes.

Condition No. 4 - Construction of Berms

1. A vegetated earthen berm shall be constructed between the Wake Stone Corporation plant and the western boundary of the park as shown on Wake Stone Corporation's revised site plan.
2. Berm dimensions shall be no less than indicated on Wake Stone Corporation's revised site plan and may be higher and longer than shown, except the berm shall not encroach on the permanent buffer zone.
3. The side slopes of the berm shall be graded to a stable grade of 2 horizontal to 1 vertical grade or flatter and revegetated on the sides and top with grasses and evergreen trees. The toe of the berm shall not encroach on the park property boundary and shall be at least 50 feet from the boundary.
4. Other berms may be required as mining progresses to reduce the noise and visual impact upon the quarry.

Condition No. 5 - Donation of Quarry to the State

Pursuant to Wake Stone Corporation's offer to donate the quarry site to the State as part of its reclamation plan, the terms and conditions of the offer and acceptance shall be set forth in the reclamation plan as follows.

The term, "quarry site", shall include the entire pit as it exists after quarrying has been completed, a strip extending at least 50 feet back from the top of the slope of the pit on all sides (see the reclamation plan for the requirements applying to the slope), and a reasonable area to connect the pit and surrounding strip to Umstead Park, constituting a total area of at least 75 acres.

The method by which the quarry site will be donated to the State is as follows: Upon acquisition of the land by Wake Stone (by the exercise of its options to purchase), Wake Stone will grant to the State an option which, if exercised by the State, will require that Wake Stone convey a fee simple title to the quarry site to the State. The State shall have no obligation to exercise its option to accept a conveyance of the quarry site.

The terms and conditions of the option shall be as follows:

1. When all quarryable stone has been removed from all of the land belonging to or under the control of Wake Stone Corporation during the period of its quarrying operations and which lies between Umstead Park and Interstate Highway 40, it shall be the duty of Wake Stone to notify the State of this fact. Upon receipt of such notice, the State shall have six months within which it may elect to have Wake Stone convey the quarry site to the State. If the State elects to have Wake Stone convey the quarry site to the State, it shall notify Wake Stone of such election within said six month period. All notices shall be by certified mail with return receipt requested. If the State fails to make an election within said six month period or shall elect not to accept a conveyance of the quarry site, the option shall thereupon terminate and Wake Stone shall have no further obligation to convey the quarry site to the State.

2. If all quarryable stone is not removed, the right of the State to acquire the quarry site shall accrue at the end of 50 years from the date quarrying commences or 10 years after quarrying operations have ceased without having been resumed, whichever is later, and notices shall be exchanged at that time in the same manner and with the same time limitations as set forth in paragraph 1 above.

3. Until the option has expired Wake Stone will not encumber by mortgage or deed of trust any of the area designated "BUFFER AREA" on Wake Stone's site plan dated February 17, 1981, revised March 10, 1981, except for purchase money security interests.

4. During the option period, Wake Stone shall have the right to encumber all of its remaining property from time to time by mortgage, deed of trust or other security agreement then in common use for the purpose of securing one or more bona fide obligations of Wake Stone, such as the payment of money or the providing of any goods or services. The option to the State shall be subordinate to each such encumbrance in the same manner and to the same extent as if such option had been recorded after the recordation of each such encumbrance.

5. The right of the State to exercise its option shall be subject to:

(a) Wake Stone not being prohibited by the U.S. Government, State of North Carolina, Wake County, any municipality having jurisdiction, or by any court from removing from Wake Stone's property all quarryable stone which is outside of the BUFFER AREA referred to in paragraph 3 above. The requirement by the State that Wake Stone comply with laws and rules and regulations generally applicable to stone quarries shall not be deemed a prohibition of quarrying for the purpose of the option agreement.

(b) The operation of a quarry on Wake Stone's property for a minimum period of five years.

6. The conveyance of the quarry site shall be by deed containing the usual covenants of warranty and conveying the quarry site free and clear of all encumbrances except those existing at the time of Wake Stone's purchase, ad valorem taxes at the time of conveyance (which shall be prorated), and such drainage and utility easements as shall have been installed in connection with the development of the property.

7. The option may include such other terms as are mutually acceptable to the State and Wake Stone.

The Mining Commission concludes from the evidence submitted in this case that the operation of the quarry, under the conditions set forth in this decision, will not have a significant adverse effect on the purposes of the park.

For the unanimous Mining Commission, this the 22nd ^{APR} of 1981, 1981.

Original signed by

Henry B. Smith, Chairman

Original signed by

F.W. Tysinger

Original signed by

W.W. Woodhouse

Commissioners Barkalow and Long took no part in the disposition of the case.

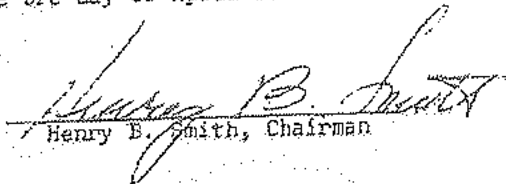
BEFORE THE MINING COMMISSION

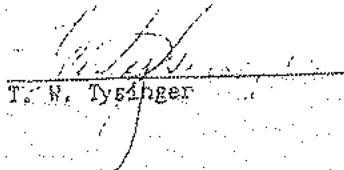
In the Matter of Denial of)
Permit Application of the)
Wake Stone Corporation)

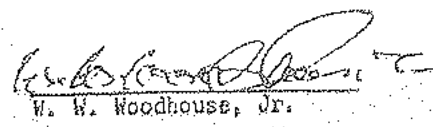
Amendment to the
Final Decision

The 250' buffer area shown on the northern boundary and
the 100' buffer area on the eastern boundary of Wake Stone's pro-
perty is considered by the Commission the permanent buffer zone,

This the 3rd day of April 1981.


Henry B. Smith, Chairman


T. W. Tysinger


W. W. Woodhouse, Jr.

Wehner, Judy

From: Miller, David
Sent: Wednesday, May 20, 2020 8:14 AM
To: Bryan Johnson; Wehner, Judy
Subject: Re: [External] Wake Stone Permit

Mr. Johnson,

The way the older permits were written was wrong when compare to the final decision made by the Mining Commission. The adjustment to the permit was to bring the permit in line with the final decision of the Mining Commission. This correction was review by the Attorney General office.

David Miller
State Mining Engineer

From: Bryan Johnson <bryandjohnson@gmail.com>
Sent: Tuesday, May 19, 2020 2:54 PM
To: Miller, David <david.miller@ncdenr.gov>; Wehner, Judy <judy.wehner@ncdenr.gov>
Subject: [External] Wake Stone Permit

[External email] Do not click links or open attachments unless you've verified the source. Send all suspicious emails as an attachment to report.scam@nc.gov

Mr. Miller and Ms Wehner,

We live near Umstead State Park and visit the park frequently. I understand Wake Stone's permit had a sunset clause that would have ended mining on the site by 2031 and that the sunset clause was recently changed by your office...at the request of Wake Stone. Is that accurate and if so, what was the reason for the change? Thank you.

Bryan Johnson