



The Umstead Coalition

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*B.W. Wells Association
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Neuse Riverkeeper Foundation
NC Herpetological Society
NC League Conservation Voters Foundation
NC Wildlife Federation*

*NC Native Plant Society
Orange-Chatham Group Sierra Club
Raleigh Ski and Outing Club, Inc.
Rockingham Naturalist's Club
Friends of Jockey's Ridge
Wake Audubon Society*

January 15, 2020

MEMORANDUM

To: Danny Smith, Director, Division of Energy, Mineral and Land Resources, NC Department of Environmental Quality (NCDEQ)

Cc: Mike Regan, Secretary, NC Department of Environmental Quality (NCDEQ)
Susi H Hamilton, Secretary, NC Department Natural and Cultural Resources (NC NCR)
Reid Wilson, Deputy Secretary, NC Department Natural and Cultural Resources (NC NCR)
Dwayne Patterson, Director, NC Division of Parks and Recreation, NC NCR
Carol Tingley, Deputy Director, NC Division of Parks and Recreation, NC NCR
Scott Letchworth, Park Superintendent, William B. Umstead State Park
Mike Landguth, President/CEO, RDU Airport Authority
RDUA Board Members
Greg Ford, Chair, Wake County Commissioners and Wake County Commissioners
Wendy Jacobs, Chair, Durham County Commissioners and Durham County Commissioners
Mary-Ann Baldwin, Mayor, City of Raleigh and Raleigh City Council Members
Steve Schewel, Mayor, City of Durham and Durham City Council Members
Harold Weinbrecht, Mayor, Town of Cary and Cary Town Council Members
TJ Cawley, Mayor, Town of Morrisville, and Town of Morrisville Council Members
Kym Hunter, Southern Environmental Law Center (SELC)
Cassie Gavin, Attorney, N.C. Sierra Club
Dustin Chicurel-Bayard, Interim Director, N.C. Sierra Club
Roy Cooper, Governor, North Carolina
NC Legislative - Wake County Legislative Delegation

From: Dr. Jean Spooner, Chair, The Umstead Coalition, 919-602-0049, info@umsteadcoalition.org

Re: Request to PREVENT mining operations (including fencing and logging) on the Odd Fellows Tract without an approved Mining Permit

Reference: RDUA Project No 211140, proposed 9' chain-linked, barbed wire fencing, forest clear-cutting within protected buffers of Umstead State Park and Crabtree Creek

RDUA is proposing a massive fence and logging project on the Odd Fellows tract WITHOUT an approved mining permit. We request that NCDEQ **PREVENT** this proposed fence project on the perimeter of the Odd Fellows Tract due to violations of the Mining Act of 1971 and existing Mining Permit restrictions under Mining Permit 92-10. **No fence should be allowed on the Odd Fellows tract prior to an approved mining permit, and certainly with no less than committed 250 feet of undisturbed buffer.**

♥ The Umstead Coalition ♥

Dedicated to preserving the natural integrity of W.B. Umstead State Park and the Richland Creek Corridor

I. Violation of the Mining Act of 1971

The proposed fence would be in direct violation of the Mining act of 1971 (as amended). Section 74-49 (7) of the NC Mining Act of 1971 includes:

"Mining" means any of the following: (i) the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; (ii) any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, soils, and other solid matter from their original location; or (iii) the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use."

The proposed fence and logging is an attempt to facilitate or accomplish extraction or removal. And, an attempt to SEGMENT the proposed new rock mine project. The proposed fence and logging would certainly "break the surface soil" with every fence post and every tree removed along it's more than the two (2) mile portion encircling the Odd Fellows tract.

It is proposed to be 9' tall (8' chain-link topped with 3 rows of barbed wire) with 30 feet of clear-cut swath through forested uplands and bottomlands. In addition, RDUAA has stated the intent would be to "patrol" which would also effectively establish a road along the proposed fence.

The intent for Wake Stone Corporation to apply for a Mining Permit on the entire Odd Fellows tract is included in the public document dated March 1, 2019 entitled "Option and Lease Agreement" that was signed by the RDUAA and Wake Stone Corporation (Lessee). This document clearly states the intent for the fence to be part of the mining operation. Section 8(c) on page 8:

"Lessee shall be solely responsible to provide fencing, security and all other safeguards to prevent unauthorized entry into the Premises."

As seen from the attached Google Earth graphic, the more than 2 miles in length of fencing/logging proposed along the perimeter of the Fellows Tract would create an isolated land "island" of the Odd Fellows Tract. The proposed fence around the Odd Fellows tract is not needed for runway/terminal security as it would be 2 miles away from the runways/terminals- demonstrating the intent is an attempt to segment and bias the mining permit evaluation process.

The proposed fence is an attempt to segment the detrimental aspects of the proposed mine **BEFORE** an approved mining permit modification is issued. A clear violation of the Mining Act of 1971. The proposed fence project (**RDU Project No. 211140**) would have profound detrimental impacts on William B. Umstead State Park, profound detrimental impacts on Foxcroft Lake and Crabtree Creek, profound detrimental impacts on wildlife, and profound detrimental impacts on adjacent private residences.

II. Violation of the Current Mining Permit 92-10, violations of the 250-foot permanent buffers

Wake Stone Corporation has publicly stated their intent to submit a Mining Permit Application for a new rock mine pit on the Odd Fellows Tract. They have concurrently stated their intent to submit their application as an “Expansion” of their current Mining Permit 92-10. Mining Permit 92-10 is for a controversial rock mine on the OTHER side of Crabtree Creek. The Mining Permit 92-10 includes conditions, including substantial buffers along Crabtree Creek and William B. Umstead State Park.

The proposed fence outlining the perimeter of the Odd Fellow tract is a violation of Wake Stone Corporation’s current mining permit conditions (Mining permit 92-10) that were added after DEQ denied their permit, as well as the commitments Wake Stone Corporation made to NC State Parks, DEQ and the Mining Commission and included in the Mining Permit. Wake Stone Corporation’s mining permit is conditioned with a stipulation that it maintains undisturbed buffer zones; with the exception of the installation of required sediment control measures and approved earthen berms. The committed buffers in the current mining permit are 250 feet wide and do NOT allow a fence within the buffer zones. Under its permit Wake Stone Corporation could not include the fence, clear-cut zone and adjacent road as part of the undisturbed buffer.

The current Mining Permit 92-10 language includes:

“3.C Buffer Zones. All buffer zones shown on the Site 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.”

The proposed fence is an apparent attempt to circumvent this committed property buffer requirement along William B. Umstead State Park and Crabtree Creek. The proposal by RDUA is to clear-cut the forest with only 10 feet buffer from the State Park boundary and 30 to 50 feet buffer along over 1 mile through the steep slopes of Crabtree Creek. And, maintain an effective path/road for ATV and other vehicles.

No fence should be allowed on the Odd Fellows tract prior to an approved mining permit, and certainly with no less than committed 250 feet of undisturbed buffer.