



The Umstead Coalition

P.O. Box 10654
Raleigh, NC 27605-0654
(919) 852-2268

<http://umsteadcoalition.org>

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*B.W. Wells Association
Capital Group Sierra Club
Eno River Association
Friends of State Parks
Headwaters Group Sierra Club*

*New Hope Audubon Society
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*

November 14, 2018

Secretary Michael A Regan, Secretary
North Carolina Department of Environmental Quality
1601 Mail Service Center
Raleigh, NC 27699-1601
michael.regan@ncdenr.gov

Cc: Susi H Hamilton, Secretary NC Department Natural and Cultural Resources, susi.hamilton@ncdcr.gov
D. Reid Wilson, Chief Deputy Secretary, NC Department Natural and Cultural Resources,
reid.wilson@ncdcr.gov

Dwayne Patterson, Director, Division of State Parks and Recreation, NC Department Natural and Cultural Resources, dwayne.patterson@ncparks.gov

Carol Tingley, Deputy Director, Division of State Parks and Recreation, NC Department Natural and Cultural Resources, carol.tingley@ncparks.gov

William E. Vinson, Jr, Interim Director, Division of Energy, Mineral and Land Resources, NC DEQ,
toby.vinson@ncdenr.gov

Cassie Gavin, NC Sierra Club, cassie.gavin@sierraclub.org

Kym Hunter, Southern Environmental Law Center (SELC), khunter@selcnc.org

Re: Mining Permit 92-10 - Modification Dated March 28, 2018
Request to reverse permit modification made without affected agency and public notification

Dear Secretary Regan:

Upon Public Records examination of the Permit files for Mining Permit 92-10 on November 6, 2018, we discovered an unexpected and disturbing Permit Modification Permit 92-10 that was made by an internal "administrative text change." The change would result in a substantial impact to adjacent William B. Umstead State Park and nearby residences and business. And, therefore require public notice prior to any consideration. No such notification occurred.

Per this letter, we formally request that the recent "text" modification made on Permit 92-10 be **reversed**. And the permit issued on December 2017 stand.

♥ The Umstead Coalition ♥

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

We appreciate your desire for OPENNESS and TRANSPARENCY in public actions. It is likely you were not aware of a recent “text” change made by DEQ staff that would result in a major expansion of a quarry without affected agency and public notification.

The most recent Permit Modification dated March 28, 2018 was made internally by staff within the Division of Energy, Mineral and Land Resources, NC DEQ per a request by the quarry owner. NO public notice was made. NO notification of affected adjacent land owners occurred. NO notification to NC State Parks occurred. NO electronic tracking of this permit change is available.

We contend:

1. The change that was made by DEQ staff to the December 2017 permit was substantial, not a clerical correction, and results in detrimental effects to William B. Umstead State Park, private residences, and private businesses, negate a condition essential to the issuance of a permit in 1981 and an effectively allow an indefinite expansion of quarry operations .
2. No such substantial “text” change should have been considered without public notice to the affected adjacent land owners and landowners within 1000 ft of the permit boundary.
3. Because the original permit application in 1980 was denied based upon impacts to William B. Umstead State Park, donation conditions under the Reclamation Conditions were negotiated with NC State Parks. The approved May 13 1981 permit donation conditions are correct.
4. All the previous approved and signed permits (May 13, 1981; April 15, 1986; April 1, 1991; February 5, 1992; November 24, 2010; March 30 2011; and December 1, 2017) have the CORRECT wording under Reclamation Condition 5.B:

5.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 **sooner**, 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.*

The recent “Administrative text change” replaced “sooner” with “later” (Permit modification dated March 28, 2018). This change to the Approved Reclamation Conditions, Section 5 “Donation to State” is inconsistent with historical records and the Mining Commission’s intent to allow the State to acquire the quarry site at the end of 50 years from the date quarrying commences. The recent text change substitutes “later” for “sooner” in the original 1981 permit section concerning terms and conditions for the donation, page 13. Further note that same text edit was requested by the quarry March 7 of 2011 with no public notice and denied as evident March 30, 2011 permit not having been so modified.

It is our contention that the Mining Commission and the Department in 1981 intended that the State have the right to accept the donation at the end of 50 years under all circumstances. This right was a fundamental condition for Wake Stone Corporation to mine property bordering William B. Umstead State Park. Substituting “later” for “sooner” per the recent permit modification voids the State’s right to do so. In fact such a text change renders any reference to 50 years meaningless extra words. Furthermore, such a substitution allows Wake Stone 10 years to notify the State that condition A is met. There is no reason for Condition B to have been written if the commission’s/Department’s intent was to use “later” instead of “sooner”. The significance and necessity of the use of “sooner” in Condition B is self-evident.

We request that NC DEQ REVERSE permit 92-10 modification dated March 28, 2018 and return the Condition 5.B text to the 1981 permit wording which remained correct through the December 2017 Permit.

We would be available to discuss this request.

Dr. Jean Spooner, Chair, The Umstead Coalition

info@umsteadcoalition.org

(919) 602-0049