



North Carolina Department of Natural  
Resources & Community Development

James B. Hunt, Jr., Governor

Howard N. Lee, Secretary

DIVISION OF  
LAND RESOURCES

Stephen G. Conrad, Director

Box 27687, Raleigh 27611  
Telephone 919 733-3833

August 22, 1980

Mr. John Bratton  
Wake Stone Corporation  
Box 190  
Knightsdale, North Carolina 27545

Dear Mr. Bratton:

A detailed evaluation has been made of your application for a mining permit for the Cary quarry in accordance with G.S. 74-51.

The evaluation consisted of site inspection, engineering analyses and several discussions between you and members of my staff. Based on this evaluation, I find that the proposed quarry operation would have a significantly adverse effect on the purposes of a publically owned park, forest, or recreation area and your permit application is hereby denied. (G.S. 74-51 (5)).

The combined effects of noise, sedimentation, dust, traffic and blasting vibration associated with the proposed quarry operation would produce primary impacts on William B. Umstead State Park in the form of noise intrusion and deterioration of visual resources. Our evaluation of your permit application further indicates there are no feasible modifications that can be made to the application that would make it acceptable.

In accordance with G.S. 74-61 you may appeal this decision to the North Carolina Mining Commission, provided such appeal is made within 60 days after receipt of this notice. Your request for a hearing should be addressed to Dr. Henry B. Smith, Chairman, North Carolina Mining Commission, 3405 Caldwell Drive, Raleigh, North Carolina 27607, with a copy to this office.

Very truly yours,

Stephen G. Conrad, Director

SGC/ps

This word SOONER is the SUNSET clause.

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

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

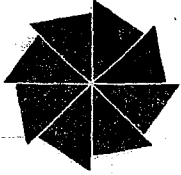
The terms and conditions relating to the donation are placed herein to prescribe generally the boundaries of the Wake Stone Corporation offer. The acceptance by the State is subject to approval by the Department of Administration and the Council of State and the ascertaining that the offer is in accord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

Permit issued this the 13<sup>th</sup> day of May, 1981.

BY: Stephen G. Conrad

Stephen G. Conrad, Director  
Division of Land Resources  
By Authority of the Secretary  
Of the Department of Natural Resources and Community Development

EPortman comment; Paragraph B is not required in the word sooner is changed to latter. Paragraph A is clear that the donation only occurs if the mining is complete. Its illogical that if mining stopper for 10 years in year 11, that the state would allow the site to sit unreclaimed and not donated for 39 more years. Its illogical. That's why the permit said sooner.



# North Carolina Department of Natural Resources & Community Development

James B. Hunt, Jr., Governor

Howard N. Lee, Secretary

DIVISION OF  
LAND RESOURCES

Stephen G. Conrad, Director

Box 27687, Raleigh 27611  
Telephone 919 733-3833

May 13, 1981

Mr. John Bratton, Jr.  
Wake Stone Corporation  
P. O. Box 190  
Knightsdale, North Carolina 27545

RE: Cary Quarry  
Wake County

Dear Mr. Bratton:

The application for a mining permit for the Cary Quarry in Wake County has been found to meet the requirements of G.S. 74-51 of The Mining Act of 1971. Since your company already has a blanket bond on file sufficient to cover this application, I am enclosing the mining permit.

The conditions of the mining permit were based primarily upon information supplied in the application with conditions added as directed by the North Carolina Mining Commission necessary to insure compliance with The Mining Act of 1971 and to provide maximum possible protection to William B. Umstead State Park.

Please review the permit and notify this office of any objection or question concerning the terms of the permit.

Very truly yours,

Stephen G. Conrad, Director

SGC:pg

cc: John Holley

DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT

DIVISION OF LAND RESOURCES

LAND QUALITY SECTION

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 Permitting Regulation 15  
N.C.A.C. 5B, and other applicable laws, rules and regulations

Permission is hereby granted to:

WAKE STONE CORPORATION

, permittee

for the operation of a CRUSHED STONE QUARRY

entitled, CARY QUARRY, permit no. 92-10

and located in WAKE County, 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 Natural Resources and Community Development, 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 securities on file with the Department, and may survive the expiration, 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.

#### Site Plan

The site plan referred to in this permit shall indicate the topographic site plan of the Wake Stone Corporation revised March 10, 1981, with the following exception:

The berm and associated disturbances located along the northern boundary shall not be constructed unless approved by the Department.

## Park

Whenever used or referred to in this permit, the term "park" shall mean the William B. Umstead State Park.

## Conditions

The permitted mining operation shall not violate standards of air quality, surface water quality, or ground water quality promulgated by the Environmental Management Commission.

This permit shall be effective from the date of its issuance until May 13, 1991 and 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:

### 1. Wastewater Control

Any wastewater processing shall be in accordance with permit requirements and regulations promulgated by the Division of Environmental Management.

### 2. Dust Control

Any mining process producing air contaminant emissions shall be subject to the permitting requirements and regulations promulgated by the Division of Environmental Management. The operator will take whatever reasonable precautions necessary to prevent or minimize the fugitive dust from going offsite. Such measures include but are not limited to:

- A. The access road to the quarry, from the scale house to SR 1790, shall be paved. Wake Stone Corporation shall cooperate with the Department of Transportation in paving SR 1790 from the entrance to the quarry to the intersection with SR 1654.
- B. The provisions of the air quality permit #4386 shall be followed.
- C. A water wagon with sprays shall be used for wetting roads to prevent dust.
- D. Sprays shall be used throughout the plant at transfer points 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

The dotted line labelled as buffer along the northern boundary and along the eastern boundary is the permanent buffer as designated by the Mining Commission. (Site plan dated March 10, 1981)

An undisturbed buffer of existing natural vegetation shall be maintained between the mining disturbance and Park property as indicated by the "10 year buffer" shown on the site plan dated March 10, 1981.

An undisturbed buffer zone of existing natural vegetation shall also be maintained between the top edge of the bank of Crabtree Creek and any mining disturbance within the 10 year permit area. The buffer zone shall be of sufficient width to prevent offsite sedimentation and to preserve the integrity of the natural watercourse. In any event, the buffer will meet U.S. Corps of Engineers requirements for Crabtree Creek Watershed.

The only exceptions to these undisturbed buffers of natural vegetation are:

- A. The construction of berms as approved by the Department for visual and noise screening.
- B. The installation of drainage and sedimentation controls to protect the Crabtree Creek.
- C. Such crossings as may be necessary in future years to accommodate the installation of utilities.

### 4. Erosion and Sediment Control

- A. Adequate mechanical barriers including but not limited to diversions, earthen dikes, brush barriers, silt check dams, silt retarding structures, rip rap pits, or ditches shall be provided in the initial stages of any land disturbance to prevent sediment from discharging onto adjacent surface areas or into any lake or natural watercourse in proximity to the affected land.
- B. The existing lakes shall be used to trap sediment from initial mining disturbances. The spillways of the existing lakes shall be further stabilized as necessary to prevent erosion of the spillway from runoff from the affected lands. The embankments of the existing lakes shall be improved if necessary to insure the stability of the embankments.



- C. 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 measures, structure, or device. In any event, exposed slopes or any excavated channels, the erosion of which may cause offsite damage due to siltation, shall be planted or otherwise provided with ground cover, devices or structures sufficient to restrain such erosion.
- D. Drainage shall be provided either through or around any berms that would otherwise obstruct natural drainage.

## 5. Noise Abatement

All reasonable precautions shall be taken to minimize the impact of operational noise upon Umstead Park. Such measures shall include but not be limited to:

- 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 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.
- 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 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.
- 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 only on Monday through Friday and shall not be operated on the following recognized holidays: New Year's 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 P.M. on Saturdays, but hauling shall not be done at any other time on weekends or on holidays without prior approval by the Department.

6. Processing Plant Location

- A. The processing and stockpiling facilities shall be located as indicated on the Wake Stone Corporation site plan dated March 10, 1981.
- B. The plant shall be located to place the processing and stockpiling facilities at the lowest possible elevation to reduce visibility and noise impact on the 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.

7. Prevention of Stagnant Pools

The affected land shall be graded so as to prevent collection of pools of water that are, or are 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.

8. Blasting

The following blasting conditions shall be observed by the operator to prevent hazard to persons and adjacent property from thrown rock or vibrations:

- A. In all blasting operations, except as hereinafter otherwise provided, the maximum peak particle velocity of any component of ground motion shall not exceed 1 inch per second at the immediate location of any building regularly occupied by human beings such as dwelling house, church, school, public building, or commercial or institutional building. A smaller peak particle velocity may be required to protect neighboring structures or equipment vulnerable to vibrations less than 1 inch/second peak particle velocity.
- B. Airblast overpressure shall not exceed 128 decibels linear (dBL)-"warning," 132 dBL "caution," and 135 dBL "maximum" as measured at the immediate location of any dwelling house, church, school, public building, or commercial or institutional building.

- C. The operator shall take all reasonable precautions to insure that flyrock is not thrown beyond areas where the access is temporarily or permanently guarded by the operator. Should flyrock occur beyond the guarded area, it shall be reported to the Department immediately. The Department will conduct a thorough investigation to determine the cause. Failure to take corrective measures to prevent flyrock and repeated instances of flyrock shall be considered a violation of the permit.
- D. Operator shall maintain records on each individual blast describing: the total number of holes; pattern of holes; depth of holes; total pounds of explosives; maximum pounds per delay interval; amount of stemming and burden for each hole; and blast location. Records shall be maintained at the permittee's mine office and copies shall be provided to the Department upon request.

#### 9. Visual Screening

The operation shall be situated to optimize natural screening of the operation from public view from Interstate 40 and the Park property. The visual screening plan shall include maintaining undisturbed buffer areas of natural vegetation as shown on the site plan dated March 10, 1981. Additionally, a vegetated earthen berm shall be constructed east of the processing plant and stockpile area as shown on the revised site plan. Visual screening such as vegetated earthen berms and/or evergreen trees shall be placed as necessary to supplement natural screening.

#### Construction of Berms

- A. 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 site plan dated March 10, 1981.
- B. Berm dimensions shall be no less than indicated on Wake Stone Corporation's site plan dated March 10, 1981 and may be higher and longer than shown.
- C. The side slopes of the berm shall be graded to a stable grade or 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. The alignment of the berm may vary from the approved site plan as is necessary to provide the 50 feet of undisturbed land between the park boundary and the toe of the berm and assuring an acceptable angle of repose for the slope of the berm.
- D. Other berms may be required as mining progresses to reduce the noise and visual impact upon the park.

10. Highwall Barrier

A physical barrier consisting of a fence or boulder barriers, etc. shall be maintained around the perimeter of any quarry highwall.

11. Annual Report

An Annual Reclamation Report shall be submitted on a form supplied by the Department on February 1 of each year until reclamation is completed and approved.

12. Surety Bond

The security which was posted pursuant to N.C.G.S. 74-54 in the form of \$25,000.00 Blanket Bond is sufficient to cover the crushed stone operation as indicated on 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.

### 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 term 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 N.C. Agricultural Experiment Station and the N.C. 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, initiation of 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 reclamation shall be to restore the affected lands to a condition suitable for wildlife and recreation.
2. Specifications for reclamation shall be as follows:
  - A. The process plant area shall be graded and smoothed.
  - B. Any sideslopes in unconsolidated material shall be graded to a 2 horizontal to 1 vertical grade or flatter.

- C. Suitable benches shall be left in the rock excavation to provide support where rock weakness could lead to collapse of high walls.
- D. Overburden shall be used for site grading or berm construction at approved locations.
- E. Settling ponds shall be drained and stabilized to prevent erosion.
- F. Oil, grease, scrap metal, wood and other debris shall be removed from the surface and delivered to scrap dealers or landfilled in an approved manner.
- G. Any diverted or re-established drainage channels shall be restored to a stable condition.
- H. The affected land shall be graded to prevent the collection of noxious or foul water.

### 3. Revegetation Plan

All reclaimed areas in unconsolidated material shall be revegetated utilizing the following provisions:

Site Preparation: The ground will be graded and/or shaped where necessary keeping in mind the ultimate 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 obstruction that will interfere with the establishment of vegetation planned for the site will be removed and/or buried. Surface runoff that might concentrate to cause undesirable erosion will be controlled by terraces or diversions diverting water to protect outlets.

Lime and Fertilizer: Liming and/or fertilizer will be conducted in accordance with soil test results and as required for vegetation planned for the site.

Seedbed Preparation: Lime and fertilizer will be mixed with the soil to a depth of 3 to 4 inches where conventional equipment can be used. On slopes steeper than about 2:1, soils will 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 machinery, seed and nutrients will be applied by hand.

Vegetation: Sericea Lespedeza and/or Weeping lovegrass will be established on the site to provide ground cover and erosion control. When using Sericea Lespedeza, scarified seed will be applied when reclamation is conducted during spring months and unscarified seed will be used during the fall.

Application will be in a uniform manner either by machine or hand at the rate of 50 pounds of lovegrass, Lespedeza, or combination per acre. Seed will be covered to a depth of 1/8 to 1/4 inch and the soil then firmed with a cultipacker or similar equipment. Mulch consisting of dry, unchopped small grain straw or similar type material will be spread evenly over the surface at the rate of 1 to 2 tons per acre or until about 75 percent of the soil is hidden. Loblolly pine seedlings will be planted at selected sites to provide a view screen to provide revegetation. Spacing will be about 4' X 4' for revegetation purposes.

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

#### 4. Reclamation Schedule

Some reclamation activities, particularly those relating to control of erosion, will be conducted simultaneously with mining activities. Diversion channels or terraces that may be required to control surface runoff on the property will be established and revegetated as soon as they are constructed. Portions of berms will be revegetated as completed. Final reclamation activities will be initiated at the earliest practical time after completion or termination of mining on any segment of the permit area, and in all instances reclamation activities will be completed within two years after 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.

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 had been recorded after the recordation of each such encumbrance.

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

- A. Wake Stone Corporation not being prohibited by the U.S. Government, State of North Carolina, Wake County, any municipality having jurisdiction, or by any court from removing Wake Stone Corporation's property all quarryable stone which is outside the buffer zone referred to in condition 3, page 4. The requirements by the State that Wake Stone Corporation 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 Corporation's property for a minimum period of five years.

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

The method by which the quarry site may be donated to the State is as follows: Upon acquisition of the land by Wake Stone Corporation (by the exercise of its options to purchase), 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 obligation to exercise its option to accept a conveyance of the quarry site.



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

- A. 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 the 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 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 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 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.
- C. Until the option has expired Wake Stone Corporation will not encumber by mortgage or deed of trust any of the area designated "BUFFER AREA" on Wake Stone Corporation's site plan dated February 17, 1981, revised March 10, 1981, 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 condition of the land to be transferred will be in accordance with the criteria identified in the "Principles Governing the Establishment, Extension and Development of State Parks, State Recreation Areas and State Natural Areas."

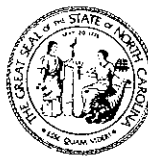
Permit issued this the 13<sup>th</sup> day of May, 1981.

BY: Stephen G. Conrad

Stephen G. Conrad, Director  
Division of Land Resources  
By Authority of the Secretary

Of the Department of Natural Resources and Community Development

Attachment 7. Assistant Attorney  
General Daniel Oakley letter of  
options to appeal Wake Stone quarry  
(January 30, 1981, Source: State  
Archives)



State of North Carolina

Department of Justice

P. O. Box 629  
RALEIGH  
27602

RUFUS L. EDMISTEN  
ATTORNEY GENERAL

30 January 1981

RECEIVED

JAN 30 1981

NRCD OFFICE OF  
ADMINISTRATION

MEMORANDUM

TO: Maria F. Spaulding, Assistant Secretary for Administration  
FROM: Daniel C. Oakley, <sup>DCO by WAR</sup> Assistant Attorney General  
RE: Wake Stone Corporation - Permit Hearing

Several questions have surfaced with regard to the recent decision of the Mining Commission which this memo attempts to address.

1. Does the Department have the right to appeal the decision?  
This question arises due to the fact that the Commission is administratively located within the Department. G.S. 143B-279 and 143B-290. There has been varying debate over this question, but the consensus of this office is that the Department is a "party" and a "person aggrieved" under the Administrative Procedures Act such that it can petition the Wake County Superior Court to review the decision. G.S. 150A-2 and 150A-43. This opinion would be based upon a reading of the Mining Act that give definite duties and responsibilities over permit-issuance to the Department. It is supported in case law by IN RE HALIFAX PAPER COMPANY, 259 NC 589 (1963) in which the Commission of Revenue appealed an adverse decision of the State Tax Review Board.

2. Is there a legal basis for an appeal? This question should not be really answered without a complete review of the record, but I can give some initial thoughts at this time.

The legal bases for an appeal would appear to be (1) that the Commission's decision is "unsupported by substantial evidence" under what is known as the "whole record test," and (2) that the decision is affected by some other error of law. In briefest terms, we would have to show the Commission failed to adequately take into account our evidence and the inferences to be made therefrom, ignored a portion of our case, or based the decision on irrelevant factors. The reviewing court cannot substitute its judgment for the Commission's in case of two reasonable but conflicting views.

The Department would have the burden of showing that the Commission's finding and decision were not supported by substantial evidence. I believe a review of the record will indicate several areas in which our evidence was not adequately considered. We could argue that the Mining Commission made prejudicial errors of law by taking into account irrelevant factors such as existing influences on park usage which are not directly applicable under G.S. 74-51(5).

3. One other matter of concern is to determine exactly what the Commission is expecting from the Department and Wake Stone. There is some possibility the decision is not intended to be "final" until both sides have discussed possible permit conditions. I see no legal basis for such a position, however, I feel this should be addressed, perhaps by a motion for clarification, as soon as possible.

I hope this memorandum is helpful. I will be glad to discuss it further with you at your convenience. The decision on whether to appeal needs to be made expeditiously so that we can prepare and file the necessary documents within thirty days of the date the decision was served.

/ck

February 4, 1981

MEMORANDUM

TO: Secretary Howard N. Lee

FROM: Neil S. Grigg *NSG*

SUBJECT: Departmental Strategy for Wake Stone Permit Issue  
in Umstead Park

26-13  
*26*  
RECEIVED

NRCD OFFICE OF  
ADMINISTRATION

I met with some key staff members February 3 to develop a recommended strategy for you on the Wake Stone permit issue. We discussed the matter at great length and offer you the recommendations contained in this memorandum.

The Department has a long-range objective and two short-range objectives. The long-range objective is to do everything possible to protect the park. This is consistent with your memorandum of February 2 to Governor Hunt and with our responsibilities to protect the park. The two short-range objectives are to follow the most orderly procedure possible since the Mining Commission has apparently reversed a Departmental decision. That is, if at all possible, we would like to avoid the appearance of being in disarray by disagreeing internally in the Department and using the appeal process. Our other short-range objective is to signal to the public at large and to the specific park supporters that the Department intends to do everything possible to protect Umstead Park.

The strategy we have developed is designed to achieve our long-range objective and both short-range objectives. In this strategy, we retain the right to appeal the Mining Commission's decision, but we recommend that you reject the option of an immediate direct appeal. The immediate appeal would have some public relations value in the near-term, but it would signal that the Department and the Commission were not working together in an orderly fashion. The two-part process we recommend is as follows. First, we suggest you follow a deliberate procedure to develop either the most stringent possible conditions for the quarry or to exercise further legal remedies, whatever they may be, if satisfactory conditions cannot be developed. Second, we recommend that NRCD develop a strong public information strategy considering all of the constitutencies of the Department to be implemented immediately.

The specifics of process we suggest are as follows:

1. At the present, we seek clarification from the Mining Commission as to whether their decision is a final or interim decision, contingent on whether satisfactory conditions can be worked out. I have already directed that this clarification be sought and the Attorney General's Office will pursue it right away.
2. The Division of Land Resources begin to discuss with Wake Stone what conditions would be satisfactory to both the Department and the company. If satisfactory conditions can be developed which would obviously protect the park and which could be supported by the public, we feel the

Page 2

Secretary Howard N. Lee

February 4, 1981

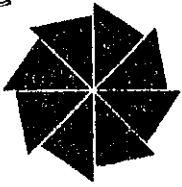
permit could be issued and the matter would be terminated. If no satisfactory agreement on conditions can be reached, we would refer the matter back to the Mining Commission with the recommendation that the permit be denied. At that time, if there was still not agreement between the Department and the Commission, the Department would evaluate and might choose to pursue other legal remedies such as an appeal.

I have asked Mrs. Anne Taylor to take the lead on the public involvement program and work with the Divisions and Offices of the Department that either have an interest in this matter or resources which can be devoted to it. Mrs. Taylor will also work with you directly to involve the environmental leaders that you have been meeting with to advise on this matter.

We recommend this strategy to you and stand ready to advise you at any time on this matter. The persons who were in attendance at the meeting and who concurred with the strategy are myself, Bill Ross, Anne Taylor, Jim Stevens, Steve Conrad, Sandy Babb and Dan Oakley.

If you approve, you might direct Jim Sheppard to prepare the appropriate press release.

NSG/ch



# North Carolina Department of Natural Resources & Community Development

James B. Hunt, Jr., Governor

Howard N. Lee, Secretary

DIVISION OF  
LAND RESOURCES

Stephen G. Conrad, Director

Box 27687, Raleigh 27611  
Telephone 919 733-3833

March 25, 1981

Mrs. Gaynell Watson  
4315 Leesville Road  
78 - A  
Raleigh, North Carolina 27612

Dear Mrs. Watson:

Your letter of March 6, to Governor Hunt has been referred to my office through Secretary Howard N. Lee.

Although, I know Governor Hunt is personally concerned about the location of a rock quarry adjacent to William B. Umstead State Park, and has so publicly stated, I hope you understand and appreciate the fact that the Governor does not have the authority to intervene and deny Wake Stone Corporation a mining permit as requested in your letter.

The North Carolina General Statutes designate this Department as the agency responsible for the issuing and denial of mining permits. The North Carolina Mining Commission is given the authority to review decisions of the Department, and on an appeal of a Department decision, the Mining Commission can uphold, reverse or modify any Department decision. Under the General Statutes there is no provision for the Governor, nor any other party, to intervene in this process.

As you know, the Mining Commission has completed the hearing process on Wake Stone's appeal of the Department's decision to deny the permit. We expect the Mining Commission to render its final decision in this matter within the next few days. At that time, the Department will consider the alternatives available to it and base its decision on what is the best course of action to provide maximum, long term protection to William B. Umstead State Park.

I appreciate your interest and support and please let me know if I can be of any further assistance.

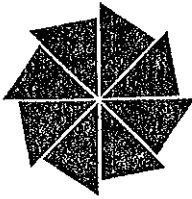
Very truly yours,

*Stephen G. Conrad*

Stephen G. Conrad, Director

SGC/ps

cc: Governor James B. Hunt, Jr.  
Secretary Howard N. Lee



# North Carolina Department of Natural Resources & Community Development

James B. Hunt, Jr., Governor

Howard N. Lee, Secretary

February 2, 1981

## MEMORANDUM

TO: Governor James B. Hunt, Jr.

FROM: Secretary Howard N. Lee

SUBJECT: Unstead Park and Wake Stone Permit

You will be called on to comment on the State's position on the proposed Wake Stone Quarry next to Unstead Park. The purpose of this memorandum is to apprise you of our current thinking on this issue.

This Department is very much opposed to the location of any industrial facility or quarry adjacent to Umstead Park that would impair the use of the park. For this reason, we are seeking ways to protect the State's interest by either opposing the quarry or placing stringent enough restrictions on it to minimize the adverse effects.

We have not yet determined exactly how to proceed. The Department is studying alternatives including: 1) an appeal of the Mining Commission's decision to the Superior Court of Wake County; 2) the placement of very stringent conditions on the permit; (3) other actions such as a legal challenge to the zoning decision by the Wake County Commissioners. In reviewing these we recognize that by opposing the quarry we may expose the park to an even less desirable land use at the site.

Until we have fully evaluated this issue, our policy is to continue to protect the park using every measure available to this Department. We plan to have a Departmental decision on a possible appeal within a week or ten days.

HNL/vbw



BEFORE THE MINING COMMISSION

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

Findings of Fact, Con-  
clusions, and Decision

This cause was heard before the Mining Commission on November 6 and 7 and December 16 and 17, 1980, pursuant to NCGS 74-61 and NCGS 150A-23 et seq., to consider the denial by the Division of Land Resources, Department of Natural Resources and Community Development (hereinafter the Department), of Wake Stone Corporation's application for a permit.

Preliminary Statement

Wake Stone Corporation (hereinafter the Petitioner) has options to purchase various parcels of land, some of which adjoin Umstead State Park (hereinafter the park). It seeks a permit to quarry stone there. The Department denied Petitioner's request for a permit. The Petitioner then appealed this decision to the Mining Commission.

Issue

The issue in this case is whether the proposed quarry would have a significant adverse effect on the purposes of the park.

Statutes

The Department is empowered to issue a permit to quarry stone "conditioned upon compliance with all requirements of the approved reclamation plan for the operation and with such further reasonable and appropriate requirements and safeguards as may be deemed necessary by the Department to assure that the operation will comply fully with the requirements and objective of this Article." NCGS 74-61. The Department may deny a permit if "the operation would

have a significantly adverse effect on the purposes of a publicly owned park, forest, or recreation area." NCGS 74-61(5). An applicant may appeal the Department's action to the Mining Commission, which may "affirm, affirm with modifications, or overrule the decision of the Department and may direct the Department to take such action as may be required to effectuate its decision."

NCGS 74-61.

#### Background Information

The park consists of 5,217 acres in Wake County, along the eastern edge of the Piedmont Plateau, between Raleigh and Durham. The Master Plan developed for the park in 1974, State Exhibit #20, sets forth its history:

Until 1934, the land now occupied by Umstead Park was a farm community--houses, mills, and fields in various stages of use and abandonment. Poor agricultural techniques, such as one crop farming, primarily cotton, led to the loss of topsoil and subsequently, a submarginal existence. Second-growth timber was then removed from some upland areas, which expedited the erosion process.

During the great depression, the United States Resettlement Division began a program of purchasing sub-marginal farm land, and in 1935 a proposal to acquire and develop a recreational demonstration project was instigated generally within the area now known as Umstead Park. The development of this area was jointly supervised by the National Park Service and the Department of Conservation and Development and until 1943, all development and land acquisition was financed by Federal money.

In addition to the development of four group camps, a lake, temporary roads and utility systems, the CCC Work Force was responsible for important conservation measures such as tree planting and the construction of check dams, which aided the stabilization of the soil.

World War II forced the abandonment of Federal activities and on April 6, 1943, the United States deeded to the State of North Carolina, for the sum of one dollar, 5,088 acres to serve "public park, recreation, and conservation purposes". This land was officially designated as Crabtree Creek State Park. In 1947 and 1949, public use facilities including picnic areas, tent and trailer campgrounds, and utilities were financed by the General Assembly's first State Parks Division appropriation.

The master plan also describes the present and projected use of the surrounding land:

Umstead Park lies in a highly urbanized area of the State and, as in the past, is currently under pressure from adjacent development. Suburban Raleigh is rapidly moving westward and recent development, in fact, abuts the eastern edge of the Park. With the development of Crabtree Valley Shopping Center and Interstate 40, land values have risen enormously so that a setting for residential and industrial growth in very close proximity to the Park has developed. City and county land use zoning has set the stage for both of these types of uses so that the only inhibiting factor at present is the lack of sanitary sewer and water lines. While it is only a matter of time before these utilities are provided, the exact location of the utility easements has not yet been pinpointed as it relates to the Park. Specifically, the land adjacent to the northeast between the Park and Highway 70 and that land between I-40 and the park boundary is currently under considerable pressure for building . . . . In addition, the Raleigh thoroughfare plan indicates the construction of a new road linking I-40 and the Duraleigh Road as an extension of the Southern Belt-line which, without control measures, will most certainly create similar development pressure.

Raleigh-Durham Airport lies adjacent to Umstead Park's western boundary and presently has two runways; one for commercial airlines runs parallel to the Park in a northeast/southwest direction and the other, for small craft use, lies perpendicular to the Park in an east-west direction. The Airport Authority is currently in advanced stages of planning a new runway and enlarged facilities. The proposed runway would lie perpendicular to the Park south of the Airport's existing facilities and service commercial flights.\*

Thus, Highway 70, Interstate 40, and Raleigh-Durham Airport bound the park on three sides. Of these three neighboring land uses, the airport has the most pronounced effect on the day-to-day uses of the park. The map on page 9 of the master plan depicts two broad swaths, covering about one-half of the park, as "airport impact zones." The plan states:

Noise emanating from the airport as well as the major roads, I-40, Highway 70, and proposed roads, is important not only to the location of overnight facilities in the Park but also those areas of daytime use where a greater degree of tranquility is required. Flight zones over the Park from the existing

\*The Mining Commission is aware of the more recent action of the Raleigh-Durham Airport authority regarding Plan 523L and the alignment of the proposed runway parallel to the western border of the park.

small craft runway and proposed runway impact the park not only due to noise but also visually so that, in these zones, the location of uses requires considerable scrutiny.

### Stipulations

In the Prehearing Order, Wake Stone Exhibit #3, the parties stipulate as follows:

1. The only contested matters are blasting, dust, traffic, noise, and visibility.
2. Blasting will occur eight to twelve times per month and at vibration and air blast levels within the Department's guidelines.
3. The Petitioner's dust control plan meets all Department standards, and the Petitioner has a permit to operate proposed air pollution abatement facilities for controlling dust.
4. The Division of Highways has determined that a coincidence of projected peak traffic for the park and the quarry will not create unsafe conditions.

### Findings of Fact

#### A. Chronology of Events

1. On March 21, 1980, Wake Stone Corporation, operator of several stone quarries in North Carolina, applies for a permit to quarry stone on 195 acres situated north of Interstate 40, south of the airport, at the southwest corner of the park. Wake Stone Exhibit #1.
2. By letter dated August 22, 1980, Mr. Stephen G. Conrad, Director, Division of Land Resources, Department of Natural Resources and Community Development, denies the permit. State Exhibit #18.
3. By letter dated September 16, 1980, the Petitioner requests a hearing before the Mining Commission to appeal the denial. State Exhibit #19.

4. On October 31, 1980, Mr. Daniel C. Oakley, Assistant Attorney General, appearing on behalf of the Department, and Mr. James M. Kimzey, Esquire, appearing on behalf of the Petitioner, hold a prehearing conference and file a Prehearing Order. Wake Stone Exhibit #3.

5. On November 6 and 7 and December 16 and 17, 1980, the Mining Commission hears the appeal.

B. Evidence

1. A summary of the important objective evidence on the matters of blasting, noise, and visibility is as follows:

a. On blasting, the Department puts into evidence documents showing that the southern area of the park is an "airport impact zone." Department Exhibit #20, pp. 8-9.

For the Petitioner, Phillip Berger testifies that the sound of an airplane taking off over the southwestern corner of the park would muffle the sound of a blast, Tr. pp. 140, 151, and that projected blasts would be well within the Department's guidelines, Tr. pp. 131-2.

b. The testimony of the noise experts for each party is in substantial accord. Bruce G. Leonard testifies for the Petitioner that the ambient noise level in the pertinent section of the park is about 45 decibels on an A weighted scale (dB(A)), Tr. p. 227, and the projected noise level of equipment and trucks, measured at various points in the park, ranges from 46 to 55 dB(A), Tr. pp. 228-39. He also testifies that the Federal Highway Administration standard for traffic noise in parks is 57 dB Ldn or Leq, Tr. p. 224, and that the Division of Parks and Recreation has proposed a guideline for noise levels in parks of 55 dB Ldn or Leq.

For the Department James D. Simons testifies that the ambient noise level in the southwestern part of the park is about 45 dB(A), Tr. p. 414, and

the projected noise level of equipment and trucks ranges from 51 to 55 dB(A), Tr. p. 496 (see also pp. 497-516). Documentary evidence introduced by the Department indicates that most of the southern half of the park is a flight zone for aircraft taking off and landing. Department Exhibit #20, pp. 8-9.

c. The testimony on visibility reveals little agreement among the experts. For the Petitioner, Earl Harbison testifies that, due to topography and vegetation, the crushing equipment at the proposed site would generally not be visible from the park. Tr. pp. 158-98.

Richard Hazard testifies for the Department that, during the summer, the equipment could be visible from a few areas in the park, and, during the winter, it would be visible "from a good area within the southern half" of the park. Tr. pp. 776-8.

2. The purposes of the park are to preserve natural resources and to make them available to the public for recreation and wildlife interpretation. Tr. p. 912 (testimony of Stephen G. Conrad for the Department).

### Conclusions

The Mining Commission makes the following conclusions:

1. Based on:

a. the stipulation by the parties that vibration and air blast levels generated by proposed blasting are within the Department's guidelines, Wake Stone Exhibit #3, p. 2;

b. documentary evidence that the southern area of the park is an "airport impact zone" (i.e. a flight zone for incoming and outgoing airplanes), Department Exhibit #20, pp. 8-9;

c. Phillip Berger's testimony that

i. the sound of an airplane taking off over the southwestern corner of the park would muffle the sound of a blast, Tr. pp. 140, 151; and

ii. that projected blasts would be well within the Department's guidelines, Tr. pp. 131-2,

the Commission concludes that blasting will not have a significant adverse effect on the purposes of the park.

2. Based on:

a. the stipulation by the parties that the Petitioner's dust control plan is designed to meet Department standards, Wake Stone Exhibit #3, p. 2; and on

b. James D. Simons's testimony that the dust from blasting is not a concern of the Department in this case, Tr. p. 490, the Commission concludes that dust from the quarry and roads will not have a significant adverse effect on the purposes of the park.

3. Based on the stipulation by the parties that the Division of Highways has determined that, even with a coincidence of projected peak traffic for the park and the quarry, there would be no unsafe traffic conditions, the Commission determines that traffic generated by the quarry would not have a significant adverse effect on the purposes of the park.

4. Based on:

a. testimony of Bruce G. Leonard, Phillip Berger, and James D. Simons about an existing noise level of about 45 dB(A), Tr. pp. 227 and 414, and projected noise levels ranging from 46 to 55 dB(A);

b. the absence of a noise level standard for equipment near parks such as this one; and

c. the analogous, though not dispositive, Federal Highway Administration standard for traffic noise in parks of 57 dB Ldn or Leq, Tr. pp. 224-5; and



d. testimony by Bruce G. Leonard that the Division of Parks and Recreation has proposed a guideline of 55 dB Ldn or Leq, Tr. p. 224, the Commission concludes that the noise from the quarry machinery and traffic will not have a significant adverse effect on the purposes of the park.

5. The Commission concludes from the conflicting testimony of Earl Harbison and Richard Hazard that, while the crusher may be visible from certain places in the park, such visibility will not have a significant adverse effect on the purposes of the park.

#### Decision

The Commission feels strongly that the Department has acted in a conscientious and responsible manner, and had a reasonable basis to believe that the denial of the permit was correct. The Department had to reach a conclusion on a major issue--noise--without standards or guidelines applicable to parks. To make matters more complex, the area around the park reflects a checkerboard of land use plans by various state and local government units. Thus, although the Commission reverses the Department's action in this case, it wishes to commend the Department for its diligence and dedication.

In order to protect the park from any possible adverse effects of the quarrying operation, the permit should be issued, subject to the Commission's final approval, with the terms and conditions outlined below.

1. The Division and Wake Stone shall develop a plan to be incorporated in the permit to require utilization of state-of-the-art techniques to minimize noise, dust, and other possible adverse effects on the park.

2. The Division and Wake Stone shall develop a plan for the optimum location of processing and stockpiling facilities and roads to minimize possible effects on the park.

3. The Division and Wake Stone shall develop an adequate buffer zone plan for the area between the quarry and the park.

4. The Division shall require Wake Stone to construct a berm or berms between the quarry and the park.

5. Pursuant to Wake Stone's proposal that, as part of its reclamation plan, it donate the quarry to the State for park use on termination of the operation, the Commission requests that counsel for Wake Stone meet with Mr. Daniel C. Oakley, Assistant Attorney General, and Ms. Becky R. French, Director, Office of Administrative Hearings, to reach an agreement, to be submitted to the Commission, on the best method to transfer the land.

This decision is not final. In no more than 45 days, unless the Commission grants an extension, the Division and Wake Stone shall, at a public hearing, present to the Commission the plans outlined above. At the hearing the Commission will not hear new evidence. At least 5 days before this hearing the parties shall deposit the plans with B. R. French for distribution to the Commission. Following the hearing the Commission shall render a final decision, from which the parties may appeal pursuant to NCGS 150A-1 et seq.

Date of original decision: January 27, 1981.

As amended and corrected, this the <sup>APR</sup> 3 1981 day of , 1981.

*Original signed by*

---

Dr. Henry B. Smith, Chairman  
North Carolina Mining Commission

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 APR 3 day of 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.

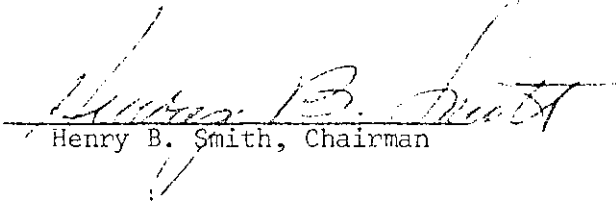
BEFORE THE MINING COMMISSION

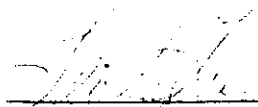
In the Matter of Denial of)  
Permit Application of the )  
Wake Stone Corporation )


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.

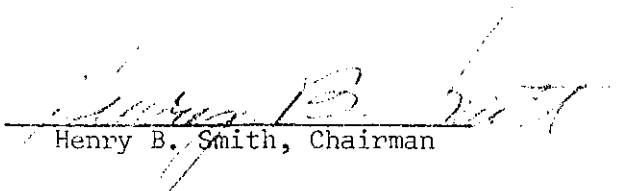
BEFORE THE MINING COMMISSION

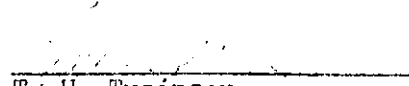
In the Matter of Denial of)  
Permit Application of the )  
Wake Stone Corporation )

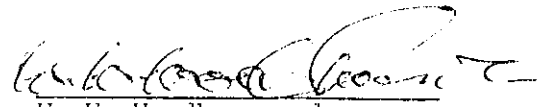
Amendment to the  
Final Decision

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.

DIVISION OF PARKS AND RECREATION

May 11, 1981

MEMORANDUM

TO: Steve Conrad

FROM: Jim Stevens

SUBJECT: Recommended Changes to Draft Permit  
for Wake Stone Corporation

- p. 2, para. 5 - Rewrite Site Plan section to read:  
The site plan referred to in this permit shall indicate the topographic site plan of the Wake Stone Corporation revised March 10, 1981, with the following exceptions:
- 1) The berm and associated disturbances located along the northern boundary shall not be constructed unless approved by the Department.
  - 2) The dotted line labelled as buffer along the northern boundary and along the eastern boundary south to the 10 year buffer line shall be deleted.
- p. 4, para. 1, Line 1 - and para. 2, Line 1 - The following statement after "undisturbed buffer" and "undisturbed buffer zone" respectively:  
... of existing natural vegetation ...
- p. 4, para. 3 - Rewrite para. to read:  
The only exceptions to these undisturbed buffers of natural vegetation are:
- p. 4, Section C. - Delete this section. It is unnecessary and potentially harmful. The property owner has every right to post his property against wanderers. Any statement regarding removal of trees leaves the door open to potentially drastic changes in forest cover. This could lead to adverse effect on park.
- p. 4, para. 3, Section D - Accommodate misspelled
- p. 5, Section 5, H - Add Memorial Day
- p. 6, Section 8, A Line 6 - Change to read:  
Building, commercial or institutional building, park picnic shelter or park trail.
- p. 6, Section 8, B Line 4 - Change to read:  
Church, school, public building, commercial or institutional building, park picnic shelter or park trail

- p. 7, Section 9, Line 4 - Change to read:  
taining undisturbed buffer areas of natural vegetation ....
- p. 7, Section 9, Construction of Berms Subsection C. Add the following sentence at end of subsection C:  
The alignment of the berm may vary from the approved site plan as is necessary to provide the 50 feet of undisturbed land between the park boundary and the toe of the berm and assuring an acceptable angle of repose for the slope of the berm.
- p. 9, Reclamation Conditions, Section 1, Line 3 - Change to read:  
A condition suitable for those wildlife populations that existed prior to site disturbances and for those types of outdoor recreation that are compatible with maintaining those populations.
- p. 10, Section 3, Seedbed Preparation:  
Some statement needs to be made here regarding protection against runoff into surrounding or adjacent watercourses.
- p. 11, para. 2, Line 10 - Change to read:  
Spacing will be 4' on center for revegetation purposes.
- p. 11, para. 6, Line 5 - Constituting instead of constitution.
- p. 12, para. 3, Line 1 - Rewrite to read:  
The conveyance of the quarry site, if approved by the State, shall be ...
- p. 12, para. 5, Line 1 - Insert the word "may" for "will".

JSS,jr/ARE/cam

EAKES

DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT

DIVISION OF LAND RESOURCES

LAND QUALITY SECTION

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 Permitting Regulation 15  
N.C.A.C. 5B, and other applicable laws, rules and regulations

Permission is hereby granted to:

WAKE STONE CORPORATION , permittee

for the operation of a CRUSHED STONE QUARRY

entitled, CARY QUARRY , permit no.

and located in WAKE County, 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.

- 5 -

In accordance with the application for this mining permit, which is hereby approved by the Department of Natural Resources and Community Development, 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 securities on file with the Department, and may survive the expiration, 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 meaning as supplied by the Mining Act, N.C.G.S. 74-49.

#### Site Plan

The site plan referred to in this permit shall indicate the topographic site plan of the Wake Stone Corporation revised March 10, 1981, except the berm located along the northern boundary shall not be constructed unless approved by the Department. *WHAT ABOUT DOTTED LINE ALONG NORTHERN BOUNDARY? - WHAT ABOUT ADDITION OF BUFFER ALONG WEST-Park ERM BOUNDARY OF CREEK?*

Whenever used or referred to in this permit, the term "park" shall mean the William B. Umstead State Park.



## Conditions

The permitted mining operation shall not violate standards of air quality, surface water quality, or ground water quality promulgated by the Environmental Management Commission.

?  
YRS.  
This permit shall be effective from the date of its issuance until and 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:

### 1. Wastewater Control

Any wastewater processing shall be in accordance with permit requirements and regulations promulgated by the Division of Environmental Management.

### 2. Dust Control

Any mining process producing air contaminant emissions shall be subject to the permitting requirements and regulations promulgated by the Division of Environmental Management. The operator will take whatever reasonable precautions necessary to prevent or minimize the fugitive dust from going offsite. Such measures include but are not limited to:

- A. The access road to the quarry, from the scale house to SR 1790, shall be paved. Wake Stone Corporation shall cooperate with the Department of Transportation in paving SR 1790 from the entrance to the quarry to the intersection with SR 1654. *WHAT ABOUT REDESIGN OF INTERSECTION? (NOTHING TO DO w/ DUST CONTROL)*
- B. The provisions of the air quality permit #4386 shall be followed.
- C. A water wagon with sprays shall be used for wetting roads to prevent dust.
- D. Sprays shall be used throughout the plant at transfer points 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.

CHECK PLAN →

OK

### 3. Buffer Zones

EXISTING NATURAL VEGETATION  
OF ~~HA~~

An undisturbed buffer shall be maintained between the mining disturbance and Park property as indicated by the "10 year buffer" shown on the site plan dated March 10, 1981.

~~AND ALONG THE WESTERN BOUNDARY OF CRABTREE CREEK~~

WHAT DOES  
"UNDISTURBED"  
MEAN? - VEG-  
RATION INTER?

An undisturbed buffer zone <sup>as above</sup> shall also be maintained between the top edge of the bank of Crabtree Creek and any mining disturbance within the 10 year permit area. The buffer zone shall be of sufficient width to prevent offsite sedimentation and to preserve the integrity of the natural watercourse. In any event, the width of the buffer shall not be less than 100 feet, measured from the top of the nearest stream bank.

THE ONLY EXCEPTIONS TO THESE UNDISTURBED BUFFERS OF NATURAL  
Both buffers will be disturbed subject only to the following exceptions: VEGETATION ARE:

A. The construction of berms as approved by the Department for visual and noise screening.

B. The installation of drainage and sedimentation controls to protect the Crabtree Creek.

The removal of dead, dangerous and leaning trees which might make the area dangerous to persons wandering into the buffer area.

WHY? TOO MUCH LATITUDE

D. Such crossings as may be necessary in future years to accommodate the installation of utilities.

accommodate

1. Erosion and Sediment Control

A. Adequate mechanical barriers including but not limited to diversions, earthen dikes, brush barriers, silt check dams, silt retarding structures, rip rap pits, or ditches shall be provided in the initial stages of any land disturbance to prevent sediment from discharging onto adjacent surface areas or into any lake or natural watercourse in proximity to the affected land.

B. The existing lakes shall be used to trap sediment from initial mining disturbances. The spillways of the existing lakes shall be further stabilized as necessary to prevent erosion of the spillway from runoff from the affected lands. The embankments of the existing lakes shall be improved if necessary to insure the stability of the embankments.

THIS CONDITION IS  
IF NECESSARY  
GIVE THE OWNER  
THE RIGHT TO  
THIS PROPERTY  
ALSO LEAVES  
DOES OPEN FOR  
REWORK  
TING, ETC.

???

C. 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 measures, structure, or device. In any event, exposed slopes or any excavated channels, the erosion of which may cause offsite damage due to siltation, shall be planted or otherwise provided with ground cover, devices or structures sufficient to restrain such erosion.

D. Drainage shall be provided either through or around any berms that would otherwise obstruct natural drainage.

## 5. Noise Abatement

All reasonable precautions shall be taken to minimize the impact of operational noise upon ~~the~~ <sup>the</sup> park. Such measures shall include but not be limited to:

- 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 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.
- 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 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.
- 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 only on Monday through Friday and shall not be operated on the following recognized holidays: New Year's Day, Easter Monday, Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day. A reasonable amount of hauling of processed

*SHOULD HAVE  
ESSED THE  
WORK ON FRIDAY  
CLOSEST TO THESE  
15 - ALSO - MEM-  
AL DAY*

CHECK W/  
WEBSTER

stone from the stockpile areas is permitted until noon on Saturdays, but hauling shall not be done at any other time on weekends or on holidays without prior approval by the Department.

#### 6. Processing Plant Location

- A. The processing and stockpiling facilities shall be located as indicated on the Wake Stone Corporation site plan dated March 10, 1981 *AS AMENDED HEREIN*.
- B. The plant shall be located to place the processing and stockpiling facilities at the lowest possible elevation to reduce visibility and noise impact on the 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.

#### 7. Prevention of Stagnant Pools

The affected land shall be graded so as to prevent collection of pools of water that are, or are 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.

#### 8. Blasting

The following blasting conditions shall be observed by the operator to prevent hazard to persons and adjacent property from thrown rock or vibrations:

- A. In all blasting operations, except as hereinafter otherwise provided, the maximum peak particle velocity of any component of ground motion shall not exceed 1 inch per second at the immediate location of any building regularly occupied by human beings such as dwelling house, church, school, public building, or commercial or institutional building. A smaller peak particle velocity may be required to protect neighboring structures or equipment vulnerable to vibrations less than 1 inch/second peak particle velocity.
- B. Airblast overpressure shall not exceed 128 decibels linear (dBL)-"warning," 132 dBL "caution," and 135 dBL "maximum" as measured at the immediate location of any dwelling house, church, school, public building, or commercial or institutional building.

PICNIC SHELTER?  
PARK TRAILS

✓ C. The operator shall take all reasonable precautions to insure that flyrock is not thrown beyond areas where the access is temporarily or permanently guarded by the operator. Should flyrock occur beyond the guarded area, it shall be reported to the Department immediately. The Department will conduct a thorough investigation to determine the cause. Failure to take corrective measures to prevent flyrock and repeated instances of flyrock shall be considered a violation of the permit.

✓ D. Operator shall maintain records on each individual blast describing: the total number of holes; pattern of holes; depth of holes; total pounds of explosives, maximum pounds per delay interval; amount of stemming and burden for each hole; and blast location. Records shall be maintained at the permittee's mine office and copies shall be provided to the Department upon request.

9. Visual Screening *IF NATURAL VEGETATION*

???  
IS AMENDED  
HEREIN  
The operation shall be situated to optimize natural screening of the operation from public view from Interstate 40 and the Park property. The visual screening plan shall include maintaining undisturbed buffer areas as shown on the site plan dated March 10, 1981. Additionally, a vegetated earthen berm shall be constructed east of the processing plant and stockpile area as shown on the revised site plan. Visual screening such as vegetated earthen berms and/or evergreen trees shall be placed as necessary to supplement natural screening.

Construction of Berms

GENERALLY  
A. 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 site plan dated March 10, 1981. *AS AMENDED HEREIN.*

B. Berm dimensions shall be no less than indicated on Wake Stone Corporation's site plan dated March 10, 1981 and may be higher and longer than shown. *AS AMENDED HEREIN*

C. 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. ↗

D. Other berms may be required as mining progresses to reduce the noise and visual impact upon the park.

✓ THE ALIGNMENT OF THE BERM MAY VARY FROM THE APPROVED SITE PLAN AS IS NECESSARY TO PROVIDE THE 50 FEET OF UNDISTURBED LAND BETWEEN THE PARK BOUNDARY AND THE TOE OF THE BERM. ~~THE SLOPES SUITABLE~~ AND ASSURING AN ACCEPTABLE ~~LINE~~ OF REPOSE FOR THE SLOPE OF THE BERM.

10. Highwall Barrier

How High?

A physical barrier consisting of a fence or boulder barriers, etc. shall be maintained around the perimeter of any quarry highwall.

11. Annual Report

✓ An Annual Reclamation Report shall be submitted on a form supplied by the Department on February 1 of each year until reclamation is completed and approved.

12. Surety Bond

✓ The security which was posted pursuant to N.C.G.S. 74-54 in the form of \$25,000.00 Blanket Bond is sufficient to cover the crushed stone operation as indicated on 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.

\$25,000 PRESCRIBED BY LAW - CANNOT ALTER

## 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 term 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.  
*HOW DOES ONE PREDETERMINE WHAT THAT USE IS?*
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 N.C. Agricultural Experiment Station and the N.C. Forest Service. *WHAT ARE THE SPECIFIC REFERENCES?*
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, initiation of 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 reclamation shall be to restore the affected lands to a condition suitable for wildlife and recreation. *AMBIGUOUS*
2. Specifications for reclamation shall be as follows: *RECREATION*  
*CONSISTENT WITH MAINTAINING WILDLIFE POPULATIONS.*
  - A. The process plant area shall be graded and smoothed.
  - B. Any sideslopes in unconsolidated material shall be graded to a 2 horizontal to 1 vertical grade or flatter.

*NATIVE POPULATIONS EXISTING PRIOR TO SITE DISTURBANCES AND FOR VARIOUS TYPES OF OUTDOOR*

- C. Suitable benches shall be left in the rock excavation to provide support where rock weakness could lead to collapse of high walls.
- D. Overburden shall be used for site grading or berm construction at approved locations.
- E. Settling ponds shall be drained and stabilized to prevent erosion.
- F. Oil, grease, scrap metal, wood and other debris shall be removed from the surface and delivered to scrap dealers or landfilled in an approved manner.
- G. Any diverted or re-established drainage channels shall be restored to a stable condition.
- H. The affected land shall be graded to prevent the collection of noxious or foul water.

### 3. Revegetation Plan

All reclaimed areas in unconsolidated material shall be re-vegetated utilizing the following provisions:

Site Preparation: The ground will be graded and/or shaped where necessary ~~keeping in mind the ultimate 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 obstruction that will interfere with the establishment of vegetation planned for the site will be removed and/or buried. Surface runoff that might concentrate to cause undesirable erosion will be controlled by terraces or diversions diverting water to protect outlets.

Lime and Fertilizer: Liming and/or fertilizer will be conducted in accordance with soil test results and as required for vegetation planned for the site.

Seedbed Preparation: Lime and fertilizer will be mixed with the soil to a depth of 3 to 4 inches where conventional equipment can be used. On slopes steeper than about 2:1, soils will 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 machinery, seed and nutrients will be applied by hand.

ATTENTION ABOUT  
RUNOFF!



# NEED TO DEFINE "REVEGETATION" — IN QUANTITATIVE & QUALITATIVE TERMS

Vegetation: Sericea Lespedeza and/or Weeping lovegrass will be established on the site to provide ground cover and erosion control. When using Sericea Lespedeza, scarified seed will be applied when reclamation is conducted during spring months and unscarified seed will be used during the fall.

Application will be in a uniform manner either by machine or hand at the rate of 50 pounds of lovegrass, Lespedeza, or combination per acre. Seed will be covered to a depth of 1/8 to 1/4 inch and the soil then firmed with a cultipacker or similar equipment. Mulch consisting of dry, unchopped small grain straw or similar type material will be spread evenly over the surface at the rate of 1 to 2 tons per acre or until about 75 percent of the soil is hidden. Loblolly pine seedlings will be planted at selected sites to provide a view screen to provide revegetation. Spacing will be ~~about 4' X 4'~~ 4' ON CENTER for revegetation purposes.

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

## 4. Reclamation Schedule

Some reclamation activities, particularly those relating to control of erosion, will be conducted simultaneously with mining activities. Diversion channels or terraces that may be required to control surface runoff on the property will be established and revegetated as soon as they are constructed. Portions of berms will be revegetated as completed. Final reclamation activities will be initiated at the earliest practicable time after completion or termination of mining on any segment of the permit area, and in all instances reclamation activities will be completed within two years after 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.

USE OF  
LESPEDEZA  
INSTEAD OF  
LOVEGRASS

WHERE?  
HOW PLANTED?

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 had been recorded after the recordation of each such encumbrance.

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

A. Wake Stone Corporation not being prohibited by the U.S. Government, State of North Carolina, Wake County, any municipality having jurisdiction, or by any court from removing Wake Stone Corporation's property all quarryable stone which is outside the buffer zone referred to in condition 3, page 4. The requirements by the State that Wake Stone Corporation 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 Corporation's property for a minimum period of five years.

*IF APPROVED BY THE STATE*  
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 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 option may include such other terms as are mutually acceptable to the State and Wake Stone Corporation.

*MAY*  
The method by which the quarry site ~~will~~ be donated to the State is as follows: Upon acquisition of the land by Wake Stone Corporation (by the exercise of its options to purchase), 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 obligation to exercise its option to accept a conveyance of the quarry site.

*DOESN'T THIS STATEMENT, IN EFFECT, AGREE BEFORE THE FACT OF A REAPPLICATION THAT ALL OF THE PROPERTY MAY BE QUARRIED W/OUT SIGNIF. ADVERSE EFFECT ON PARK?*

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

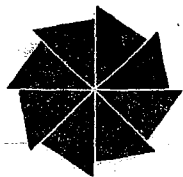
- A. When all quarryable stone has been removed from all of the land belonging to or under the control of Wake Stone Corporation during the period of its quarrying operations and which lies between the Park and Interstate Highway 40, it shall be the duty of Wake Stone Corporation to notify the State 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 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 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 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.
- C. Until the option has expired Wake Stone Corporation will not encumber by mortgage or deed of trust any of the area designated "BUFFER AREA" on Wake Stone Corporation's site plan dated February 17, 1981, revised March 10, 1981, 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 condition of the land to be transferred will be in accordance with the criteria identified in the "Principles Governing the Establishment, Extension and Development of State Parks, State Recreation Areas and State Natural Areas."

Permit issued this the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

BY: \_\_\_\_\_

Stephen G. Conrad, Director  
Division of Land Resources  
By Authority of the Secretary  
Of the Department of Natural Resources and Community Development.



# North Carolina Department of Natural Resources & Community Development

James B. Hunt, Jr., Governor

Howard N. Lee, Secretary

DIVISION OF  
LAND RESOURCES

Stephen G. Conrad, Director

Box 27687, Raleigh 27611  
Telephone 919 733-3833

May 13, 1981

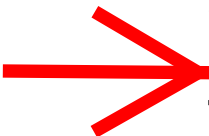
Mr. John Bratton, Jr.  
Wake Stone Corporation  
P. O. Box 190  
Knightsdale, North Carolina 27545

RE: Cary Quarry  
Wake County

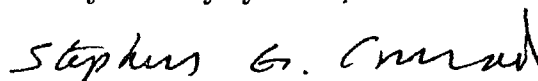
Dear Mr. Bratton:

The application for a mining permit for the Cary Quarry in Wake County has been found to meet the requirements of G.S. 74-51 of The Mining Act of 1971. Since your company already has a blanket bond on file sufficient to cover this application, I am enclosing the mining permit.

The conditions of the mining permit were based primarily upon information supplied in the application with conditions added as directed by the North Carolina Mining Commission necessary to insure compliance with The Mining Act of 1971 and to provide maximum possible protection to William B. Umstead State Park.

 Please review the permit and notify this office of any objection or question concerning the terms of the permit.

Very truly yours,



Stephen G. Conrad, Director

SGC:pg

cc: John Holley

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

- A. 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 the 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 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 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 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.
- C. Until the option has expired Wake Stone Corporation will 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 17, 1981, revised March 10, 1981, 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 condition of the land to be transferred will be in accordance with the criteria identified in the "Principles Governing the Establishment Extension and Development of State Parks, State Recreation Areas and State Natural Areas."

Permit issued this the 15<sup>th</sup> day of April, 1986.

By: Stephen G. Conrad

Stephen G. Conrad, Director  
Division of Land Resources  
By Authority of the Secretary  
Of the Department of Natural Resources and Community Development





State of North Carolina  
Department of Environment, Health, and Natural Resources  
Division of Land Resources

James G. Martin, Governor  
William W. Cobey, Jr., Secretary

Charles H. Gardner  
Director

April 1, 1991

Mr. David Lee  
Wake Stone Corporation  
P. O. Box 190  
Knightsdale, NC 27545

RE: Permit #92-10  
Triangle Quarry  
Wake County

Dear Mr. Lee:

Your application for renewal and modification of Permit No. 92-10 for the Triangle Quarry in Wake County has been approved. A copy of the renewed and modified permit is enclosed.

The conditions in the permit renewal and modification were based primarily upon the initial application. Modifications were made as indicated by the renewal and modification request and as required to insure compliance with The Mining Act of 1971. The new expiration date is April 1, 2001.

Please review the renewed and modified permit and advise this office at (919) 733-4574 should you have any question concerning this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "Tracy L. Davis".

Tracy L. Davis, E.I.T.  
Mining Specialist  
Land Quality Section

TED/se

Enclosures

cc: Mr. John Holley, P.E.



State of North Carolina  
Department of Environment, Health, and Natural Resources  
Division of Land Resources

James G. Martin, Governor  
William W. Cobey, Jr., Secretary

Charles H. Gardner  
Director

June 17, 1991

Mr. David Lee  
Wake Stone Corporation  
P. O. Box 190  
Knightdale, NC 27545

RE: Revision to Mining Permit No. 92-10  
Triangle Quarry  
Wake County

Dear Mr. Lee:

This office has reviewed your proposed revision to Operating Condition No. 3.D. of the above referenced mining permit which was recently renewed and modified on April 1, 1991. I hereby approve said revision and have attached a revised Page 4 of 15 of the mining permit in order for you to replace the previous, incorrect page for future reference.

Thank you for your cooperation in this matter. Please advise Mr. Tracy Davis if you should have any additional questions or concerns.

Very truly yours,

A handwritten signature in cursive script, reading "Charles H. Gardner".

Charles H. Gardner, P.G., P.E.

CHG/TED/se

Attachment

cc: Mr. Tracy Davis  
Mr. John Holley



State of North Carolina  
Department of Environment, Health, and Natural Resources  
Division of Land Resources

James G. Martin, Governor  
William W. Cobey, Jr., Secretary

Charles H. Gardner  
Director

February 5, 1992

Mr. John Bratton  
Wake Stone Corporation  
P. O. Box 190  
Knightdale, North Carolina 27545

RE: Triangle Quarry  
Mining Permit No. 92-10  
Wake County

Dear Mr. Bratton:

This office has completed its review of your company's January 20, 1992 report regarding the blast and corresponding rock slide that occurred on January 7, 1992 along the western pit boundary adjacent to Crabtree Creek. This office concurs with the findings of the report and the safeguards that are proposed therein to prevent future incidents from occurring at this site. Therefore, your mining permit has been modified to incorporate the report, in its entirety, and require compliance with the corrective actions proposed. I would like to draw your particular attention to Operating Conditions Nos. 3 and 10 of the enclosed permit.

→  
3. Buffer Zones  
10. Blasting

Please review the modified permit and advise this office should you have any questions concerning this matter. I would like to extend the Department's appreciation to you and your company for the timely and professional manner in which you investigated and rectified this situation at your mine site.

Sincerely,

Tracy E. Davis, E.I.T.  
Mining Specialist  
Land Quality Section

TED/se

Enclosures

cc: Mr. John Holley, P.E.



State of North Carolina  
Department of Environment,  
Health and Natural Resources  
Division of Land Resources



James B. Hunt, Jr., Governor  
Jonathan B. Howes, Secretary  
Charles Gardner, P.G., P.E.  
Director and State Geologist

October 11, 1996

Mr. John A Poole  
Wake Stone Corporation  
P.O. Box 190  
Knightsdale, North Carolina 27545

RE: Permit No. 92-10  
Cary Quarry  
Wake County

Dear Mr. Poole:

Your recent request to have the above referenced mining permit modified has been approved. The modification is to allow the shipping of material after 1:00 P.M. on Saturdays until such time as the Umstead State Park reopens or the repair of the Raleigh Outer Loop Project near the RDU Airport is completed, whichever comes first.

Please attach this approval letter to your existing mining permit for future reference. The expiration date, mine name and permit number on the permit document shall remain the same as before this modification.

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.

Please advise this office at (919) 733-4574 should you have any questions concerning this matter.

Sincerely,

  
Charles H. Gardner, P.G., P.E.

CHG/tls  
cc: Mr. John L. Holley, P.E.

Geological Survey Section  
(919) 733-2423  
FAX: (919) 733-0900

Land Quality Section  
(919) 733-4574  
FAX: 733-2876

Geodetic Survey Section  
(919) 733-3836  
FAX: 733-4407

**North Carolina**  
**Department of Environment and Natural Resources**

Michael F. Easley, Governor  
William G. Ross Jr., Secretary

Charles H. Gardner, P.G., P.E.  
Director and State Geologist



**Division of Land Resources**

April 23, 2001

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

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

Dear Mr. Lee:

Your application for renewal of the above referenced mining permit has been approved. A copy of the renewed permit is enclosed.

The conditions in the permit renewal were based primarily upon the initial application. Modifications were made as indicated by the renewal request and as required to insure compliance with The Mining Act of 1971. The new expiration date is April 20, 2011.

As a reminder, your permitted acreage at this site is 223 acres and the amount of land you are approved to disturb is 153 acres as indicated on the Site Plan Map dated March 1, 2001.

Please review the renewed permit and advise this office at (919) 733-4574 should you have any questions concerning this matter.

Sincerely,

Tracy E. Davis, P.E., C.P.M.  
State Mining Specialist  
Land Quality Section

TED/jw

Enclosures

cc: Mr. John Holley, P.E.  
Ms. Monika Sharma-WRC, w/enclosures  
Mr. Bradley Bennett-DWQ, w/enclosures  
Mr. William Geringer-DOL, Mine and Quarry Bureau,  
w/o enclosures

Land Quality Section (919) 733-4574 Fax (919) 733-2876 Geological Survey Section (919) 733-2423 Fax (919) 733-0900  
1612 Mail Service Center, Raleigh, North Carolina 27699-1612  
Division of Land Resources (919) 733-3833 Fax: (919) 715-8801



North Carolina Department of Environment and Natural Resources  
**Division of Land Resources**  
Land Quality Section

James D. Simons, PG, PE  
Director and State Geologist

Beverly Eaves Perdue, Governor  
Dee Freeman, Secretary

November 24, 2010

Mr. David 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 is 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. 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. 3K, 4E, 7A, and 12B and Reclamation Condition Nos. 3 and 5. ←

5. is Donation to State includes "sooner"

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.

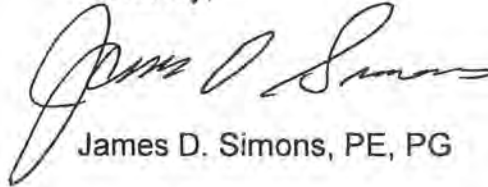
As a reminder, your permitted acreage at this site is 223 acres and the amount of land you are approved to disturb is 156.6 acres.

Please be aware that Mining Permit No. 92-10 expires April 20, 2011. If your company wishes to continue mining operations at this site after April 20, 2011, a renewal request must be submitted prior to said date.

Mr. Lee  
Page Two

Please review the modified permit and contact Ms. Judy Wehner, Assistant Mining Specialist, at (919) 733-4574 should you have any questions concerning this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'James D. Simons', written in a cursive style.

James D. Simons, PE, PG

JDS/jw

Enclosures

cc: Mr. John Holley, PE  
Ms. Shannon Deaton - WRC, w/permit  
Mr. William Gerring-Mine and Quarry Bureau, w/o enclosures

---





North Carolina Department of Environment and Natural Resources  
Division of Land Resources  
Land Quality Section

James D. Simons, PG, PE  
Director and State Geologist

Beverly Eaves Perdue, Governor  
Dee Freeman, Secretary

March 30, 2011

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

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

Dear Mr. Lee:

Your application for renewal of the above referenced mining permit has been approved. A copy of the renewed permit is enclosed. The new expiration date is March 30, 2021.

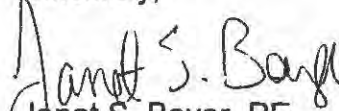
The conditions in the permit renewal were based primarily upon the initial application. Modifications were made as indicated by the renewal request and as required to insure compliance with The Mining Act of 1971. I would like to draw your particular attention to the following conditions where minor additions or changes were made: Operating Condition Nos. 3E, 4B, 7A, 11, and 12B and Reclamation Condition No. 5. ←

5. is Donation to State includes "sooner"

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. A slight increase in the affected acreage at this site is because of more accurate mapping of the site.

Please review the renewed permit and contact Ms. Judy Wehner, Assistant State Mining Specialist, at (919) 733-4574 should you have any questions concerning this matter.

Sincerely,

  
Janet S. Boyer, PE  
State Mining Specialist  
Land Quality Section

JSB/jw

Enclosures

cc: Mr. John Holley, PE  
Ms. Shannon Deaton-WRC, w/enclosures  
Mr. William Gerringer-DOL, Mine and Quarry Bureau, w/o enclosures



ROY COOPER  
*Governor*

MICHAEL S. REGAN  
*Secretary*

TRACY DAVIS  
*Director*

December 1, 2017

John Bratton  
Wake Stone Corporation  
P O Box 190  
Knightdale, NC 27545

RE: Mining Permit No. 92-10  
Cary (Triangle) Quarry  
Wake County

Dear John Bratton:

This letter is to advise you of recent amendments to the North Carolina Mining Act of 1971 which impact the permit term of your existing mining permit. Pursuant to the passage of House Bill 56, which became law on October 4, 2017 as SL 2017-209, all existing mining permits and any newly issued mining permits are to be issued for the life of site or for the duration of the lease term. The "life of site" means the period from the initial receipt of a permit for the operation until the mining operation terminates and the required reclamation is completed.

Considering the above, this letter hereby modifies your existing mining permit to remove all references to the prior expiration date to convert your permit to a life of site or lease permit effective immediately. No action is required on your part for this modification to be effective. Please attach this letter to your existing mining permit for future reference. The mine name and permit number on the permit document, and all existing operating and reclamation conditions contained therein, shall remain in full force and effect. Furthermore, all provisions of GS §74-51 and GS §74-52 still apply to all new, transferred and modified mining permits.

In addition to the life of site or lease mining permit provision, SL 2017-209 also enacted a new annual mining permit operating fee of \$400 per mining permit number. By statute, the initial payment of this annual \$400 fee must be submitted to this office by December 31, 2017 – see the attached Invoice to remit the initial annual fee payment by this deadline. Beginning in 2018, the \$400 annual operating fee must be submitted by July 1 of each year with the required Annual Reclamation Report as required by GS §74-55. Failure to submit the fee by the required deadline will result in a \$50/month late fee and could result in the denial of future permit actions and/or revocation of your mining permit.

Lastly, pursuant to GS §74-54, the cap on reclamation bonds has been raised from \$500,000 to \$1 million. Any adjustments needed in existing bonds will be initiated by this office or addressed during your next requested permit action unless you contact this office with a written request to have your bond reevaluated.

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 remains with you.

Thank you for your cooperation in this matter. If you have any questions on the above, please contact Ms. Judy Wehner, Assistant State Mining Specialist, or me at (919) 707-9220.

Sincerely,

William "Toby" Vinson, Jr., PE, CPM  
Interim Director, DEMLR