



The Umstead Coalition

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Umstead Coalition's Case to Restore the 50-year Sunset Clause and Buffers along Crabtree Creek and William B. Umstead State Park Moves Forward

The Umstead Coalition has another major win in their pursuit to protect William B. Umstead State Park! The Motions to Dismiss filed by Wake Stone Corporation and the State regarding the Umstead Coalition's case to restore the 50-year Sunset Clause and protective buffers at an existing quarry adjacent to William B. Umstead State Park were not granted. The case before the Wake County Superior Court was filed on July 13, 2022. In Superior Court Judge Paul A. Holcombe, III's Ruling on April 11, 2023, he stated that the Umstead Coalitions' challenge "*concerns modifications (to the Mining Permit) of significant interest to the parties and the public at large.*" (April 11, 2023 Order [link here](#)). During the Motion to Dismiss Hearing, the State argued that the Umstead Coalition should have filed at the Office of Administrative Hearings (OAH), presumably within 30 days of the March 2018 Mining Permit Modifications. However, the Umstead Coalition stated the obvious that such was impossible as there was no public notice of the significant modification.

To address the matter regarding which court should hear the Umstead Coalition's case, in Judge Holman April 11, 2023 order, he ruled the Umstead Coalition file a contested case in the Office of Administrative Hearings, and stayed the Superior Court case. The Umstead Coalition filed this Petition for a contested trial at OAH on May 11, 2023 ([link here](#)).

Because the Motions to Dismiss were not granted, the Umstead Coalition's case continues to move forward. On May 12, 2023, the OAH Chief Administrative Law Judge ordered the parties go to mediation, a typical process in such cases.

Dr. Jean Spooner, Chair of the Umstead Coalition stated that "*The merits of the Umstead Coalition's case are strong. The Umstead Coalition requests the NC Department of Environmental Quality restore the Sunset Clause and Crabtree Creek buffers on the existing Triangle Quarry to protect William B. Umstead State Park. These are conditions the public has long expected to be upheld.*"

When informed of the recent ruling, Morrisville Mayor TJ Cawley stated, "*I am glad the Umstead Coalition's case moves forward and will help protect William B. Umstead Park and the Old Reedy Creek recreational corridor so the public can continue to enjoy our natural open spaces and parklands.*"

Background: The original 1981 Triangle quarry permit for the current quarry was denied by the State, but the denial was overturned by the NC Mining Commission (in current times, these appeals go to OAH). The 1981 permit was then issued over the objections of DEQ regulators and State Parks only after Wake Stone agreed to certain conditions intended to protect Umstead State Park and guaranteed an end date for quarry operations in May 2031. The Honorable Rufus Edmisten, the Attorney General in 1981, recently confirmed that the 50-year

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

Sunset Clause was one of these key guarantees. In March 2018, without public notice, DEQ-Mining issued a Mining Permit with major modifications stripping the long-held Sunset Clause and protective buffer protections.

The Umstead Coalition is requesting that the Mining Permit's terms be restored to the December 2017 Permit language to:

- Restore the 50-year Sunset Clause that Wake Stone agreed to and was a condition included in the original Mining Permit on May 13, 1981 and eight subsequent Permit Renewals and Modifications through December 1, 2017. The Sunset Clause gave the State the "right to acquire the quarry site at the end of 50 years or 10 years after quarrying operations have ceased, whichever is *sooner*." (The March 26, 2018 Mining Permit Modification requested by Wake Stone changed "sooner" to "later" effectively eliminating the Sunset Clause that had been in effect for 37 years and counted upon by NC State Parks.)
- Restore the measurement of the width of protective buffers along Crabtree Creek to be measured from the top of stream bank. (The March 26, 2018 Mining Permit Modification requested by Wake Stone changed the width to be measured from the centerline of Crabtree Creek, effectively gutting the protective stream buffers by 230,000 to 280,000 square feet.)
- Restore the Buffer labels in the Site Plan to the previous 2011 Site Plan to specify "Undisturbed Vegetated Buffer." (The March 26, 2018 Mining Permit Modification requested by Wake Stone changed the Site Plan labels to "Buffer from Property Boundary.")
- Restore Buffer Conditions 3.C and 3.D in the Permit narrative explicitly stating "buffer zone was to be maintained between any mining activity and Crabtree Creek." (The March 26, 2018 Mining Permit Modification requested by Wake Stone removed the protective language in the permit language issued by DEQ and replaced with just a reference to Wake Stone's Site Plan. This effectively degraded the protective nature of the buffers.)

About the Umstead Coalition:

The Umstead Coalition has been working since the 1960's to support and protect William B. Umstead State Park through fundraising, sponsorship or volunteer activities, and oversight of environmental and legal protections. William B. Umstead State Park was established in 1934 as a public works project during the Great Depression. For more information, visit <http://umsteadcoalition.org>

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