

## **Local Program Report to the SCC Johnston County Follow up, August 1, 2024**

On February 21, 2024, a report was presented to the Sedimentation Control Commission (SCC) based on the formal review of the Johnston County Erosion and Sedimentation Control Program conducted on March 14, 2023, the subsequent continued review period and the formal follow up review conducted on January 29, 2024. The Commission voted to Continue Delegation with Review for an additional 6 months with a follow up report to be presented during the 2024 Q3 meeting. The County needed to continue to address the following items over this additional 6 month continued review period.

- The county needed to compile an accurate accounting of the approved acreage and number of projects currently open and maintain this count moving forward.
- The County needed to adjust the plan review process to ensure that an official review decision is being sent to the applicant within the appropriate timeframe. The County also needed to ensure that when a plan is found to be inadequate and a disapproval is issued, notice of this disapproval should be sent with the ability to track the receipt by the applicant. Notices of a plan disapproval should also include all of the necessary information and language to inform the applicant of their right to appeal the disapproval.
- The inspection frequency during the initial continued review period from May 2023 through February 2024 had improved; however, the workload carried by County staff to achieve this improvement did not appear to be sustainable in the long term. Additional action to address the staffing levels and workload was needed to ensure that sites remain in compliance or can be brought back into compliance.

### **Follow up:**

Throughout the continued review period, DEMLR requested the County provide a project list, a copy of any enforcement documents issued, and inspection reports for various projects. The County has terminated their interlocal agreements with various municipalities. Those terminations went into effect on April 1, 2024, and the County has transferred all open projects in those areas to the DEMLR Raleigh Regional Office. The County has also worked to create and maintain an accurate accounting of the open projects and closed out projects which have been completed but were never formally closed. Staff have also worked to get an accurate accounting of the total open acreage approved and has maintained these counts in the monthly activity report. The County has obtained approval for 2 additional staff positions in this fiscal year's budget and will anticipate posting these positions within the coming months. During the 2024 calendar year through June, the County has conducted 212 plan reviews or re-reviews, issued 82 approvals and 130 disapprovals. During this period, the county has conducted 649 inspection reports and has issued 7 NOVs. The County has also used their ability to place holds on building inspections 6 times. The County reported 166 open projects at the beginning of July. DEMLR staff conducted a formal follow up review on July 16, 2024. During the follow up, inspections were conducted on 3 projects and the files for a recently approved and disapproved project were reviewed.

**1. Wawa (Recently Approved File Review):**

This project consists of 3.7 acres disturbed for commercial development. The project file contained the approved plan, letter of approval, design calculations, a copy of the property deed and the FRO form. This was the third review cycle for this project and the County received the complete revised plan package on 6/12/2024. The letter of approval was issued on 6/17/2024. The disturbed acreage within the approved plan differed slightly between two phases labeled on the plans. Staff should ensure that the disturbed acreage is consistent throughout the plan set and the FRO form. Staff indicated that numerous changes in proposed disturbed acreage had occurred since the initial review of this project. The revised plan for this project was reviewed and notice of the review decision was sent to the applicant within the appropriate 15-day timeframe.

**2. Earp North Subdivision (Recently Disapproved File Review):**

This project consists of a proposed 3.01 acres disturbed for residential development. The complete application package for this project was initially received by the County on 6/7/2024 and a formal disapproval letter was sent to the applicant via email on 6/28/2024. Staff stated that they had not yet begun sending letters of disapproval with the ability to track receipt and were discussing possible alternatives to certified mail with the County attorneys. State staff discussed that simply sending disapprovals via email in the meantime does not satisfy the requirement for these notices to be tracked and the County must send those disapproval letters in a form that gives them the ability to track receipt of the letter. County staff stated that they would adjust the process to include sending letters with the ability to track receipt moving forward.

**3. Novo Nordisk (Site Inspection):**

This project was reviewed during the previous follow up review. The County had recently approved a revised plan for this project expanding the limits of disturbance. Clearing of these additional areas was underway and the new perimeter silt fence had been installed. One diversion ditch had been shifted over to allow for expansion of the gravel drive along the backside of the site. This new ditch had been graded and rock check dams were being installed during our inspection. Crews were also onsite installing matting on graded slopes and ditches throughout the site. Skimmer basins throughout the site appeared to be functioning and maintained. The basin above some of the newly disturbed area would be expanded in the next phase of construction but would need to have the outlet pipe extended or the path from the basin outlet to the perimeter measures stabilized to prevent the treated water from coming in contact with disturbed areas. Check dams within diversion ditches throughout the remainder of the site appeared to be functioning and well maintained. A few minor rills had formed from recent rain events and would need to be repaired and the areas restabilized. Overall, this site was in compliance with a few minor maintenance items noted.

**4. Norris Road (Site Inspection):**

This project was reviewed during previous reviews. Mass grading of the site had been completed and transition to the homebuilding phase would begin once the final plat was

recorded. The basin slopes had been sodded and curb inlet protection measures had been installed. A handful of these needed to be maintained. A few sections of silt fence needed to be repaired and silt fence outlets needed the stone refreshed. Minor sediment loss beyond the silt fence outlet below a retaining wall was noted. The silt fence and outlet in this area were becoming undermined. County staff stated that this is an area which has required frequent repairs and maintenance and recommended that an additional j-hook silt fence and outlet be installed. The accumulated sediment on the perimeter measures would need to be removed, and minor sediment loss retrieved. The majority of the inactive areas had vegetation establishing but bare and inactive areas throughout the site needed to be overseeded where temporary groundcover had not established. During the last inspection conducted by the County, it was noted that inlet protection measures and a concrete washout needed to be installed. Those items had been completed. Overall, this site was out of compliance with minor sediment loss noted.

#### **5. Eatmon's Landing Ph. 2 (Site Inspection):**

This project consisted of the road development only and was recently issued an NOV on 6/17/2024. Disturbance beyond the approved limits of disturbance had occurred as homebuilding had begun on some lots. The items noted on the NOV were that the roadway ditches needed to be repaired and stabilized and an additional plan or a plan revision needed to be submitted and approved which included the lot development. The County also noted the need for a concrete washout to be installed onsite. By the day of our review, the builders had submitted and received a new plan for lot development. The roadside ditches had been regraded, seeded and mulched with straw. Silt fence, silt fence outlets and construction entrances had been installed on active lots. County staff stated that the items in the NOV had been addressed, the site was back into compliance, and the NOV would be lifted. State staff concurred with these findings.

#### **Summary:**

Throughout this continued review period the County has worked closely with DEMLR staff to ensure that all approved plans within the areas where interlocal agreements were terminated were transferred and has been available for questions and joint site visits on projects when necessary. Staff have also worked to clean up the project list and number of total open acreage to ensure that an accurate accounting of both can be maintained. The County has closed out completed projects which had not yet been formally closed and is continuing to maintain a much improved inspection frequency from what was noted during the initial review. Staff stated that an official review decision is now being sent to the applicant within the appropriate timeframe for all plan reviews. This is supported by the two project files reviewed during the follow up review. The County will need to ensure that the notice of plan disapproval is sent with the ability to track receipt in some form from now on. The County has received approval in this fiscal year's budget for 2 additional staff who will both contribute some time to the ESC program. Staff indicated that these positions should be advertised in the coming months. These positions, once filled, will aid in distributing both the plan review, administrative, site inspection and enforcement workload. The County has worked to address the remaining items from the previous review and is demonstrating an ability to implement their delegated authority.

DEMLR staff recommend to continue delegation of the Johnston County Erosion and Sedimentation Control Program.

This report has been prepared based on the initial and follow up reviews conducted on March 14, 2023, January 29, 2024, and July 16, 2024, and the respective continued review periods. This report will be presented to the Sedimentation Control Commission during the 2024 Q3 meeting on August 1, 2024.