

AGENDA

North Carolina Sedimentation Control Commission Business Meeting

Ground Floor Hearing Room
Archdale Building
512 N. Salisbury Street
Raleigh North Carolina

This meeting will be held at the above location and via webinar.

August 1, 2024, 10:00 AM

The Elections and Ethics Enforcement Act mandates that the Chair inquire as to whether any member knows of any known conflict of interest or appearance of conflict with respect to matters before the Commission. Executive Order 34 requires any member to recuse herself or himself from voting on any matter before this Commission which would confer a financial benefit on the member. If any member knows of a conflict of interest, appearance of a conflict, or possible financial benefit please so state at this time.

Dr. Susan White, Chair, Presiding

I. Preliminary Matters

- A. Call to Order
- B. Recognition of Those Attending
- C. Swearing in of New Members, if Present
- D. Approval of Meeting Minutes from May 23, 2024

II. Action Items

- A. Buncombe County Review – Mr. Graham Parrish
Staff are presenting findings and recommending continuing the review of this program.
- B. Town of Clayton Review – Mr. Graham Parrish
Staff are presenting findings and recommending continued probation for this program.
- C. Johnston County Review – Mr. Graham Parrish
Staff are presenting findings and recommending continuing the delegation of this program.

III. **Information Items**

- A. Local Program Staffing – Ms. Julie Coco
Staff will discuss measures for evaluating staffing levels of local programs.
- B. NCDOT Report – Ms. Julie Coco
Staff will report on any Trout Buffer Waivers received or ICAs issued by the Department of Transportation during the quarter.
- C. Commission Technical Committee Update – Mr. Mark Taylor
The Committee Chair will provide an update on this committee's meetings.
- D. Land Quality Section Active Sediment Cases and Enforcement — Ms. Julie Coco
Staff will report on the status of Civil Penalty Assessments, action on Civil Penalty Assessments, and Judicial Actions.
- E. Education Program Status Report — Ms. Julie Coco
Staff will report on Sediment Education Program activities.
- F. Sediment Program Status Report — Ms. Julie Coco
Staff will report on LQS's current statewide plan approval, inspection, and enforcement activities.
- G. Land Quality Section Report — Mr. Toby Vinson
Staff will provide a report on the current number of vacancies in the Section.

IV. **Conclusion**

- A. Remarks by Commission Members
- B. Remarks by Interim Director
- C. Remarks by Chairman
- D. Adjournment

MINUTES
NORTH CAROLINA SEDIMENTATION CONTROL COMMISSION
May 23, 2024
GROUND FLOOR HEARING ROOM, ARCHDALE BUILDING
RALEIGH, NORTH CAROLINA

The North Carolina Sedimentation Control Commission met on May 23, 2024, at 10:00 a.m. in person in the Ground Floor Hearing Room of DEQ's Archdale Building located at 512 N Salisbury Street, Raleigh, and remotely. The following persons were in attendance (either in-person or remotely) for all or part of the meeting.

COMMISSION MEMBERS

Dr. Susan White (Chair)
Mr. Benjamin Brown (Vice Chair)
Mr. Michael Taylor
Mr. James Lamb (absent)
Dr. Richard McLaughlin
Ms. Emily Sutton
Ms. Marion Deerhake
Mr. Mark Taylor
Mr. Ryan Carter
Dr. Kenneth Taylor
Mr. Steven Wilson (absent)
Mr. David Beck

OTHERS

Toby Vinson, Interim Director and Program Operations Chief, DEMLR
Julie Coco, State Sedimentation Engineer, DEMLR
Graham Parrish, Assistant State Sedimentation Specialist, DEMLR
Sarah Zambon, Commission Counsel, Attorney General's Office
Josh Kastrinsky, NCDEQ, DEMLR
Kathleen Russell, NCDEQ, DEMLR
David Harris, NCDOT
Ben DeWit, NCDOT
Joseph Hanks, NCDOT
Jeremy Goodwin, NCDOT
Karyn Pageau, Wake County
Jeevan Neupane, Wake County
Josh Cotton, Town of Clayton
Joshua Baird, Town of Clayton
Tim Surrett, Haywood County
Corey Priddy, Mecklenburg County

Chanell Hatch, Mecklenburg County
David Byrd, Town of Southern Pines
Scott Reams, Wake County
Marlena Brown, Wake County
Joe Albiston, Wake County
Rich Cappola, Town of Clayton
Corey Clayton, NCDEQ, DEMLR
Christopher Rice, Town of Waxhaw
Darien Aassar
Don Ahrens
Paul Childers
Grady O'Brien
Zachary Lentz
Brian Stoner
Troy Brooks

PRELIMINARY MATTERS

Dr. Susan White called the meeting to order at 10:03 am.

Dr. White read Executive Order No. 1 regarding avoidance of conflict of interest. She asked if anyone has a known conflict of interest or potential conflicts.

Those in attendance introduced themselves.

Dr. White asked for a motion to approve the minutes from the February 21, 2024, meeting. Mr. Michael Taylor moved to approve the minutes Dr. Kenneth Taylor made a second. The motion passed.

ACTION ITEMS

Town of Southern Pines Review

Mr. Parrish presented the findings from his review of this program. Staff's recommendation was to continue the town's delegation. A discussion ensued. Mr. Brown made a motion to continue delegation. Dr. McLaughlin made a second; the motion passed.

Town of Waxhaw Review

Mr. Parrish presented the findings from his review of this program. Staff's recommendation was to continue the town's delegation. A discussion ensued. Mr. Brown made a motion to continue delegation. Dr. Kenneth Taylor made a second; the motion passed.

Town of Clayton Review

Mr. Parrish presented the findings from his follow up review of this program. Staff's recommendation was to place the program's delegation on probation for one quarter, with a follow up report to be presented at the 2024 Q3 meeting. A discussion ensued. Mr. Mark Taylor made a motion to approve the recommendation made by the DEMLR staff. Mr. Carter made a second; the motion passed.

Mecklenburg County Review

Mr. Parrish presented the findings from his review of this program. Staff's recommendation was to continue the program's delegation. A discussion ensued. Dr. McLaughlin made a motion to approve the recommendation made by the DEMLR staff. Dr. Kenneth Taylor made a second; the motion passed.

Orange County Review

Mr. Parrish presented the findings from his review of this program. Staff's recommendation was to continue the program's delegation. A discussion ensued. Mr. Brown made a motion to approve the recommendation made by the DEMLR staff. Mr. Carter made a second; the motion passed.

Haywood County Review

Mr. Parrish presented the findings from his review of this program. Staff's recommendation was to continue the program's delegation. A discussion ensued. Dr. Taylor made a motion to approve the recommendation made by the DEMLR staff. Dr. McLaughlin made a second; the motion passed. Mr. Beck was absent for the vote.

NCDOT 2023 Annual Report Follow-Up

Mr. Harris presented a follow up report from the NCDOT 2023 Annual Report and background on the NCDOT delegated Erosion and Sediment Control Program. A discussion ensued. Mr. Michael Taylor made a motion to accept the information presented today be included in the future annual reports and that additional information requests may be made at the time the next annual report is presented. Mr. Brown made a second. The motion passed.

INFORMATION ITEMS

Updates to the Memorandum of Agreement between Local Governments and the Commission
Counsel Zambon provided a draft of proposed changes to the subject memorandum. Both members and DEMLR staff shared their comments. The Chair asked staff to make known any provisions for the members to consider. Ms. Zambon then requested that staff send her written comments that can be incorporated into the draft and discussed at a future meeting.

Local Program Staffing

Ms. Coco reported on the data collected regarding staffing levels of local programs. A discussion ensued. The Commission requested additional information from DEMLR staff and a possible recommendation on adequate staffing levels.

NCDOT Report

Ms. Coco reported on the two Immediate Corrective Action (ICA) reports issued by the NCDOT and one ICA extension issued followed by the two inspection reports showing the sites to have achieved compliance.

Commission Technical Committee Update

Mr. Mark Taylor, the Chair of the Committee, shared that the committee continues to meet monthly. He mentioned that the vacant committee seats have been filled and gave an update on the progress made on the practice standards in the *Erosion and Sediment Control Planning and Design Manual*.

The Chair deferred the remaining Information Items for independent review by the members.

Land Quality Section Active Sediment Cases and Enforcement

Land Quality Section Report

Sediment Program Status Report

Education Program Status Report

CONCLUSION

Remarks by DEMLR Interim Director

Mr. Vinson presented an update on DEMLR staff vacancies and legislation currently being proposed. Discussion ensued.

Remarks by Commission Members

Mr. Mark Taylor thanked fellow commissioners for his time serving on the Commission as his term will soon be ending. Ms. Zambon explained that Mr. Mark Taylor can continue to hold his membership until the succeeding member is appointed.

Remarks by Chairman

Dr. White thanked all who were in attendance and thanked the DEMLR staff for their assistance in preparing materials for the commission members ahead of the meeting.

Adjournment

The Chair adjourned the meeting at 1:59 pm.

Julie Coco, State Sedimentation Engineer
Division of Energy, Mineral, and Land
Resources

William Vinson, Jr., Interim Director and
Chief of Program Operations
Division of Energy, Mineral, and
Land Resources

Susan White (Chair)
Sedimentation Control Commission

Local Program Report to the SCC Buncombe County Follow Up, August 1, 2024

On November 16, 2023, a report was presented to the Sedimentation Control Commission (SCC) based on the formal review of the Buncombe County Erosion and Sedimentation Control Program conducted on October 11, 2023. The Commission voted to Continue Delegation with Review for 9 months with a follow up report to be presented during the 2024 Q3 meeting. During this 9 month continued review period, the County needed to address the deficiencies listed below.

- The disapproval of any proposed erosion and sedimentation control plan by a local government shall entitle the person submitting the plan to a public hearing if the person submits written demand for a hearing within 15 days after receipt of written notice of the disapproval or modification. § 113A-61(c).
 - The County shall update the Letter of Disapproval to notify the recipient of their right to appeal within 15 days instead of 60 days. Template letters with references to the NCAC and state statute can be found on our [Local Program SharePoint Reporting site](#).
 - The County shall send Letters of Approval in cases where no modifications of the plan are necessary. The County can add language referencing standard comments and additional developmental approval requirements to their standard letter of approval.
- Documentation of land ownership must be obtained prior to approval of a plan. 15A NCAC 04B.018(c). The County shall retain land ownership documentation in the project file.
- The County shall update its FRO form to include Registered Agent information and should verify this information with the NC Secretary of State's website prior to approval of a plan.
- Except for certain utility construction, if the applicant is not the owner of the land to be disturbed, the erosion and sediment control plan must include the landowner's written consent for the applicant to submit a plan and to conduct the land-disturbing activity. G.S. 113A-54.1(a). The County should obtain a letter of consent when the landowner(s) and FRP differ and retain this in the project file. The County's template Landowner Authorization form should contain language explicitly granting permission from the landowner to the FRP to submit the erosion and sediment control plan application and conduct land disturbing activities.
- Once a complete application is received, plans are to be reviewed and the person submitting the plan notified that it has been approved, approved with modifications, or disapproved within 30 days of receipt of a new plan and within 15 days of receipt of a revised plan. G.S. 113A-61(b) and MOA Part III.C.1 & 3. Staff should ensure that plans are being reviewed and notices of the official review decisions are being sent within the statutory timeframes.
- The County will need to increase inspection frequency in order to effectively monitor projects for compliance with the SPCA and local ordinance. The Sedimentation Control

Commission has long viewed an inspection frequency of monthly to generally be adequate. Staff stated that a new position which would contribute time to the ESC program has been approved for next fiscal year's budget.

Follow Up:

During the continued review period, the County provided inspection reports for the projects initially reviewed. DEMLR conducted a formal follow up review on July 9, 2024. The County has updated the FRO form to include registered agent information and has updated the disapproval letter templates to include the correct deadline for when an appeal of the disapproval must be received by the County. The County has implemented a new landowner consent/authorization template letter for when the landowner and FRP differ; however, the language the County has utilized in this template is not fully capturing the intended consent. DEMLR staff reviewed two recently issued NOV's during the follow up review. One NOV had inconsistent dates with the inspection reports and was not clear on the deadlines that corrective actions must be completed by. During the calendar year through June, the County has conducted 78 plan reviews or re-reviews, issued 23 approvals and 18 disapprovals. During this period the County has conducted 1326 inspections, issued 13 NOV's and 1 SWO. The County currently reports 185 open projects. The County has begun to transition an existing staff member from the Stormwater program which has added approximately 0.5 FTE to the ESC program. During the follow up review, DEMLR staff conducted 3 site inspections and reviewed 1 additional project file.

1. Creekside Community (Site Inspection):

This project consists of 29.3 acres disturbed for residential development and is located within the Upper French Broad Subbasin of the French Broad River Basin. This project was inspected as part of the initial review. The County issued a NOV to this site on 10/13/2023, following the review. A Notice of Continuing Violations (NOCV) was issued on 10/25/2023 after finding corrective actions had not been completed. Staff noted that a number of the items listed in the NOV had been completed or were underway during a follow up inspection conducted on 11/17/2023 but that some items remained. The County conducted additional inspections on 12/15/2023 and 1/5/2024, noting missing baffles in basins and improperly installed construction entrances. Another NOCV was issued to this site on 1/24/2024. The County found the site to be in compliance and lifted the NOV on 2/2/2024. Staff conducted routine inspections on 2/15/2024, 3/14/2024, 4/11/2024, 5/17/2024 and 6/20/2024 and noted the site was out of compliance during each. Various repairs and maintenance needs along with areas needing adequate stabilization were noted in these reports. On the day of the follow up review, some roads had been paved with curb being poured and vertical construction had begun. Silt fence needed to be repaired or replaced throughout the site. Curb inlet protection measures had not been installed throughout the site and most of the drop inlet protection measures needed to be repaired or replaced. One skimmer basin appeared to have been installed with improper elevations and did not drain towards the skimmer device. A number of manholes appeared to have been uncovered to allow the site to drain into the stormwater system. This meant a bypassing of measures. State staff recommended that if the erosion control measures installed are inadequate during the

current phase of construction, a revised plan may be needed. The County set a compliance deadline of 7/24/2024 and stated that an NOV would be issued to this site following the review.

2. Hawthorne at Holbrook (Site Inspection)

This project consists of 22.0 acres disturbed for residential development in the Upper French Broad subbasin of the French Broad River basin. On the day of our review, roads had been paved and building foundations were being poured. Silt fence and silt fence outlets had been overwhelmed and losses into a stream buffer were noted in multiple locations below one retaining wall and a basin. The need to remove accumulated sediment and repair these areas had been noted in the previous two inspection reports. One skimmer basin did not have baffles installed and inlet protection measures throughout the site were missing or needed to be maintained. The other skimmer basins did appear to be installed properly and functioning. Completed slopes throughout the site had been matted and vegetation was establishing. This site was out of compliance and a compliance deadline was set for 7/24/2024. County staff stated that a NOV would be issued to this site as well.

3. Crossroads Community Development (Site Inspection):

This project consists of 35.74 acres disturbed for mixed commercial and residential development in the Upper French Broad subbasin of the French Broad River basin. On the day of our review, vertical construction was underway and sod along the entrance and around a completed building was being placed. Curb inlet sacks had been installed, however it appeared that a number of them were not functioning as designed and water was bypassing the sack. Rills had formed along uncovered areas and sediment was running along the paved parking areas throughout. Completed and inactive areas needed to be stabilized. The large basin onsite appeared to be functioning and maintained. One section of perimeter silt fence above a large slope had been pulled away and needed to be reinstalled. Drop inlet protection measures also needed to be maintained. No signs of offsite sediment were noted. Overall, this site was out of compliance.

4. Eagle Rock Cove Ph. 2 (File Review):

This project was received and reviewed during the continued review period. The County received the initial complete package for this project on 2/15/2024 and issued a letter of disapproval on 3/15/2024. The County received a complete revised plan package on 5/2/2024 and issued the letter of approval on 5/15/2024. The approved plan consists of 6.46 acres disturbed for residential development and is located within the Upper French Broad subbasin of the French Broad River basin. The project file contained the approved plan, design calculations, letter of approval, a copy of the property deed and the FRO form. The County conducted both reviews and sent notice of the review decision within the statutory timeframes. The County has adjusted the language of the disapproval letter to include the correct deadline for requesting an appeal. The FRO form included all parties listed on the deed and the registered agent information.

Conclusion:

During the continued review period the County has worked to address the items noted during the initial review. The County has revised the template letters for their letters of disapproval to

include the proper language regarding the applicants right to appeal. Staff have also revised the FRO form to include a place for the registered agent information. The County created a template landowner consent letter but was not fully incorporating the required written consent language. After the follow up review DEMLR provided additional sample language and County staff stated the language would be updated immediately. Staff are verifying property ownership during plan reviews and are retaining a copy of the property deed in the project file. Staff stated that they had worked to close out projects which had been completed and not formally closed. The County has also analyzed staffing and has begun transitioning an existing employee from the stormwater program to the erosion control program. The County has also approved an additional new position which will split duties between the ESC and Stormwater program. Once this transition is complete and additional staff are hired, the County anticipates to have approximately 3.5 FTE contributing to the program. The County reported 2.5 FTEs at the time of the follow up review. DEMLR staff reviewed two recently issued NOVs and noted some inconsistencies with the dates of the inspections and separate deadlines for some corrective actions that were unclear. While the county has worked to clean up the open project list and has worked to conduct inspections at a higher frequency, the sites reviewed showed a history of non-compliance. The County will need to maintain a regular inspection frequency and must demonstrate an ability to bring sites into compliance in a timely manner.

Considering the conditions on site and documentation reviewed during the continued review period and follow up reviews, DEMLR staff will recommend to continue delegation with review of the Buncombe County Erosion and Sedimentation Control Program for 2 more quarters with a follow up report to be presented during the 2025 Q1 meeting. During a continued review period, the County will need to ensure that the dates of inspections referenced in NOVs are consistent and accurate. If there is an extended deadline for specific items such as submitting a revised plan, those should be made clear to avoid confusion of when corrective actions must be completed. Staff should also work to ensure that inspection reports fully depict the conditions and corrective actions that may be required. If corrective actions are not completed within the set deadline further action should be taken to ensure sites are brought back into compliance. Staff should document when corrective actions have been completed and if violations are new or continuing from report to report. Staff will need to provide inspection reports throughout the review period to demonstrate their ability to ensure that sites remain in compliance or can be brought back into compliance.

This report has been prepared based on the formal review of the Buncombe County Erosion and Sedimentation Control Program conducted on October 11, 2023, the subsequent continued review period and the formal follow up review conducted on July 9, 2024. This report will be presented to the Sedimentation Control Commission during its 2024 Q3 meeting on August 1, 2024.

Local Program Report to the SCC Town of Clayton Follow Up, August 1, 2024

On May 23, 2024, a follow up report was presented to the Sedimentation Control Commission (SCC) based on the formal review of the Town of Clayton Erosion and Sedimentation Control Program conducted on July 6, 2023, the subsequent 6-month continued review period, a formal follow up review conducted on February 2, 2024, and the subsequent 3-month continued review period. The Commission voted to place the Town's program on probation with a follow up report to be presented during the 2024 Q3 meeting on August 1, 2024. During this probationary period, the Town needed to address the remaining deficiencies listed below which were noted during the initial and follow up reviews.

- Once a complete application is received, plans are to be reviewed and the person submitting the plan notified that it has been approved, approved with modifications, or disapproved within 30 calendar days of receipt of a new plan and within 15 calendar days of receipt of a revised plan. Staff are to ensure that plans are being reviewed and notice of the official review decision is being sent within the statutory timeframes. When a plan is found to be inadequate, notice of the plan's disapproval shall be sent. These notices are to be sent with the ability to track when the applicant has received the notice. These notices should also include language notifying the applicant of their right to appeal the disapproval.
- When the Financially Responsible Party is a company/firm, the registered agent information should be included on the FRO form.

Follow Up:

During the probationary period from April through June, the Town conducted 25 plan reviews or re-reviews, issued 5 approvals and 20 disapprovals. The Town has conducted 264 inspections and issued 2 NOVs. No CPAs, SWOs or building permit/inspection holds were issued during this period. The Town has utilized a part-time staff who has been assisting with the update of template letters and forms as well as helping to address some of the administrative burden. The Town has also recently filled the vacant Stormwater Engineer position and reported approximately 2 full time equivalent (FTE) staff contributing to the program at the end of June. This is an increase of 0.5 FTE from the previous months. The Town has worked with DEMLR to update the language within the template letter of disapproval and stated that when plans are found to be inadequate, a letter of disapproval is being sent via certified mail. The Town also provided the dates which the official review decision was sent to the applicant and the date which the Town received the respective plan for all projects approved or disapproved during the month of June. DEMLR staff conducted a formal follow up review on July 11, 2024. At the time, the Town reported 63 open projects. During the follow up review, DEMLR staff reviewed 3 project files.

1. Clayton Pawville (Recently Disapproved):

The plan for this project was reviewed and disapproved during the probationary period. This project is a proposed 2.2 acres disturbed for commercial development. The plan was

disapproved by the Town, and this was the 3rd review cycle conducted on this project. The Town received this revised plan on 6/3/2024 and a letter of disapproval was sent on 6/27/2024. The disapproval letter included language notifying the applicant of their right to appeal the decision and the reasons for disapproval. The registered agent information was not included on the FRO form nor was this information noted in the disapproval letter. The disapproval letter was sent with the ability to track when it was received by the applicant. However, the official review decision was not sent to the applicant within 15 days of receiving the revised plan. One of the items mentioned as a reason for disapproval in the disapproval letter was for the applicant to provide sediment trap sizing calculations and dimensions for each trap. DEMLR staff discussed the need for the dimensions and layout of proposed sediment traps to not only be provided through the calculations but to be shown on the plans themselves in lieu of a generic symbol as well as the inclusion of a drainage area map to demonstrate that sediment traps are adequate measures for the proposed drainage areas. These items were not clearly requested in the reasons for disapproval listed in the disapproval letter and staff recommended clarifying in future submittals if needed.

2. Candlewood Townes (Recently Approved):

The plan for this project was reviewed and approved during the probationary period. This project consists of 3.75 acres disturbed for commercial development. The project file contained the approved plan, a copy of the property deeds, landowner consent letters, and the FRO form. The registered agent information for the FRP was not provided within the FRO form. The Town conducted 5 total review cycles on this plan. The most recent revised plan was received on 5/29/2024 and the letter of approval was sent to the applicant on 7/10/2024. The notice of the official review decision was not sent within the appropriate 15-days from receiving the revised plan.

3. Aldi (Recently Approved):

The plan for this project was reviewed and approved during the probationary period. The project file contained the approved plan, a copy of the property deed and the FRO form. The registered agent information for the FRP was included. The Town conducted 4 total review cycles on this plan. The most recent revised plan was received on 6/4/2024 and the letter of approval was sent to the applicant on 7/10/2024. The notice of the official review decision was not sent within the appropriate 15-days from when the town received the revised plan.

Conclusion:

The Town has recently filled the vacant stormwater engineer position and has brought on a part-time employee who contributes some time to the program. Official language stating that the plan is disapproved and notification of the applicant's right to appeal the decision has been added to the letters of disapproval. While notification of a formal review decision is now being sent to the applicant, notification is not always being sent within the appropriate 30- or 15-day timeframe. Town staff stated that other departments were implementing a pilot program for plan reviews, and this may have contributed to a delay in some plan review decisions being sent. Staff stated that they have recently implemented a new method of tracking reviews to ensure that plans are reviewed and notice of the review decision is sent within the appropriate

timeframe moving forward. The registered agent information for the financially responsible party was only included on the FRO form for one of the two recently approved plans and was not included on the FRO form for the recently disapproved project. This item was not mentioned in the letter of disapproval.

The Town still needs to ensure that all plans are being reviewed and notice of the official review decision is sent within the required timeframes. Staff also need to ensure that whenever the financially responsible party is a company or firm, the registered agent information must be included on the FRO form. This applies to both in-state and out-of-state companies.

DEMLR staff recommend to continue the probationary period for an additional quarter with a follow up report to be presented to the SCC during the 2024 Q4 meeting. During this probationary period, the Town must demonstrate the ability to conduct all plan reviews and provide notice of the formal review decision within the required statutory timeframes. Staff must also ensure that the registered agent information is included on the FRO form whenever the FRP is a company or firm. Town staff stated that newly hired staff and the recently implemented review tracker will aid in ensuring plans are reviewed within the timeframes and that another quarter will provide enough time for the Town to demonstrate its ability to fulfill the requirements and expectations of the delegated local program.

This report has been prepared based on the initial formal review and follow up reviews conducted on 7/6/2023, 2/2/2024, 7/6/2024, the respective 6-month and 3-month continued review period, and the 3-month probationary period. This report will be presented to the SCC during the 2024 Q3 meeting on August 1, 2024.

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.

Active Sediment Case Report as of July 17, 2024

Case#	Violator (Name of Case)	County	Date of Assessment	Penalty Assessment Amt	Final Amt Paid	Comments
21-014	Dump & Go, Inc.	Cumberland	03-Nov-21	\$5,000.00		Injunctive relief requested 3/22 NOVs issued 5/21/21 & 6/16/21 NOCV issued 6/13/22 Complaint amended as to defendent. Motion to Show Cause pending.
23-001	Parker Leland, LLC	Brunswick	24-Jul-23	\$25,000.00		
23-002	Hawthorne Headwaters Apartments, LLC	Pender	11-Aug-23	\$5,000.00		
23-003	Partin Solar	Surry	04-Jan-24	\$268,730.00	\$215,000.00	Closed
24-001	Saucepan Creek, LLC	Brunswick	28-May-24	\$5,000.00		

N.C. SEDIMENTATION CONTROL COMMISSION ENFORCEMENT REPORT

by the OFFICE OF THE ATTORNEY GENERAL

7/17/2024

Status of Cases	10/30/2023	2/1/2024	5/23/2024	7/17/2024
1. LQS Drafting CPA	0	0	0	0
2. CPAs Out to Violator (30-day)	0	1	0	0
3. CPAs Prepared by LQS Under Review	5	2	2	1
4. CP Remission Requests Under Review	2	2	2	4
5. CP Remission Decisions	0	0	0	0
6. Cases Pending in OAH	0	0	1	0
7. Cases Awaiting Final Agency Decision	0	0	0	0
8. Cases Pending in General Courts of Justice				
a. Judicial Review	0	0	0	0
b. Injunctions	2	2	3	1
c. Pre-Judgement Collections	0	0	0	0
d. Post-Judgement Collections	0	0	0	0
e. Federal Cases	1	1	1	1
9. Cases in Bankruptcy Proceedings	0	0	0	0
10. *Cases where CPA Being Paid by Installment	0	0	0	0
11. Cases to be Closed	0	0	0	0
TOTALS:	10	8	9	7
Action Since Prior Quarterly Report:				
New Cases Received by AGO				0
Cases Closed by AGO				1

Land Quality Section Report - August 1, 2024

Location	Classification
Archdale - Dam Safety.	Engineering Supervisor III.
Archdale - Stormwater	Engineer III
Archdale - Stormwater	Environmental Program Consultant
Asheville Regional Office	Environmental Specialist I
Asheville Regional Office	Engineer I
Asheville Regional Office	Geologist/Hydrogeologist
Asheville Regional Office	Environmental Specialist I.
Mooresville Regional Office	Environmental Specialist I
Raleigh - Archdale	Environmental Division Director
Raleigh - Archdale DAMS	Environmental Program Consultant
Raleigh - Archdale DAMS	Engineer II
Raleigh - Archdale DAMS	Engineer II
Raleigh Regional Office	Engineer II
Raleigh Regional Office	Environmental Specialist I
Wilmington Regional Office	Environmental Specialist I
Wilmington Regional Office	Engineer II
Winston Salem Regional Office	Engineer II
Winston Salem Regional Office	Environmental Specialist I
Winston Salem Regional Office	Engineer III
Winston Salem Regional Office	Engineer III