

**DEPARTMENT OF ENVIRONMENTAL
QUALITY**

**DIVISION OF ENERGY, MINERAL,
AND LAND RESOURCES**

**SEDIMENTATION
CONTROL COMMISSION
MEETING**

**10:00 A.M.
Tuesday
August 17, 2021**

ONLINE MEETING via WEBEX

**If you have any questions concerning this meeting, please contact
Julie Coco at (919) 707- 9215**

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 4, 2021

AGENDA

North Carolina Sedimentation Control Commission
Business Meeting

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

Though normally held at the above location, this meeting will be held via webinar.

August 17, 2021, 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 4, 2021

II. Action Items

- A. Town of Weddington Review – Mr. Graham Parrish
Staff are presenting findings and recommending continuing the delegation of this program.
- B. City of High Point Review – Mr. Graham Parrish
Staff are presenting findings and recommending continuing the review of this program.
- C. Henderson County Review – Mr. Graham Parrish
Staff are presenting the findings and recommending continuing the review of this program.
- D. Macon County Review – Mr. Graham Parrish
Staff are presenting the findings and recommending continuing the review of this program.

- E. City of Wilson Review – Mr. Graham Parrish
Staff are presenting the findings and recommending probation for this program.

III. **Information Items**

- A. Town of Knightdale Ordinance Review – Ms. Julie Coco
Staff will present a draft of the Town's ordinance for an informal review.
- B. Commission Technical Committee – Mr. Mark Taylor
The Chairman will provide an update on the progress made in membership and meetings.
- C. 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.
- D. Education Program Status Report — Ms. Rebecca Coppa
Staff will report on Sediment Education Program activities.
- E. Sediment Program Status Report — Ms. Julie Coco
Staff will report on LQS's current statewide plan approval, inspection, and enforcement activities.
- F. NCDOT Report – Ms. Julie Coco
Staff will report on the Immediate Corrective Action Reports and Trout Buffer Waivers issued by the Department.
- G. Land Quality Section Report — Mr. Toby Vinson
Staff will provide a report on the current number of vacancies in the Section and other LQS activities and issues.
- H. Q4 November and Future Commission Meetings – Dr. Susan White
Dr. White will open the discussion on when to return to in-person meetings.
- I. Ad-hoc Committee Proposal – Mr. Hartwell Carson
Commissioner Carson will address the members as to the new committee.

IV. **Conclusion**

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

MINUTES
NORTH CAROLINA SEDIMENTATION CONTROL COMMISSION
MAY 4, 2021
GROUND FLOOR HEARING ROOM, ARCHDALE BUILDING
RALEIGH, NORTH CAROLINA

The North Carolina Sedimentation Control Commission met on May 4, 2021 at 10:00 a.m. via an online webinar. The following persons were in attendance via webinar for all or part of the meeting, with Commission members being present for the entire meeting:

COMMISSION MEMBERS

Dr. Susan White (Chair)
Ms. Emily Sutton
Mr. Benjamin Brown
Mr. Mark Taylor
Mr. Michael Taylor
Ms. LaToya Ogallo (Vice-Chair)
Dr. Richard McLaughlin
Ms. Marion Deerhake
Mr. Michael Willis (not present at beginning of meeting)
Mr. Hartwell Carson
Mr. Robert "Jason" Conner
Ms. Susan Foster (not present)

OTHERS

Mr. Brian Wrenn, Director, DEMLR
Mr. Toby Vinson, Program Operations Chief, DEMLR
Mr. Graham Parrish, State Assistant Sedimentation Specialist, DEMLR
Ms. Julie Coco, State Sedimentation Specialist, DEMLR
Ms. Rebecca Coppa, State Sedimentation Education Specialist, DEMLR
Mr. Zac Lentz, DEMLR-Winston Salem Regional Office
Mr. Jack Dalton, DEMLR-Winston Salem Regional Office
Ms. Sarah Zambon, Commission Counsel, Attorney General's Office
Mr. Tom Gerow, NCFS
Ms. Karyn Pageau, Wake County
Ms. Ashley Rodgers, Wake County
Mr. Kirk Stafford, Town of Cary
Ms. Anita Simpson, City of High Point
Mr. David Bowman, City of Burlington
Ms. Pat Donovan-Brandenburg, City of Jacksonville
Mr. Thomas Shrader, Pitt County Planning Department
Mr. Jonas Hill, Pitt County Planning Department
Mr. James Long, Pitt County Planning Department

PRELIMINARY MATTERS

Dr. White called the meeting to order at 10:01 am.

Dr. White read Executive Order No. 1 regarding avoidance of conflict of interest.

Those in attendance introduced themselves. Dr. White announced any potential conflicts with the Commission members and reminded them to recuse themselves from any discussions related to those conflicts. Dr. White read the guidelines for participating in the webinar.

Dr. White asked for a motion to approve the minutes from the February 23, 2021 meeting. Mr. Mark Taylor moved to approve the minutes. Dr. McLaughlin made a second; the motion passed, and the minutes were approved unanimously.

ACTION ITEMS

City of Jacksonville Local Program Review

The recommendation was made to continue the city's delegation under review for another six months. Mr. Carson made a motion to approve the recommendation made by the DEMLR staff. Ms. Ogallo made a second; the motion passed. Mr. Willis did not respond to roll call vote. Mr. Michael Taylor did not respond to roll call vote.

Iredell County Local Program Review

The recommendation was made to continue the county's delegation under review for another six months. Some commission members expressed their desire for Local Programs to issue more Notices of Violation. Ms. Ogallo made a motion to approve the recommendation made by the DEMLR staff. Dr. McLaughlin made a second; the motion passed. Mr. Willis did not respond to roll call vote. Mr. Michael Taylor did not respond to roll call vote.

Pitt County Local Program Review

The recommendation was made to continue the county's delegation. Mr. Michael Taylor moved to approve the recommendation made by the DEMLR staff. Ms. Ogallo made a second; the motion passed. Mr. Conner did not respond to roll call vote. Mr. Michael Taylor did not respond to roll call vote.

City of Burlington Local Program Review

The recommendation was made to continue the city's delegation. Mr. Willis moved to approve the recommendation made by the DEMLR staff. Dr. McLaughlin made a second; the motion passed. Mr. Conner did not respond to roll call vote. Mr. Michael Taylor did not respond to roll call vote.

INFORMATION ITEMS

Commission Technical Committee

Mark Taylor is the Chair for this committee. He commented on the first two meetings held to lay the foundation for committee structure and to start decisions on topics submitted by members and staff for further deliberation. He mentioned that the meeting schedule has been set for the third Thursday of each month from 3:30 – 4:30 pm. The next meeting is scheduled for May 20, 2021 via Cisco WebEx online webinar. Meetings are open to the public and must adhere to the NC Open Meetings Law.

Land Quality Section Active Sediment Cases and Enforcement

Ms. Coco reported on the status of civil penalty assessments and judicial actions.

Education Program Status Report

Ms. Rebecca Coppa reported on Sediment Education Program activities. This included virtual participation in STEM career days, a pre-kindergarten class and participation in the SciMatch program. She also reported that the 2021 Local Program Workshop moved to a virtual format and was coordinated with the Water Resources Research Institute (WRI) in four half-day webinars from April 19 – April 22. Topics included regulatory updates, design reviews, inspections and enforcement. Each day had approximately 140 virtual participants. Finally, a Project WET workshop is being planned for DEMLR employees in May. This workshop will provide training and activities that educators in each of the regional offices can use.

Ms. Coco added comments commending her staff on their efforts towards the 2021 Local Program Workshop. She noted that her presentation to the Local Programs involved emphasizing the importance of identifying jurisdictional waterbodies and riparian buffers on plans and requiring 404 permits and 401 water quality certifications be obtained as a condition to erosion control plan approval. Ms. Coco also presented guidance on when Notices of Violation and civil penalties should be issued and the factors to consider.

The Chair, Dr. White, excused herself from the meeting at approximately 11:56 AM. The Vice-Chair, Ms. Ogallo, resumed the meeting at that time.

Sediment Program Status Report

Ms. Coco reported on the Land Quality Section's statewide plan approvals, inspections, and enforcement activities. Numbers were available through the end of March 2021.

NCDOT Report

Ms. Coco reported on the Immediate Corrective Action Reports and the one Trout Buffer Waiver issued to the Department of Transportation.

Land Quality Section Report

Mr. Vinson provided a report on the current number of vacancies in the Section.

Coronavirus Disease of 2019 (COVID-19) Status

Mr. Vinson discussed how the pandemic and ensuing State executive orders have impacted program operations. Workloads have remained consistent during the pandemic, and staff are meeting their obligations in plan reviews and inspections. In-person meetings must be scheduled. The Department is following the Governor's executive orders and continuing its teleworking policy.

Civil Penalty Remissions Committee Update

Ms. Deerhake summarized the remission guidelines and duties for this committee. She also read over the factors to be considered in hearing and deciding upon penalty cases involving a remission request. She thanked the DEMLR staff for their support in preparing the case files and scheduling the meetings.

Ad-hoc Committee Proposal

Mr. Carson proposes a new committee to discuss topics concerning sedimentation and ways to prevent it. The committee would look at funding, enforcement, legislation, etc. He is soliciting members and staff. Mr. Wrenn may assign staff to Committee. Once the committee is formed, he plans to set the scope for this committee and define topics for deliberation within it. Mr. Carson proposed a quarterly meeting schedule and a meeting time of approximately one hour. The first meeting is suggested to occur between the May and August Commission meetings.

Legislative Proposals Regarding Erosion & Sediment Control

Mr. Brian Wrenn, DEMLR Director discussed drafts for Senate bills 389, 622 and 628 and draft House bill 489.

Senate bill 389 would remove some of the restrictions imposed upon DEMLR staff related to enforcement. Senate bill 622 would amend the Sediment Act to allow for an increase in fees similar to those recommended by the Sedimentation Control Commission since 2014. Staff are in support of these two bill drafts.

Senate bill 628 would require the NCDOT and other state agencies to use native-only seeds and plants for all landscaping and erosion control. The NCDOT and the NCDEQ currently specify or recommend the use of native seed mixes for appropriate applications. However, non-native seeds found in these mixes are known for rapid establishment of groundcover and erosion control and play a role in supporting the longer-term establishment of native grasses. House bill 489 is targeted towards local governments. It is an attempt to transfer permit responsibility from the builder to others without disclosure, and imposes a fee limit on single-family residential lots that are less than one acre. (Some Local Programs have ordinances more restrictive than the SPCA and require a plan for disturbances less than one acre.) It also restricts the amount of information available to the plan reviewer. This bill also dictates how to use silt fence. Given that many of the proposed provisions negatively impact the NCDOT, the fiscal requirements of Local Programs, and are in direct violation of the NPDES program requirements, DEMLR staff are opposed to S628 and H489.

CONCLUSION

Remarks by the Director – none

Remarks by Commission Members – Mr. Mark Taylor spoke on a benchmark for the number of local government full-time equivalent staff positions needed to effectively operate a program and guidance on issuing Notices of Violation. This information may need to come from discussions within committee meetings or from studies conducted by committee members.

Remarks by the Vice-Chair – Ms. LaToya Ogallo sent reminders to the members to renew their Statements of Economic Interest (due April 15th each year) and their ethics training. Members should expect more frequent email reminders if they have not completed their training.

Adjournment – Ms. Ogallo adjourned the meeting at approximately 1:09 pm.

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

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

LaToya Ogallo, Vice-Chair
Sedimentation Control Commission

Dr. Susan White, Chair
Sedimentation Control Commission

II. Action Items

- A. Town of Weddington Local Program Review – Mr. Graham Parrish
- B. City of High Point Local Program Review – Mr. Graham Parrish
- C. Henderson County Local Program Review – Mr. Graham Parrish
- D. Macon County Local Program Review – Mr. Graham Parrish
- E. City of Wilson Local Program Review – Mr. Graham Parrish

Local Program Review Recommendation Levels

Local Program reviews consist of a one-day visit to the local government. The review focuses on both in-office administration and in the field site inspections. During the in-office portion of the review, DEMLR staff review project files for appropriate documentation and discusses typical practices and procedures of the program administration. During the field portion of the review, DEMLR staff observe program staff while they conduct a typical site inspection. Projects to be reviewed are selected by DEMLR staff on the day of the review. Project selection is made with the goal of selecting a representative sample that varies in project purpose, disturbed acreage, current construction phase and site location. Program reviews are meant to determine the ability of program staff to adequately monitor and enforce the provisions of the SPCA of 1973.

Level 1 – Continue Delegation: No oversight is needed; overall, the program is successfully implementing their requirements.

Level 2 – Continue Delegation with Review: Periodic oversight and follow-up from our review is needed; DEQ, DEMLR staff will communicate more frequently with the local program on its requirements or may request documentation of program actions to review for adherence to the SPCA. This may include submittals of inspection reports, decision letters, or enforcement documents. The DEMLR may choose to conduct a second in-person review(s) based on recommendations given from the first review.

Level 3 – Place on Probation: Frequent oversight and follow-up from our review is needed; DEMLR staff will communicate more frequently with the local program on its requirements or may request documentation of program actions to review for adherence to the SPCA. Plan reviews or inspections may be required to be conducted with assistance from DEMLR regional staff. Enforcement documents may be required to be reviewed by DEMLR central office staff prior to (or subsequent to, if time is of the essence) their delivery to the financially responsible party or his designee. The DEMLR will conduct a second in-person review(s) based on recommendations given from the first review.

Level 4 – Revoke Delegation: This recommendation would remove the authority of a local program to implement the requirements of the SPCA. Implementation, including enforcement, of the SPCA would fall under the jurisdiction of the DEQ or another local program.

Local Program Report to the SCC Town of Weddington, Continued Review Follow-up

On February 24, 2021, a report was presented to the Sedimentation Control Commission based on the formal review of the Town of Weddington's Erosion and Sedimentation Control Program conducted on January 26, 2021. The Commission voted to "Continue Delegation with Review for 6 months." During the January 26th review, the following issues and required actions that the program should implement to address said issues were noted:

Previous Issues Noted:

- A plan review occurred outside the 30-day time frame given to review a plan and notify the applicant with a decision.
- A copy of the deed was not provided or requested for all projects before approval.
- A landowner-builder consent agreement was not obtained when the landowner and financially responsible party differed.
- Inspectors were not checking for self-inspection records while on-site.

Required Actions:

- Once a complete application is received, plans are to be reviewed, and the applicant notified that it has been approved, approved with modifications, or disapproved within 30 days of receipt. G.S. 113A-61(b). When disapproving a plan, a formal disapproval letter should be sent out within 30-days of receiving the complete application for new plans and 15-days for a revised plan. All review decision letters should acknowledge the date when the complete application or revised plan was received.
- Documentation of land ownership must be obtained prior to approval of a plan. 15A NCAC 04B.0118(c). A copy of the property deed should be kept on file with each project.
- 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 to conduct the land-disturbing activity. G.S. 113A-54.1(a). A letter of consent/Landowner-builder agreement letter should be obtained in all cases where the party conducting the land disturbance and the landowner differ.
- Inspectors should check that proper documentation is on-site or readily available. This includes self-inspection records, a copy of the approved plan and Letter of approval. Self-inspections required pursuant to G.S. 113A-54.1(e) should be performed during or after each phase of the approved plan as well as for the initial installation or modification of any erosion and sedimentation control devices and practices described in an approved plan. 15A NCAC 04B.0121.

Follow-up:

During the Continued Review period of the first and second quarter of 2021, the Town reported that they have 3 staff which contribute 0.25 full time equivalents to the program. Plan reviews and inspections are contracted out to consultants and are included in the staff count and FTE calculation. During this period the Town has conducted 6 plan reviews/re-reviews, approved 2, disapproved 3 and conducted 77 inspections. The Town has issued one NOV during this period to the 4208 Antioch Church Road site which had started to clear without obtaining a permit. The Town currently has 8 active projects.

In response to the January 26th review, the Town is requiring a copy of the property deed be submitted as part of the complete application along with a signed landowner-builder agreement when the landowner and FRO differ. The Town has begun to send official letters of disapproval within 30-days of receiving the complete

application when plans are found to be inadequate. The Town states that they have found holding building permits is an effective enforcement tool and are typically used after 2 consecutive inspections have found the same areas of non-compliance and no corrective actions have been taken. Town inspectors have begun to check that all appropriate documentation is onsite and accessible. The following update is based on the inspections conducted by the Town following the site inspections conducted on the day of the January review.

1. 4208 Antioch Church Road:

This site consists of 2 acres that had been cleared and grubbed without an approved plan. During the inspection conducted on our January review, the owner had installed silt fence around the perimeter of the site and a construction entrance but had not stabilized the disturbed area or submitted a plan for approval. On 2/5/2021 the Town issued an NOV to the owner which required stabilizing disturbed areas and submitting an Erosion and Sedimentation Control plan for approval. The owner submitted a plan for approval on 3/21/2021 and the Town approved this plan on 3/25/2021. During an inspection on 3/1/2021 the site was found to have been stabilized with groundcover and no further disturbance had occurred. The Town found that permanent vegetation was continuing to establish during subsequent inspections.

2. 2913 Beulah Church Road:

This project consists of 2.31 acres disturbed for residential development. During our January review, we reviewed the approved plans for this project but did not conduct an inspection as construction had not begun. This site installed all measures and has remained in compliance during most of the continued review period. On 6/24/2021 the Town conducted an inspection and found the site to be out of compliance for needing maintenance on areas of silt fence and needing to clean out accumulated sediment behind the fence. This site was found to be in compliance on the subsequent inspection conducted on 7/6/2021. All areas of sediment build-up had been cleaned up and silt fence was being maintained.

3. Harlows Crossing (Formerly Carrington)

This project consists of 80 acres disturbed for residential development. During our inspection in January the site was found to be out of compliance. Inlet protections and silt fence needed to be maintained and an area of tree protection zone fencing needed to be repaired. All areas of non-compliance were addressed. Town inspectors continued to monitor the maintenance of measures and noted when corrective actions were addressed from previous inspections to differentiate between new and continuing areas of non-compliance. During an inspection conducted by the Town on 6/14/2021 this site was found to be out of compliance. The inspection report noted the need for maintenance on silt fence and construction entrances of individual lots as well as the need for stabilization in some areas that had recently been completed. This site was found to be in-compliance during the following inspection on 7/14/2021.

4. Weddington Acres

This project consists of 27.82 acres disturbed for residential development. During our inspection in January the site was found to be out of compliance. Wattles in the ditch line needed to be replaced or reinstalled and areas that had recently been disturbed by utilities installation need to be re-stabilized. All areas of non-compliance noted during the January review were addressed. Inspectors continued to monitor areas of silt fence, inlet protections and wattles and noted when maintenance was needed on inspection reports throughout the continued review period. During the last inspection conducted by the Town on 7/6/2021 this site was found to be out of compliance for needing to refresh stone on drop inlet protections and stabilize disturbed areas within the proper time-period.

Conclusion:

During the continued review period, DEMLR staff has received periodic updates from the Town and noted the improvements made by the program. The Town of Weddington has taken steps to correct all the deficiencies found during the January 26, 2021, review and implement some of the recommendations DEMLR made. The Town is now sending out decision letters within the appropriate statutory timeframe after a complete application is received. The Town requires that a copy of the property deed and a letter of consent between the landowner and financially responsible party when they differ. Inspectors are checking that all appropriate documentation is kept onsite. DEMLR staff has not received any complaints from the public regarding projects regulated by the Town and the Town has demonstrated their knowledge and ability to adequately implement the delegated program.

Based on the formal review conducted on January 26, 2021, and the Continued Review period, DEMLR staff recommends to “Continue Delegation” of the Town of Weddington’s Local Erosion and Sedimentation Control Program.

This report will be presented to the Sedimentation Control Commission (SCC) on August 17, 2021.

Local Program Report to the SCC City of High Point, Continued Review Follow-up

On February 24, 2021, a report was presented to the Sedimentation Control Commission based on the formal review of the City of High Point's Erosion and Sedimentation Control Program conducted on February 9, 2021. The Commission voted to "Continue Delegation with Review for 6 months." During the February 9th review, the following issues and required actions that the program should implement to address said issues were noted:

Previous Issues Noted:

- An individual representative was listed as the Landowner on the FRO Form and did not reflect the information on the property deed.
- The number of inspections being reported was low in comparison to the number of active projects and does not indicate a regular monthly inspection being conducted on each site. This was noted during the last formal audit conducted in 2017 as well.

Required Actions:

- Landowner information on the FRO form should be accurate and reflect the information on the property deed.
- Regular inspections should be conducted, and reports generated monthly on all active sites.

Follow-up:

During the Continued Review period of the first and second quarter of 2021, the City reported they conducted 45 plan reviews/re-reviews, approved 7, disapproved 16 and conducted 442 inspections. The City issued 4 NOV's during this period. The City currently has 102 active projects and 3 staff which contribute 2 full time equivalents to the program. Following the February review, DEMLR staff recommended that additional staff be employed to distribute the workload of the program. The City contracted out an additional full-time inspector position from March through May. During the time the additional inspector was working, the City's inspection frequency increased to at least monthly. Inspection frequency dropped off again in June after the City stopped contracting an additional inspector. The City has been approved for 2 new full time inspector positions that should be filled by early September. The City is confirming that Landowner information is accurate on the FRO forms and matches information on the property deed. DEMLR staff performed oversight inspections with City staff throughout the review period, most recently on June 16, 2021. During the June inspection, 3 sites were visited and 2 were found to be in compliance. The 3rd site had been issued an NOV by the City the day prior to these oversight inspections.

On July 21, 2021, DEMLR staff conducted inspections with City staff on four projects that were not reviewed during the original review. The following is a short summary of the inspections.

1. Keystone At Penny Road:

This project consists of 17.9 acres disturbed for residential development. The City originally approved a tree clearing plan that did not contain erosion and sedimentation control measures for

this site while the development plan was being submitted and reviewed. State staff informed the City that tree clearing with the intent of development is considered land disturbance regulated by the SPCA and should not be allowed to begin prior to the approval of an erosion and sedimentation control plan and the installation of measures. The City has since approved an erosion and sedimentation control plan for this project but had not conducted an inspection as the grading phase had recently begun. During our inspection on July 21, 2021, this site was found to be out of compliance and had significant sediment loss into a stream buffer area. Two basins had been installed but were not dewatering properly and diversions ditches had not been installed per the approved plan. The remaining basins needed to be installed per the approved plan before continuing grading on the remainder of the site. Silt fence around the stream buffer had been overtopped and needed to be reinstalled. The City issued a Stop Work Order on this site and contacted NC DWR to coordinate a joint site visit and determine a clean-up plan for the damage in the buffer area.

2. Pegg Road Development Phase 2:

This project consists of 17.4 acres disturbed for commercial development that began construction in April of 2021. The City conducted inspections in April as clearing had begun and another in May. The site was found to be in compliance during both inspections with minor maintenance needs noted during the May inspection. During our inspection on July 21, 2021, the site was out of compliance. The basin in the southeast corner of the site had been installed and was functioning properly, baffles were maintained, slope drains had rip rap dissipater pads, the skimmer was positioned on a rock pad and the basin banks were stabilized. Diversion ditches with check dams had been installed throughout the site and the contractor had installed additional storage sumps upslope of some check dams. The basin in the Northwest corner of the site was not dewatering properly. The basin in the southwest corner of the site had been excavated but the baffles, skimmer and spillway had not been installed. The outlet and dissipater pad for this basin had been installed but not yet tied into the basin. The City issued a Stop Work Order to this site following our inspection and an update given on 7/28/2021 showed that all areas of non-compliance had been brought into compliance or were being actively addressed.

3. Stonegate S/D:

This project consists of 16.4 acres disturbed for residential development. This site was issued an NOV by the City on 6/15/2021 following an inspection they conducted on 6/14/2021. The contractor had made all corrective actions noted in the NOV by the follow-up inspection on 6/30/2021. During our inspection on July 21, 2021, the basin was being cleaned out and the baffles replaced. Silt fence along the road had been maintained and additional silt fence had been installed below a stockpile in the northeast corner of the site. Silt fence along the street of individual lots needed to be reinstalled and then maintained. There were a few drop inlets that needed to be maintained throughout the site.

4. Copperfield Glen Townhomes:

This project consists of 8 acres disturbed for residential development. This site was found to be in compliance during the last two inspections conducted by the City in April and May. Those inspection reports did note the need for maintenance and reminders to provide groundcover to finished areas within the required timeframe. During our inspection on 6/21/2021, this site was

found to be in compliance with some general maintenance needed for measures, such as areas of silt fence along individual lots and curb inlet protections.

Conclusion:

The City has received approval for two additional full time inspector positions that should be filled in early September. The City is conducting adequate plan reviews and has all the appropriate documentation in each project file. The City has worked to take corrective actions and implement recommendations from State staff from the formal review of their program on 2/9/2021 and throughout the continued review period. However, the City still has a few deficiencies that must be addressed in order to effectively implement their delegated program.

- The City should no longer accept clearing plans that allow tree clearing in preparation for land development prior to having an approved erosion and sedimentation control plan and temporary measures are installed.
- The addition of a temporary full-time inspector helped to distribute the workload and the City was able to conduct monthly inspections with their staff. However, with the temporary inspector no longer on staff, the current workload is not sustainable. The addition of the two full-time inspectors with proper training should allow the program to distribute the workload and provide the City with an adequate staff to effectively monitor and enforce their delegated program.
- The City should continue to use the enforcement tools available to them when areas of continued non-compliance persist, reoccurring violations are found and especially in cases of off-site sedimentation.

As the City moves forward with the addition of staff and continuing to implement the required corrective actions and recommendations, DEMLR staff will continue to provide oversight and additional guidance to ensure the City is adequately monitoring and enforcing the SPCA.

Based on the formal review conducted on February 9, 2021, and the Continued Review period, DEMLR staff recommends to “Continue Delegation with Review” for another 6-months of the City of High Point’s Local Erosion and Sedimentation Control Program.

This report will be presented to the Sedimentation Control Commission (SCC) on August 17, 2021.

Local Program Report to the SCC

Henderson County, July 7, 2021

On July 7, 2021, personnel from the NCDEQ Land Quality Section, conducted a review of the Henderson County Erosion and Sedimentation Control Program. Henderson County was last reviewed on 3/21/2013. The County has 2 full time staff. The County requires an erosion and sedimentation control plan for any land disturbing activity which uncovers 1 acre or more, any land disturbing activity which uncovers ½ acre or more of land with an average slope of 16-25% in its natural state and any land disturbing activity which uncovers ¼ acre or more of land with an average slope over 25% in its natural state, in all areas of the county excluding the Town of Mills River. During the period from June 2020 through May 2021 the County reviewed/re-reviewed 42 plans and approved 21. During this same period, the County conducted 388 inspections. No NOV's or CPAs were issued during this period, however the County can and has been placing holds on building and other permits to achieve compliance. The County currently has 24 open projects. The County stated that due to staff turnover and Covid-19 restrictions, inspection frequency over the last few months had decreased.

The following is a summary of the projects that were reviewed:

1. Cottages at Cypress Run:

This project consists of 14.1 acres disturbed for residential development. The project file contained the approved plan, letter of approval, calculations, a copy of the property deed, previous inspection reports and the FRO form. The approved plan for this project was received on May 4, 2018, and was approved by the County on June 29, 2018. The County has conducted regular monthly inspections on this project since construction began in 2018, but only conducted 8 inspections during the last year. During the most recent inspection conducted by the County on 4/7/2021, this site was found to be in compliance. This project has not been issued an NOV or CPA. On the day of our review this site was found to be out of compliance. Rock check dams within the diversion ditch in the northwest corner of the site and slope drain inlet protection needed to be installed per the approved plan and construction details. Yard inlet protections and silt fence needed to be maintained throughout the site. A slope drain and reinforced silt fence outlet needed to be reinstalled per the details in the approved plans towards the southwest corner of the site. The inactive areas needed to be stabilized within the appropriate timeframes. Adequate documentation was indicated to be onsite in the construction trailer but was not accessible. Self-inspection records are being sent via email to County staff.

2. Project Wheel:

This project consists of 21.72 acres disturbed for development of an industrial park. The project file contained the approved plan, the letter of approval, calculations, a copy of the property deeds, Landowner/builder consent agreements, and the FRO form. This project was initially approved and then revised after the preconstruction meeting to amend the location to be used to access the site. The revised plan for this project was received on 6/23/2021 and was approved on 6/25/2021. This project had recently begun, so the County had not conducted any inspections prior to the day of our review. On the day of our review this site was found to be out of compliance. The contractor had started to clear and mass grade the site before fully installing

the temporary measures per the construction sequence of the approved plan. The construction entrance and silt fence had been installed but the diversions and basins were not. One basin had been excavated and baffles installed but the skimmer and emergency spillway were missing. The County contacted the contractor and had all grading halted until temporary measures were installed. An update and self-inspection report from the engineer of record given to the County on 7/8/2021 showed the installation of all basins and diversions occurring. Adequate documentation was present onsite.

3. Southeast Storage:

This project consists of 5.55 acres disturbed for commercial development. The project file contained the approved plan, the letter of approval, design calculations, a copy of the property deed, previous inspections and the FRO form. The approved plan for this project was received by the County on 2/2/2020 and was approved on 3/19/2020. This project began in May of 2020 and the County had conducted 7 inspections prior to the day of our review. This site was found to be in compliance during the County's most recent inspection on 6/16/2021. On the day of our review this site was found to be in compliance. The majority of this site had been completed and stabilized. A small stockpile that was being actively used had been placed next to a basin and it was suggested to either relocate or install silt fence around the toe of the stockpile to prevent any erosion into the basin. All inactive or completed areas had been stabilized. Self-inspection records are sent to County staff via email.

Positive Findings:

During our review we found a few positive aspects about the Henderson County local erosion and sedimentation control program including:

- The County has stricter criteria than the State when requiring Erosion and Sedimentation Control Plans. Plans are required for all land disturbances greater than 1 acre, greater than ½ acre with an average slope of 16-25% in its natural state or, greater than ¼ acre with an average slope over 25% in its natural state.
- The County requires pre-construction meetings for all projects.
- The County requires that any 404/401 permits be obtained and presented to the County prior to the start of any land disturbance.
- The County provides reference to the NCG01 permit application process in their approval letters.

Issues Noted and Required Actions:

During our review we found that the Henderson County Erosion and Sedimentation Control Program had deficiencies including:

- A plan review occurred outside the 30-day time frame given to review and notify the applicant of the review decision. The County sends back comments and requests for additional information when plans are found to be inadequate for approval but does not send out letters of disapproval.
- Inspection frequency has dropped off significantly since last fall; County staff indicated that this is the result of a combination of staff turnover and Covid-19 restrictions.

The County shall implement the following changes to correct the deficiencies found during our review and noted above:

- Once a complete application is received, plans are to be reviewed, and the applicant 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). When a plan is not approvable, a formal disapproval letter should be sent out within 30 days of receiving the complete application.
- Regular inspections should be conducted G.S. 113A-61.1(a). Regular inspections should be conducted at least monthly.

Recommendations for improvement:

DEMLR staff has also put together a list of recommendations that would help to improve the program:

- Update your Local Ordinance to reflect the most current references to the North Carolina Administrative Code and the 2020 Model Ordinance. Update all template letters and inspection reports once your ordinance is completely up to date. Templates can be found on our Local Program Reporting SharePoint site.
- Monitor and provide guidance for NPDES violations including operating without a permit, improper concrete washout, and fuel containment on site during inspections. Note possible NPDES violations and refer to the NCDEQ Asheville Regional Office.

Conclusion:

During our review we found that the Henderson County locally delegated Erosion and Sedimentation Control Program had a few deficiencies. County staff showed adequate knowledge and experience in plan reviews and during inspections. The County is sending out letters with comments and required additional information when plans are not approved but a formal disapproval letter is not being sent out within the appropriate timeframe. The drop off in inspection frequency may be heavily contributed to a combination of staff turnover and Covid-19 restrictions over the past 6-7 months. However, as restrictions are lifted and staff are being trained, inspection frequency must return to adequate levels. The second Erosion and Sedimentation Control position has been filled and the program is in the process of training new staff. For the minor administrative changes needed and to ensure that the program's activity and inspection frequency returns to adequate levels, a short period of continued guidance would be beneficial to the program.

Based on the review, DEMLR staff recommends that the Henderson County Erosion and Sedimentation Control Program "Continued Delegation with Review" for 3-months.

This report has been prepared based on the Formal Review of the Henderson County Local Program conducted on July 7, 2021 and will be presented to the Sedimentation Control Commission (SCC) on August 17, 2021.

Local Program Report to the SCC Macon County, July 6, 2021

On July 6, 2021, personnel from the NCDEQ Land Quality Section, conducted a formal review of the Macon County Erosion and Sedimentation Control Program. Macon County was last reviewed on 4/30/2013. The County has 2 staff members that currently contribute about 0.5 full time equivalent to the erosion control program. The County requires an erosion and sedimentation control plan for sites disturbing greater than ½ acre within any area of the county, excluding corporate limits of the Town of Highlands. During the period from June 2020 through May 2021 the County approved 8 plans and conducted 8 plan reviews. During the same period, the County conducted 33 inspections and issued 1 NOV. No CPAs or Stop Work Orders were issued. During our review of the program, we looked at three sets of approved plans and their files as well as inspected three job sites. At the time of the review the County had 13 open projects; 4 of which were received, reviewed, and approved in June 2021.

The following is a summary of the projects that were reviewed:

1. John Meshad Stream Restoration and Dam Construction:

This project consists of 1.7 acres disturbed for residential development. The project file contained the approved plan, previous inspections and the FRO form. A copy of the property deed and the letter of approval was missing from the project file. This plan did not require any additional calculations. This site was initially issued an NOV for disturbing without a permit in November of 2019. The approved plan for this project was received by the County on 11/13/2019 and the land disturbance permit was issued on 12/31/2019. The County had conducted 3 inspections prior to the day of our review. The two most recent inspections were conducted in February and May of 2021. This site was found to be in compliance during its last inspection conducted by the county. On the day of our review, the site was found to be out of compliance. This project was finishing construction and establishing final groundcover. A section of silt fence had been removed above the stream restoration area without prior approval from the County. The contractor was instructed to not remove any more measures until the entire drainage area to those measures had been permanently stabilized and the County had approved the removal of measures. Remaining areas of silt fence needed to be cleaned out or replaced in some areas. No documentation was present onsite.

2. Community Bible Church:

This project consists of 3.0 acres disturbed for commercial development. The project file contained the approved plan, letter of approval, design calculations for the basin, previous inspections and the FRO form. A copy of the property deed was not kept in the project file. The approved plan for this project was received on 9/17/2020 and approved on 9/18/2020. This project started in November of 2020 and had received 3 inspections prior to the day of our review. The two most recent inspections were conducted in January and June of 2021. The site was found to be in compliance; however, maintenance needs were noted during the County's last inspection. On the day of our review this site was found to be out of compliance. This site had been graded and the majority of the site had been stabilized. However, rills were starting to form in slopes and needed to be repaired and restabilized. An area below a slope in the rear of the site

did not have silt fence installed and slope drains needed inlet protections installed per the approved plan. There were no signs of sediment leaving the site. County staff were told that this project would be idle until next fall. All inactive areas should be stabilized until construction resumes. The County has also requested a revised plan for the addition of a basin be submitted and approved prior to re-disturbing the area. No documentation was present on-site.

3. Panther Storage:

This project consists of 0.96 acres disturbed for commercial development. The project file contained the approved plan, design calculations, previous inspections, a copy of the property deed and the FRO from. An individual was listed as financially responsible party rather than the firm/company they were representing. The letter of approval for this plan was missing from the project file. The approved plan for this project was received on 12/26/2019 and the land disturbance permit was issued on 12/31/2019. The County had conducted 15 inspections on this project prior to the day of our review. The two most recent inspections were conducted in February and June of 2021. This site was found to be in compliance during its last inspection conducted by the County. On the day of our review, the site was found to be in compliance. The contractor is finishing the current phase of the project and had stabilized all disturbed area before starting on the final phase. The sediment basin had been converted to a stormwater pond and the surrounding area stabilized. Vegetation was being established in the remaining diversion ditch. Adequate documentation was kept onsite.

Positive Findings:

During our review we found a few positive aspects about the Macon County local erosion and sedimentation control program including:

- The County has stricter criteria than the State when requiring Erosion and Sedimentation Control Plans. Plans are required for all land disturbance greater than ½ acre.
- The County is in the process of updating their Local Ordinance to the 2020 Model Ordinance.
- Letter of Approvals contain language referring plan holders to the NCG01 permitting process.
- County staff showed an adequate knowledge and ability to conduct plan reviews.

Issues Noted and Required Actions:

During our review we found that the Macon County local Erosion and Sedimentation Control Program had deficiencies including:

- The number of inspections being reported is low in comparison to the number of active projects and previous inspection reports reviewed indicates a low inspection frequency of every 2-3 months.
- Self-inspection records and required permit documents are not being reviewed during site inspections.
- Plans are not always reviewed, and the applicant notified of the decision within the required timeframe. A copy of the Letter of Approval was missing from multiple files.
- A copy of the property deed was not kept in all project files.
- An individual representative was listed as the Financially Responsible Party on the FRO rather than the company/firm they represent.

The County shall implement the following changes to correct the deficiencies found during our review and noted above:

- Regular inspections should be conducted G.S. 113A-61.1(a), and reports generated monthly on all active sites.
- County staff should be checking for self-inspection records and required permit documentation during site inspections. Self-inspections should be conducted for initial installation or modification of any erosion and sedimentation control devices and practices described in the approved plan as well as during or after each of the phases of the approved plan. G.S. 113A-54.1(e) and 15A NCAC 04B.0131. Self-inspection records should be kept onsite along with the letter of approval and a copy of the approved plan. In addition, weekly and rain-event inspections are required by federal regulations, that are implemented through the NPDES Construction General Permit No. NCG 010000.
- Documentation of land ownership must be obtained prior to approval of a plan. A copy of the property deed should be kept on file with each project. 15A NCAC 04B.0188(c). As a reminder, in cases where the applicant and the landowner differ, a letter of consent/landowner-builder agreement letter should be obtained stating that the applicant has the owner's consent to submit a plan and to conduct the land disturbing activity.
- 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. G.S. 113A-61(b) and MOA Part III.C.1 & 3. All Plan Review Decision letters should be kept in each project file.
- Ensure that the company or firm is the listed financially responsible party. An individual representative can sign the FRO form but should not be listed as the FRP. If the company of firm is a sole proprietorship, the name of the owner or manager may be listed as the FRP.

Recommendations for improvement:

DEMLR staff has also put together a list of recommendations that would help to improve the program:

- Update all template letters and inspection reports to reflect the most current references to the North Carolina Administrative Code and your local ordinance once it is updated. Template letters and inspection reports with the most recent references to the NCAC rules and State Statutes can be found on our Local Program Reporting SharePoint site.
- Continue to report your monthly program activity numbers per your MOA Part II(B). Reporting should be done at the beginning of each quarter on the Local Program Reporting SharePoint site.
- Monitor and provide guidance for NPDES violations including operating without a permit, improper concrete washout, and fuel containment on site during inspections. Note possible NPDES violations and refer to the NCDEQ Asheville Regional Office.
- Request NPDES Plan sheets: Ground Stabilization and Materials Handling, and Inspection, Recordkeeping and Reporting, be included on plans prior to approval. Both sheets can be found on the NCDEQ Construction Stormwater Website.

Conclusion:

During our review we found that the Macon County Locally Delegated Erosion and Sedimentation Control Program had a few deficiencies. County inspectors have not been reviewing the required on-site documentation during site inspections and required documentation was not present in each project file. County staff did show adequate knowledge regarding plan reviews from a design aspect. The infrequency of site inspections and lack of proper documentation indicates the need for additional oversight and guidance.

Based on the review, DEMLR staff recommends that the Macon County Erosion and Sedimentation Control Program “Continue Delegation with Review” for 6-months.

This report has been prepared based on the Formal Review of the Macon County Local Program conducted on July 6, 2021 and will be presented to the Sedimentation Control Commission (SCC) on August 17, 2021.

Local Program Report to the SCC

City of Wilson, June 16, 2021

On June 16, 2021, personnel from the NCDEQ Land Quality Section, conducted a review of the City of Wilson's Erosion and Sedimentation Control Program. The City of Wilson was last reviewed on 10/13/2014. The city has 1.5 staff members that currently contribute 1 full time equivalent to the erosion control program. The city requires an erosion and sedimentation control plan for sites disturbing greater than 1 acre within the City of Wilson's corporate limits and extraterritorial jurisdiction. During the period from June 2020 through May 2021 the City approved 27 plans and conducted 39 reviews/re-reviews. During the same period, the City conducted 200 inspections and issued 1 NOV. No CPAs or Stop Work Orders were issued. The city is conducting regular monthly inspections. The City requires a preconstruction meeting for all sites before land disturbance commences. During our review of the program, we reviewed three sets of approved plans as well as inspected three job sites. At the time of the review the City had 17 open projects. It should be noted that the City of Wilson had a large rain event of over 6 inches within in 24 hours, two weeks prior to the date of our review.

The following is a summary of the projects that were reviewed:

1. Pine/Nash Street Development (Wilson Family YMCA):

This project consists of 6.35 acres disturbed for commercial development. The project file contained the approved plan, letter of approval, FRO form, calculations, a copy of the property deed and prior inspection reports. The approved plan for this project was received on 2/24/2021 and was approved on 3/3/2021. The plan was drawn at a scale that made distinguishing the Limits of Disturbance (LOD), Silt Fence, and contours difficult. DEMLR staff recommended that plans be required to be drawn at a larger scale to show LOD, silt fence, proposed and existing contours, etc. more clearly and when plans are difficult to read, they should not be approved. This project started construction in March of 2021 and building foundations were being poured during our inspection. The City had conducted two inspections prior to our review and found the site to be in-compliance during its most recent one on 6/8/2021. No NOVs or CPAs had been issued to this project at the time of our review. The city had noted some areas in need of maintenance and minor sediment tracking onto the surrounding road during their previous inspection. On the day of our review the site was found to be out of compliance for failure to maintain measures. The contractor indicated that they were in the process of replacing the baffles in the basin and that the skimmer had recently been repaired. A piece of rebar that was used to maneuver the skimmer after it was repaired needed to be removed and the skimmer properly tied off to the side of the basin per the approved plans. Drop inlets and silt fence throughout the site needed maintenance or repair. One section of silt fence had been installed beyond a stake marking the LOD and should be replaced back within the LOD. The construction entrance and concrete washout appeared to be well maintained and functioning properly.

2. Janice Place:

This project consists of 2.3 acres disturbed for residential development. The project file contained the approved plan, letter of approval, FRO form, a copy of the property deed and past inspection reports. The plan for this project was received on 8/13/2019 and was approved on 8/30/2019. The approved plan did not contain any basins or diversions; therefore, additional

calculations were not required. Requiring a drainage map was recommended to ensure that the area draining to each proposed measure such as silt fence outlets and silt fence does not exceed the design standards. This project began construction in December of 2019 and had received 45 inspections prior to our review. No NOVs or CPAs had been issued to this project at the time of our review. The City found this project to be out of compliance during its previous two inspections for minor loss of sediment off-site and maintenance needed on multiple measures throughout the site, with the most recent inspection conducted on 6/7/2021. The City stated that some of the areas noted on the previous inspections had been addressed by the contractor but not all corrective actions had been completed. On the day of our review the site was found to still be out of compliance with offsite sediment into a wetlands area. This needed to be cleaned out and the area seeded with riparian seed mix. Silt fence and silt fence outlets were still in need of maintenance or repair throughout the site. The contractor was onsite beginning to address these areas and replace silt fence and silt fence outlets during our inspection. It was noted that the outlet stone size being installed should be in accordance with the approved plan. No required documentation was present onsite. On June 29, City staff conducted a follow-up inspection and found all areas of non-compliance had been addressed and all off-site sediment had been cleaned out and areas seeded.

3. Cranberry Ridge Phase II – Section 3:

This project consists of 6.5 acres disturbed for residential development. The project file contained the approved plan, letter of approval, FRO form, calculations, and a copy of the property deed. This project had recently started, and the City had not yet conducted an inspection on this site. The approved plan for this project was received on 5/26/2021 and was approved on 5/28/2021. The approved plan for this project was drawn at a scale that made distinguishing between proposed silt fence and the LOD difficult. On the day of our review the site was found to be out of compliance for failing to install measures and follow the approved plan. The construction entrance and perimeter silt fence had been installed; however, the basin and diversions had not been installed before the rest of the site had started to be cleared. The approved plan and construction sequence states that only that which is necessary for installation of temporary measures should be cleared until measures have been installed. Once measures are installed the contractor is to contact the City to get approval prior to clearing the remainder of the site. No documentation was kept on-site. City staff contacted the responsible party and clearing was stopped immediately. The City conducted a follow-up inspection on 6/30/2021 and found that the basin had been installed and approved clearing for the remainder of the site.

Positive Findings:

During our review we found a few positive aspects about the City of Wilson's local erosion and sedimentation control program including:

- The City conducts regular and frequent inspections every 2-3 weeks.
- The City will hold pre-review meetings with some applicants to go over areas of concern and areas of deficiencies on proposed plans prior to the full application being submitted and a formal plan review conducted.
- The City requires pre-construction meetings for all projects.
- The City requires that any 404/401 permits be obtained and presented to the City prior to the start of any land disturbance.

- The City provides reference to the NCG01 permit application process in their approval letters.

Issues Noted and Required Actions:

During our review we found that the City of Wilson's local Erosion and Sedimentation Control Program had deficiencies including:

- The City is providing a pre-review meeting for some projects prior to receiving the complete application and conducting a formal review. This a good practice to streamline the formal review process; however, plans are not always reviewed, and notification of the review decision is not being sent out within statutory deadlines.
- Approved plans were not all drawn at an adequate scale. Proposed silt fence, limits of disturbance (LOD) and grade lines were sometimes difficult to distinguish from each other and other features on the plan. Multiple phases of the plan were shown on one plan sheet and lacked sequencing of how to conduct the construction during and in-between each phase.
- While regular inspections are good and areas of non-compliance are being documented, corrective actions taken by the contractor are not being documented making areas of continued non-compliance difficult to distinguish and does not provide documentation of when contractors are being responsive and bringing sites back into compliance.
- Certain sections within your ordinance are devoid or no longer adhere to the most recent state statutes or state administrative code pertaining to that which constitute your delegation authority for erosion and sedimentation control.

The City shall implement the following changes to correct the deficiencies found during our review and noted above:

- Once a complete application is received, plans are to be reviewed, and the applicant 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).
- When plans are drawn at a scale which makes measures, contours, LOD and/or perimeter measures difficult to see, plans should not be approved, and a larger scale plan set should be required. Plans should be drawn to clearly distinguish between phases and should be labeled as such. The construction sequence and notes should address the transition between phases and erosion control measures during said transitions. If the proposed plan is found to be inadequate or drawn at an illegible scale, the plan should be disapproved, and a disapproval letter should be sent out to notify the applicant within the appropriate time-period.
- Multiple reports showing the same areas needing maintenance or repair suggests that no corrective actions have been taken and out of compliance areas are continuing violations of the SPCA. Inspectors should note when corrective actions have been taken and whether areas are a continuing violation or due to a subsequent rain event after corrective actions were taken. When areas of non-compliance persist, the use of enforcement should be considered. NOV's should be issued in cases where sites are continuously found to be out of compliance, are non-responsive to previous inspection reports and communications

from inspectors, or when offsite sedimentation due to violations is found. G.S. 113A-61.1, MOA Part III(E).

- Your local ordinance should be updated to meet the changing requirements of the program. It appears that your ordinance has not been updated in at least ten years. The Commission recently approved an updated Model Ordinance, and it is available on the NC DEQ Erosion and Sedimentation Control website.

Recommendations for improvement:

DEMLR staff has also put together a list of recommendations that would help to improve the program:

- Update all template letters and inspection reports to reflect the most current references to the North Carolina Administrative Code and your local ordinance once it is updated. Template letters and inspection reports with the most recent references to the NCAC rules and State Statutes can be found on our Local Program Reporting SharePoint site.
- Monitor and provide guidance for NPDES violations including operating without a permit, improper concrete washout, and fuel containment on site during inspections. Note possible NPDES violations and refer to the NCDEQ Raleigh Regional Office.
- Request NPDES Plan sheets: Ground Stabilization and Materials Handling, and Inspection, Recordkeeping and Reporting, be included on plans prior to approval. Both sheets can be found on the NCDEQ Construction Stormwater Website.
- Continue to report your monthly program activity numbers per your MOA Part II(B). Reporting should be done at the beginning of each quarter on the Local Program Reporting SharePoint site.

Conclusion:

During our review we found that the City of Wilson's locally delegated Erosion and Sedimentation Control Program had deficiencies. While the City of Wilson's staff showed adequate knowledge of erosion and sediment control practices, DEMLR staff noted concerns regarding the approved plans we reviewed. The essential file documentation was adequate, however some plans reviewed were difficult to read due to the scale and lack of phasing on multiple sheets. City staff demonstrated the relationships and cooperation they have built with their regular contractors and developers by the responsiveness they were able to get while walking the site and through phone calls resulting in immediate actions. City staff were noting the same deficiencies as State staff while onsite, however previous inspection reports reviewed and site conditions on the day of the review showed evidence of areas of continued non-compliance. The City's program staff showed their knowledge and experience in erosion control but would benefit from additional oversight and guidance.

Based on the review, DEMLR staff recommends that the City of Wilson's Erosion and Sedimentation Control Program be placed on "Probation" for 9-months.

This report has been prepared based on the Formal Review of the City of Wilson's Local Program conducted on June 16, 2021 and will be presented to the Sedimentation Control Commission (SCC) on August 17, 2021.

III. Information Items

- A. Town of Knightdale Ordinance Review – Ms. Julie Coco
- B. Commission Technical Committee – Mr. Mark Taylor
- C. Land Quality Section Active Sediment Cases and Enforcement – Ms. Julie Coco
- D. Education Program Status Report – Ms. Rebecca Coppa
- E. Sediment Program Status Report – Ms. Julie Coco
- F. NCDOT Report – Ms. Julie Coco
- G. Land Quality Section Report – Mr. Toby Vinson
- H. Q-4 November and Future Commission Meetings – Dr. Susan White
- I. Ad-hoc Committee Proposal – Mr. Hartwell Carson



KNIGHTDALE

stormwater

TOWN OF KNIGHTDALE

SOIL EROSION and SEDIMENTATION CONTROL ORDINANCE

11/5/2020
Revised July 2021

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ORDINANCE NO. [REDACTED]

AN ORDINANCE TO PROVIDE FOR THE CONTROL OF SOIL EROSION AND SEDIMENTATION.

NOW, THEREFORE, BE IT ORDAINED by the Town of Knightdale hereby adopts the following ordinance.

SECTION 1 Title

This ordinance may be cited as the town's Soil Erosion and Sedimentation Control Ordinance.

SECTION 2 Purpose

This ordinance is adopted for the purposes of:

- (a) regulating certain land-disturbing activity to control accelerated erosion and sedimentation in order to prevent the pollution of water and other damage to lakes, watercourses, and other public and private property by sedimentation; and
- (b) establishing procedures through which these purposes can be fulfilled.

SECTION 3 Definitions

As used in this ordinance, unless the context clearly indicates otherwise, the following definitions apply:

- (a) Accelerated Erosion - means any increase over the rate of natural erosion as a result of land-disturbing activity.
- (b) Act - means the North Carolina Sedimentation Pollution Control Act of 1973 and all rules and orders adopted pursuant to it.
- (c) Adequate Erosion Control Measure, Structure, or Device - means one which controls the soil material within the land area under responsible control of the person conducting the land-disturbing activity.
- (d) Affiliate - means a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control of another person.

- (e) Approving Authority – means the Division or other State or a local government agency that has been delegated erosion and sedimentation plan review responsibilities in accordance with the provisions of the Act.
- (f) Being Conducted - means a land-disturbing activity has been initiated and not deemed complete by the Approving Authority.
- (g) Borrow - means fill material that is required for on-site construction that is obtained from other locations.
- (h) Buffer Zone - means the strip of land adjacent to a lake or natural watercourse.
- (i) Coastal Counties - means the following counties: Beaufort, Bertie, Brunswick, Camden, Carteret, Chowan, Craven, Currituck, Dare, Gates, Hertford, Hyde, New Hanover, Onslow, Pamlico, Pasquotank, Pender, Perquimans, Tyrrell and Washington.
- (j) Commission - means the North Carolina Sedimentation Control Commission.
- (k) Completion of Construction or Development - means that no further land-disturbing activity is required on a phase of a project except that which is necessary for establishing a permanent ground cover.
- (l) Department - means the North Carolina Department of Environmental Quality.
- (m) Director - means the Director of the Division of Energy Mineral and Land Resources of the Department of Environmental Quality.
- (n) Discharge Point or Point of Discharge - means that point where runoff leaves a tract of land where a land-disturbing activity has occurred or enters a lake or natural watercourse.
- (o) District - means the Wake County Soil and Water Conservation District created pursuant to Chapter 139, North Carolina General Statutes.
- (p) Energy Dissipator - means a structure or a shaped channel section with mechanical armoring placed at the outlet of pipes or conduits to receive and break down the energy from high velocity flow.
- (q) Erosion - means the wearing away of land surfaces by the action of wind, water, gravity, or any combination thereof.
- (r) Ground Cover - means any natural vegetative growth or other material which renders the soil surface stable against accelerated erosion.

- (s) High Quality Waters - means those classified as such in 15A NCAC 02B .0224, which is herein incorporated by reference including subsequent amendments and additions.
- (t) High Quality Water (HQW) Zones –means, for the Coastal Counties, areas within 575 feet of High Quality Waters; and for the remainder of the state, areas within one mile and draining to HQW’s.
- (u) Lake or Natural Watercourse – means any stream, river, brook, swamp, sound, bay, creek, run, branch, canal, waterway, estuary, and any reservoir, lake or pond.
- (v) Land-disturbing Activity - means any use of the land by any person in residential, industrial, educational, institutional, or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation.
- (w) Local Government - means any county, incorporated village, town or city, or any combination of counties, incorporated villages, towns, and cities, acting through a joint program pursuant to the provisions of the Act.
- (x) Natural Erosion - means the wearing away of the earth’s surface by water, wind, or other natural agents under natural environmental conditions undisturbed by man.
- (y) Parent – means an affiliate that directly, or indirectly through one or more intermediaries, controls another person.
- (z) Person - means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, or other legal entity.
- (aa) Person Conducting the Land-Disturbing Activity - means any person who may be held responsible for violation unless expressly provided otherwise by this Ordinance, the Act, or any order adopted pursuant to this Ordinance or the Act.
- (bb) Person Who Violates or Violator, as used in G.S. 113A-64, means: any landowner or other person who has financial or operational control over the land-disturbing activity; or who has directly or indirectly allowed the activity, and who has failed to comply with any provision of the Act, the rules of this Chapter or any order or local ordinance adopted pursuant to the Act as it imposes a duty upon that person.
- (cc) Plan - means an erosion and sedimentation control plan.
- (dd) Sediment - means solid particulate matter, both mineral and organic, that has been or is being transported by water, air, gravity, or ice from its site of origin.

- (ee) Sedimentation - means the process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land-disturbing activity or into a lake or natural watercourse.
- (ff) Siltation - means sediment resulting from accelerated erosion which is settleable or removable by properly designed, constructed, and maintained control measures; and which has been transported from its point of origin within the site of a land-disturbing activity; and which has been deposited, or is in suspension in water.
- (gg) Storm Drainage Facilities - means the system of inlets, conduits, channels, ditches and appurtenances which serve to collect and convey storm water through and from a given drainage area.
- (hh) Stormwater Runoff - means the runoff of water resulting from precipitation in any form.
- (ii) Subsidiary – means an affiliate that is directly, or indirectly through one or more intermediaries, controlled by another person.
- (jj) Ten-Year Storm - means a rainfall of an intensity that, based on historical data, is predicted by a method acceptable to the Approving Authority to be equaled or exceeded, on the average, once in ten years, and of a duration that will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.
- (kk) Tract - means all contiguous land and bodies of water being disturbed or to be disturbed as a unit, regardless of ownership.
- (ll) Twenty-five Year Storm - means a rainfall of an intensity that, based on historical data, is predicted by a method acceptable to the Approving Authority to be equaled or exceeded, on the average, once in 25 years, and of a duration that will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.
- (mm) Uncovered - means the removal of ground cover from, on, or above the soil surface.
- (nn) Undertaken - means the initiating of any activity, or phase of activity, which results or will result in a change in the ground cover or topography of a tract of land.
- (oo) Velocity - means the speed of flow through a cross section perpendicular to the direction of the main channel at the peak flow of the storm of interest but not exceeding bank full flows.
- (pp) Waste - means surplus materials resulting from on-site land-disturbing activities and being disposed of at other locations.

SECTION 4 Scope and Exclusions

- (a) Geographical Scope of Regulated Land-Disturbing Activity. This ordinance shall apply to land-disturbing activity within the territorial jurisdiction of the town and to the extraterritorial jurisdiction of the town as allowed by agreement between local governments, the extent of annexation or other appropriate legal instrument or law.

- (b) Exclusions from Regulated Land-Disturbing Activity. Notwithstanding the general applicability of this ordinance to all land-disturbing activity, this ordinance shall not apply to the following types of land-disturbing activity:
 - (1) Activities, including the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture undertaken on agricultural land for the production of plants and animals useful to man, including, but not limited to:
 - (i) forage and sod crops, grain and feed crops, tobacco, cotton, and peanuts.
 - (ii) dairy animals and dairy products.
 - (iii) poultry and poultry products.
 - (iv) livestock, including beef cattle, llamas, sheep, swine, horses, ponies, mules, and goats.
 - (v) bees and apiary products.
 - (vi) fur producing animals.
 - (vii) mulch, ornamental plants, and other horticultural products. For purposes of this section, "mulch" means substances composed primarily of plant remains or mixtures of such substances.

 - (2) An Activity undertaken on forestland for the production and harvesting of timber and timber products and conducted in accordance with standards defined by the Forest Practice Guidelines Related to Water Quality (Best Management Practices), as adopted by the North Carolina Department of Agriculture and Consumer Services. If land-disturbing activity undertaken on forestland for the production and harvesting of timber and timber products is not conducted in accordance with standards defined by the Forest Practice Guidelines Related to Water Quality, the provisions of this ordinance shall apply to such activity and any related land-disturbing activity on the tract.

 - (3) An activity for which a permit is required under the Mining Act of 1971, Article 7 of Chapter 74 of the General Statutes.

Commented [1A1]: Review.

This includes jurisdiction over the ETJ

- (4) A land-disturbing activity over which the State has exclusive regulatory jurisdiction as provided in G.S. 113A-56(a).
 - (5) An activity which is essential to protect human life during an emergency.
 - (6) Activities undertaken to restore the wetland functions of converted wetlands to provide compensatory mitigation to offset impacts permitted under Section 404 of the Clean Water Act.
 - (7) Activities undertaken pursuant to Natural Resources Conservation Service standards to restore the wetlands functions of converted wetlands as defined in Title 7 Code of Federal Regulations § 12.2
- (c) Plan Approval Requirement for Land-Disturbing Activity. No person shall undertake any land-disturbing activity subject to this ordinance without first obtaining a Plan approval therefor from the town.
 - (d) Protection of Property - Persons conducting land-disturbing activity shall take all reasonable measures to protect all public and private property from damage caused by such activity.
 - (e) More Restrictive Rules Shall Apply - Whenever conflicts exist between federal, state, or local laws, ordinance, or rules, the more restrictive provision shall apply.
 - (f) Plan Approval Exceptions. Notwithstanding the general requirement to obtain a Plan approval prior to undertaking land-disturbing activity, a Plan approval shall not be required for land-disturbing activity that does not exceed one (1) acre in surface area. In determining the area, lands under one or diverse ownership being developed as a unit will be aggregated.
 - (g) Compliance Regardless of Land Disturbance Permit Requirements
Erosion control devices must be installed to prevent any offsite sedimentation for any construction site regardless of the size of the land disturbance. Land-disturbing activity for which a Land Disturbance Permit is not required must still comply with the erosion and sedimentation control regulations of this article, unless specifically excluded in this section.

SECTION 5 Mandatory Standards for Land-Disturbing Activity

No land-disturbing activity subject to the control of this ordinance shall be undertaken except in accordance with the following mandatory standards:

- (a) Buffer zone

- (1) Standard Buffer. No land-disturbing activity during periods of construction or improvement to land shall be permitted in proximity to a lake or natural watercourse unless a buffer zone is provided along the margin of the watercourse of sufficient width to confine visible siltation within the twenty-five percent (25%) of the buffer zone nearest the land-disturbing activity.
 - (i) Projects On, Over or Under Water. This subdivision shall not apply to a land-disturbing activity in connection with the construction of facilities to be located on, over, or under a lake or natural watercourse.
 - (ii) Buffer Measurement. Unless otherwise provided, the width of a buffer zone is measured horizontally from the edge of the water to the nearest edge of the disturbed area, with the 25 percent of the strip nearer the land-disturbing activity containing natural or artificial means of confining visible siltation.
- (b) Graded Slopes and Fills. The angle for graded slopes and fills shall be no greater than the angle that can be retained by vegetative cover or other adequate erosion control devices or structures. In any event, slopes left exposed will, within 21 calendar days of completion of any phase of grading, be planted or otherwise provided with temporary or permanent ground cover, devices, or structures sufficient to restrain erosion. The angle for graded slopes and fills must be demonstrated to be stable. Stable is the condition where the soil remains in its original configuration, with or without mechanical constraints.
- (c) Fill Material. Materials being used as fill shall be consistent with those described in 15A NCAC 13B .0562 unless the site is permitted by the Department's Division of Waste Management to operate as a landfill. Not all materials described in Section .0562 may be suitable to meet geotechnical considerations of the fill activity and should be evaluated accordingly.
- (d) Ground Cover. Whenever land-disturbing activity that will disturb more than one (1) acre is undertaken on a tract, the person conducting the land-disturbing activity shall install erosion and sedimentation control devices and practices that are sufficient to retain the sediment generated by the land disturbing activity within the boundaries of the tract during construction upon and development of said tract, and shall plant or otherwise provide a permanent ground cover sufficient to restrain erosion after completion of construction or development. Except as provided in Section 8(c)(4), provisions for a permanent ground cover sufficient to restrain erosion must be accomplished within 90 calendar days following completion of construction or development.
- (e) Prior Plan Approval. No person shall initiate any land-disturbing activity that will disturb more than one (1) acre on a tract unless, thirty (30) or more days prior to initiating the activity, a Plan for the activity is filed with and approved by the town.

An erosion and sedimentation control plan may be filed less than 30 days prior to initiation of a land-disturbing activity if the plan is submitted under an approved express permit program. The land-disturbing activity may be initiated and conducted in accordance with the plan once the plan has been approved.

The town shall forward to the Director of the Division of Water Resources a copy of each Plan for a land-disturbing activity that involves the utilization of ditches for the purpose of de-watering or lowering the water table of the tract.

- (f) The land-disturbing activity shall be conducted in accordance with the approved erosion and sedimentation control plan.

SECTION 6 Erosion and Sedimentation Control Plans

- (a) Plan Submission. A Plan shall be prepared for all land-disturbing activities subject to this ordinance whenever the proposed activity will disturb more than one (1) acre on a tract.

- (b) Financial Responsibility and Ownership. Plans shall be disapproved unless accompanied by an authorized statement of financial responsibility and documentation of property ownership. This statement shall be signed by the person financially responsible for the land-disturbing activity or his attorney in fact. The statement shall include the mailing and street addresses of the principal place of business of (1) the person financially responsible, (2) the owner of the land, and (3) any registered agents. If the person financially responsible is not a resident of North Carolina, a North Carolina agent must be designated in the statement for the purpose of receiving notice of compliance or non-compliance with the Plan, the Act, this ordinance, or rules or orders adopted or issued pursuant to this ordinance. Except as provided in subsections (c) or (k) of this section, if the applicant is not the owner of the land to be disturbed, the draft erosion and sedimentation control plan must include the owner's written consent for the applicant to submit a draft erosion and sedimentation control plan and to conduct the anticipated land-disturbing activity.

- (c) If the applicant is not the owner of the land to be disturbed and the anticipated land-disturbing activity involves the construction of utility lines for the provision of water, sewer, gas, telecommunications, or electrical service, the draft erosion and sedimentation control plan may be submitted without the written consent of the owner of the land, so long as the owner of the land has been provided prior notice of the project.

- (d) Environmental Policy Act Document. Any Plan submitted for a land-disturbing activity for which an environmental document is required by the North Carolina Environment Policy Act (G.S. 113A-1, et seq.) shall be deemed incomplete until a complete environmental document is available for review. The town shall promptly

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notify the person submitting the Plan that the 30-day time limit for review of the Plan pursuant to this ordinance shall not begin until a complete environmental document is available for review.

- (e) Content. The Plan required by this section shall contain architectural or engineering drawings, maps, assumptions, calculations, and narrative statements as needed to adequately describe the proposed development of the tract and the measures planned to comply with the requirements of this ordinance. Plan content may vary to meet the needs of specific site requirements. Detailed guidelines for Plan preparation may be obtained from the town on request.
- (f) Timeline for Decisions on Plans. The town will review each complete Plan submitted to them and within 30 days of receipt thereof will notify the person submitting the Plan that it has been approved, approved with modifications, or disapproved. Failure to approve, approve with modifications, or disapprove a complete Plan within 30 days of receipt shall be deemed approval. The town will review each revised Plan submitted to them and within 15 days of receipt thereof will notify the person submitting the Plan that it has been approved, approved with modifications, or disapproved. Failure to approve, approve with modifications, or disapprove a revised Plan within 15 days of receipt shall be deemed approval.
- (g) Approval. The town shall only approve a Plan upon determining that it complies with all applicable State and local regulations for erosion and sedimentation control. Approval assumes the applicant's compliance with the federal and state water quality laws, regulations and rules. The town shall condition approval of Plans upon the applicant's compliance with federal and state water quality laws, regulations and rules. The town may establish an expiration date, not to exceed three (3) years, for Plans approved under this ordinance whereby no land-disturbing activity has been undertaken.
- (h) Disapproval for Content. The town may disapprove a Plan or draft Plan based on its content. A disapproval based upon a Plan's content must specifically state in writing the reasons for disapproval.
- (i) Other Disapprovals. The town shall disapprove an erosion and sedimentation control plan if implementation of the plan would result in a violation of rules adopted by the Environmental Management Commission to protect riparian buffers along surface waters. The town may disapprove an erosion and sedimentation control plan or disapprove a transfer of a plan under subsection (k) of this section upon finding that an applicant or a parent, subsidiary, or other affiliate of the applicant:
 - (1) Is conducting or has conducted land-disturbing activity without an approved plan, or has received notice of violation of a plan previously approved by the Commission or a local government pursuant to this Article and has not complied with the notice within the time specified in the notice.

- (2) Has failed to pay a civil penalty assessed pursuant to this Article or a local ordinance adopted pursuant to this Article by the time the payment is due.
- (3) Has been convicted of a misdemeanor pursuant to G.S. 113A-64(b) or any criminal provision of a local ordinance adopted pursuant to this Article.
- (4) Has failed to substantially comply with State rules or local ordinances and regulations adopted pursuant to this Article.

In the event that an erosion and sedimentation control plan or a transfer of a plan is disapproved by the town pursuant to subsection (j) of this section, the local government shall so notify the Director of the Division of Energy, Mineral, and Land Resources within 10 days of the disapproval. The town shall advise the applicant or the proposed transferee and the Director in writing as to the specific reasons that the plan was disapproved. Notwithstanding the provisions of Section 16(a), the applicant may appeal the local government's disapproval of the plan directly to the Commission.

For purposes of this subsection, an applicant's record or the proposed transferee's record may be considered for only the two years prior to the application date.

- (j) Transfer of Plans. The town administering an erosion and sedimentation control program may transfer an erosion and sedimentation control plan approved pursuant to this section without the consent of the plan holder to a successor-owner of the property on which the permitted activity is occurring or will occur as provided in this subsection.
 - (1) The town may transfer a plan if all of the following conditions are met:
 - (i) The successor-owner of the property submits to the local government a written request for the transfer of the plan including a copy of the current owner corporation's dissolution or other records to support the assertion that the current rights holder is no longer in business or has abandoned the project, and an authorized statement of financial responsibility and ownership.
 - (ii) The town finds all of the following:
 - a. The plan holder is one of the following:
 - 1. A natural person who is deceased.
 - 2. A partnership, limited liability corporation, corporation, or any other business association that has been dissolved.
 - 3. A person who has been lawfully and finally divested of title to the property on which the permitted activity is occurring or will occur.
 - 4. A person who has sold the property on which the permitted activity is occurring or will occur.
 - b. The successor-owner holds title to the property on which the permitted activity is occurring or will occur.
 - c. The successor-owner is the sole claimant of the right to

engage in the permitted activity.

d. There will be no substantial change in the permitted activity.

- (2) The plan holder shall comply with all terms and conditions of the plan until such time as the plan is transferred.
 - (3) The successor-owner shall comply with all terms and conditions of the plan once the plan has been transferred.
 - (4) Notwithstanding changes to law made after the original issuance of the plan, the town may not impose new or different terms and conditions in the plan without the prior express consent of the successor-owner. Nothing in this subsection shall prevent the town from requiring a revised plan pursuant to G.S. 113A-54.1(b).
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- (k) Notice of Activity Initiation. No person may initiate a land-disturbing activity before notifying the agency that issued the Plan approval of the date that land-disturbing activity will begin.
 - (l) Preconstruction Conference. Prior to any land disturbing activity, a preconstruction conference shall be held on site.
 - (m) Display of Plan Approval. A Plan approval issued under this Article shall be prominently displayed until all construction is complete, all temporary measures have been removed, all permanent sedimentation and erosion control measures are installed, and the site has been stabilized. A copy of the approved plan shall be kept on file at the job site.
 - (n) Required Revisions. After approving a Plan, if the town, either upon review of such Plan or on inspection of the job site, determines that a significant risk of accelerated erosion or off-site sedimentation exists, the town shall require a revised Plan. Pending the preparation of the revised Plan, work shall cease or shall continue under conditions outlined by the appropriate authority. If following commencement of a land-disturbing activity pursuant to an approved Plan, the town determines that the Plan is inadequate to meet the requirements of this ordinance, the town may require any revision of the Plan that is necessary to comply with this ordinance.
 - (o) Amendment to a Plan. Applications for amendment of a Plan in written and/or graphic form may be made at any time under the same conditions as the original application. Until such time as said amendment is approved by the town, the land-disturbing activity shall not proceed except in accordance with the Plan as originally approved.
 - (p) Failure to File a Plan. Any person engaged in land-disturbing activity who fails to file a Plan in accordance with this ordinance, or who conducts a land-disturbing activity except in accordance with provisions of an approved Plan shall be deemed in violation of this ordinance.
 - (q) Self-Inspections. The landowner, the financially responsible party, or the

landowner's or the financially responsible party's agent shall perform an inspection of the area covered by the plan after each phase of the plan has been completed and after establishment of temporary ground cover in accordance with G.S. 113A-57(2). In addition, weekly and rain-event self-inspections are required by federal regulations, that are implemented through the NPDES Construction General Permit No. NCG 010000. The person who performs the inspection shall maintain and make available a record of the inspection at the site of the land-disturbing activity. The record shall set out any significant deviation from the approved erosion control plan, identify any measures that may be required to correct the deviation, and document the completion of those measures. The record shall be maintained until permanent ground cover has been established as required by the approved erosion and sedimentation control plan. The inspections required by this subsection shall be in addition to inspections required by G.S. 113A-61.1.

Where inspections are required by Section 6(r) of this Ordinance or G.S. 113A-54.1(e), the following apply:

- (1) The inspection shall be performed during or after each of the following phases of the plan;
 - (i) initial installation of erosion and sediment control measures;
 - (ii) clearing and grubbing of existing ground cover;
 - (iii) completion of any grading that requires ground cover;
 - (iv) completion of all land-disturbing activity, construction, or development, including permanent ground cover establishment and removal of all temporary measures; and
 - (v) transfer of ownership or control of the tract of land where the erosion and sedimentation control plan has been approved and work has begun. The new owner or person in control shall conduct and document inspections until the project is permanently stabilized as set forth in Sub-Item (iii) of this Item.
- (2) Documentation of self-inspections performed under Item (1) of this Rule shall include:
 - (i) Visual verification of ground stabilization and other erosion control measures and practices as called for in the approved plan;
 - (ii) Verification by measurement of settling basins, temporary construction entrances, energy dissipators, and traps.
 - (iii) The name, address, organization affiliation, telephone number, and signature of the person conducting the inspection and the date of the inspection shall be included, whether on a copy of the approved erosion and sedimentation control plan or an inspection report. A template for an example of an inspection and monitoring report is provided on the DEMLR website at: <https://deq.nc.gov/about/divisions/energy-mineral-land-resources/erosion-sediment-control/forms>. At a minimum, the person responsible for conducting these inspections shall have or obtain a Level II Erosion and Sedimentation Control Certificate

issued by the NCSU cooperative extension. Any documentation of inspections that occur on a copy of the approved erosion and sedimentation control plan shall occur on a single copy of the plan and that plan shall be made available on the site.

- (iv) A record of any significant deviation from any erosion or sedimentation control measure from that on the approved plan. For the purpose of this Rule, a "significant deviation" means an omission, alternation, or relocation of an erosion or sedimentation control measure that prevents it from performing as intended. The record shall include measures required to correct the significant deviation, along with documentation of when those measures were taken. Deviations from the approved plan may also be recommended to enhance the intended performance of the sedimentation and erosion control measures.

SECTION 7 Basic Control Objectives

An erosion and sedimentation control Plan may be disapproved if the Plan fails to address the following control objectives:

- (a) Identify Critical Areas - On-site areas which are subject to severe erosion, and off-site areas which are especially vulnerable to damage from erosion and/or sedimentation, are to be identified and receive special attention.
- (b) Limit Time of Exposure - All land-disturbing activities are to be planned and conducted to limit exposure to the shortest time specified in G.S. 113A-57, the rules of this Chapter, or as directed by the Approving Authority.
- (c) Limit Exposed Areas - All land-disturbing activity is to be planned and conducted to minimize the size of the area to be exposed at any one time.
- (d) Control Surface Water - Surface water runoff originating upgrate of exposed areas should be controlled to reduce erosion and sediment loss during the period of exposure.
- (e) Control Sedimentation - All land-disturbing activity is to be planned and conducted to prevent off-site sedimentation damage.
- (f) Manage Stormwater Runoff - Plans shall be designed so that any increase in velocity of stormwater runoff resulting from a land-disturbing activity will not result in accelerated erosion of the receiving stormwater conveyance or at the point of discharge. Plans shall include measures to prevent accelerated erosion within the project boundary and at the point of discharge.

SECTION 8 Design and Performance Standards

- (a) Except as provided in Section 8(b)(2) and Section 8(c)(1) of this ordinance, erosion and sedimentation control measures, structures, and devices shall be planned, designed, and constructed to provide protection from the calculated maximum peak rate of runoff from the ten-year storm. Runoff rates shall be calculated using the procedures in the latest edition of the USDA, Natural Resources Conservation Service's "National Engineering Field Handbook", or other acceptable calculation procedures.

- (b) HQW Zones. In High Quality Water (HQW) zones the following design standards shall apply:
 - (1) Limit on Uncovered Area. Uncovered areas in HQW zones shall be limited at any time to a maximum total area of twenty acres within the boundaries of the tract. Only the portion of the land-disturbing activity within a HQW zone shall be governed by this section. Larger areas may be uncovered within the boundaries of the tract with the written approval of the Director upon providing engineering justification with a construction sequence that considers phasing, limiting exposure, weekly submitted self-inspection reports, and a more conservative design than the Twenty-five Year Storm.

 - (2) Maximum Peak Rate of Runoff Protection. Erosion and sedimentation control measures, structures, and devices within HQW zones shall be planned, designed and constructed to provide protection from the runoff of the twenty-five year storm which produces the maximum peak rate of runoff as calculated according to procedures in the latest edition of the United States Department of Agriculture Natural Resources Conservation Service's "National Engineering Field Handbook" or according to procedures adopted by any other agency of this state or the United States or any generally recognized organization or association.

 - (3) Sediment Basin Design. Sediment basins within HQW zones shall be designed and constructed according to the following criteria:
 - (i) use a surface withdrawal mechanism, except when the basin drainage area is less than 1.0 acre;
 - (ii) have a minimum of 1800 cubic feet of storage area per acre of disturbed area;
 - (iii) have a minimum surface area of 325 square feet per cfs of the Twenty-five Year Storm (Q25) peak flow;
 - (iv) have a minimum dewatering time of 48 hours;
 - (v) incorporate 3 baffles, unless the basin is less than 20 feet in length, in which case 2 baffles shall be sufficient.

Upon a written request of the applicant, the Director may allow alternative

design and control measures in lieu of meeting the conditions required in subparagraphs (3)(ii) through (3)(v) of this sub-section if the applicant demonstrates that meeting all of those conditions will result in design or operational hardships and that the alternative measures will provide an equal or more effective level of erosion and sediment control on the site. Alternative measures may include quicker application of ground cover, use of sediment flocculants, and use of enhanced ground cover practices.

- (4) Grade. Newly constructed open channels in HQW zones shall be designed and constructed with side slopes no steeper than two horizontal to one vertical if a vegetative cover is used for stabilization unless soil conditions permit a steeper slope or where the slopes are stabilized by using mechanical devices, structural devices or other forms of ditch liners proven as being effective in restraining accelerated erosion. In any event, the angle for side slopes shall be sufficient to restrain accelerated erosion.

- (a) Intent. Stream banks and channels downstream from any land disturbing activity shall be protected from increased degradation by accelerated erosion caused by increased velocity of runoff from the land disturbing activity.
- (b) Performance standard. Persons shall conduct land-disturbing activity so that the post construction velocity of the 10-year storm runoff in the receiving watercourse to the discharge point does not exceed the greater of:
- (1) the velocity established by the Maximum Permissible Velocities Table set out within this subsection; or
 - (2) the velocity of the ten-year storm runoff in the receiving watercourse prior to development.

If condition (1) or (2) of this Paragraph cannot be met, then the receiving watercourse to and including the discharge point shall be designed and constructed to withstand the expected velocity anywhere the velocity exceeds the “prior to development” velocity by 10%.

Maximum Permissible Velocities Table

The following is a table for maximum permissible velocity for storm water discharges in feet per second (F.P.S.) and meters per second (M.P.S.):

<u>Material</u>	F.P.S.	M.P.S.
Fine sand (noncolloidal)	2.5	0.8
Sandy loam (noncolloidal)	2.5	0.8
Silt loam (noncolloidal)	3.0	0.9
Ordinary firm loam	3.5	1.1
Fine gravel	5.0	1.5
Stiff clay (very colloidal)	5.0	1.5
Graded, loam to cobbles (noncolloidal)	5.0	1.5
Graded, silt to cobbles (Colloidal)	5.5	1.7
Alluvial silts (noncolloidal)	3.5	1.1
Alluvial silts (colloidal)	5.0	1.5
Coarse gravel (noncolloidal)	6.0	1.8
Cobbles and shingles	5.5	1.7
Shales and hard pans	6.0	1.8

Source - Adapted from recommendations by Special Committee on Irrigation Research, American Society of Civil Engineers, 1926, for channels with straight alignment. For sinuous channels, multiply allowable velocity by 0.95 for slightly sinuous, by 0.9 for moderately sinuous channels, and by 0.8 for highly sinuous channels.

- (c) Acceptable Management Measures - Measures applied alone or in combination to satisfy the intent of this section are acceptable if there are no objectionable secondary consequences. The town recognizes that the management of storm water runoff to minimize or control downstream channel and bank erosion is a developing technology. Innovative techniques and ideas will be considered and may be used when shown to have the potential to produce successful results. Some alternatives, while not exhaustive, are to:
- (1) Avoid increases in surface runoff volume and velocity by including measures to promote infiltration to compensate for increased runoff from areas rendered impervious;
 - (2) Avoid increases in storm water discharge velocities by using vegetated or roughened swales and waterways in place of closed drains and high velocity paved sections:

- (3) Provide energy dissipators at outlets of storm drainage facilities to reduce flow velocities to the point of discharge;
 - (4) Protect watercourses subject to accelerated erosion by improving cross sections and/or providing erosion-resistant lining; and
 - (5) Upgrade or replace the receiving device structure, or watercourse such that it will receive and conduct the flow to a point where it is no longer subject to degradation from the increased rate of flow or increased velocity.
- (d) Exceptions - This rule shall not apply where it can be demonstrated to the town that storm water discharge velocities will not create an erosion problem in the receiving watercourse.

SECTION 11~~SECTION 10~~ Borrow and Waste Areas

If the same person conducts the land-disturbing activity and any related borrow or waste activity, the related borrow or waste activity shall constitute part of the land-disturbing activity, unless the borrow or waste activity is regulated under the Mining Act of 1971, G.S. 74, Article 7, or is a landfill regulated by the Division of Waste Management. If the land-disturbing activity and any related borrow or waste activity are not conducted by the same person, they shall be considered by the Approving Authority as separate land-disturbing activities.

SECTION 12~~SECTION 11~~ Access and Haul Roads

Temporary access and haul roads, other than public roads, constructed or used in connection with any land-disturbing activity shall be considered a part of such activity.

SECTION 13~~SECTION 12~~ Operations in Lakes or Natural Watercourses

Land disturbing activity in connection with construction in, on, over, or under a lake or natural watercourse shall minimize the extent and duration of disruption of the stream channel. Where relocation of a stream forms an essential part of the proposed activity, the relocation shall minimize changes in the stream flow characteristics.

SECTION 14~~SECTION 13~~ Responsibility for Maintenance

During the development of a site, the person conducting the land-disturbing activity shall install and maintain all temporary and permanent erosion and sedimentation control measures as required by the approved plan or any provision of this Ordinance, the Act, or any order adopted pursuant to this ordinance or the Act. After site development, the landowner or person in

possession or control of the land shall install and/or maintain all necessary permanent erosion and sediment control measures, except those measures installed within a road or street right-of-way or easement accepted for maintenance by a governmental agency.

SECTION 15~~SECTION 14~~ Additional Measures

Whenever the town, determines that accelerated erosion and sedimentation continues despite the installation of protective practices, they shall direct the person conducting the land-disturbing activity to take additional protective action necessary to achieve compliance with the conditions specified in the Act or its rules.

SECTION 16~~SECTION 15~~ Fees

The town may establish a fee schedule for the review and approval of Plans.

SECTION 17~~SECTION 16~~ Plan Appeals

- (a) Except as provided in Section 16(b) of this ordinance, the appeal of a disapproval or approval with modifications of a Plan shall governed by the following provisions:
 - (1) The disapproval or modification of any proposed Plan by the town, shall entitle the person submitting the Plan to a public hearing if such person submits written demand for a hearing within 15 days after receipt of written notice of disapproval or modifications.
 - (2) A hearing held pursuant to this section shall be conducted by the Development Review Committee within 30 days after the date of the appeal or request for a hearing.
 - (3) The Development Review Committee shall make recommendations to the governing body of the town, within 30 days after the date of the hearing on any Plan.
 - (4) The Governing Body of the town will render its final decision on any Plan within 30 days of receipt of the recommendations from the agency conducting the hearing.
 - (5) If the town upholds the disapproval or modification of a proposed Plan following the hearing, the person submitting the Plan shall then be entitled to appeal the town's decision to the Commission as provided in G.S. 113A-61(c) and 15A NCAC 4B .0118(d)

- (b) In the event that a Plan is disapproved pursuant to Section 6(j) of this ordinance, the applicant may appeal the town's disapproval of the Plan directly to the Commission.

SECTION 18 SECTION 17 Inspections and Investigations

- (a) Inspection. Agents, officials, or other qualified persons authorized by the town, will periodically inspect land-disturbing activities to ensure compliance with the Act, this ordinance, or rules or orders adopted or issued pursuant to this ordinance, and to determine whether the measures required in the Plan are effective in controlling erosion and sedimentation resulting from land-disturbing activity. Notice of the right to inspect shall be included in the certificate of approval of each Plan.
- (b) Willful Resistance, Delay or Obstruction. No person shall willfully resist, delay, or obstruct an authorized representative, employee, or agent of the town, while that person is inspecting or attempting to inspect a land-disturbing activity under this section.
- (c) Notice of Violation. If the town determines that a person engaged in land-disturbing activity has failed to comply with the Act, this ordinance, or rules, or orders adopted or issued pursuant to this ordinance, a notice of violation shall be served upon that person. The notice may be served by any means authorized under GS 1A-1, Rule 4. The notice shall specify a date by which the person must comply with the Act, or this ordinance, or rules, or orders adopted pursuant to this ordinance, and inform the person of the actions that need to be taken to comply with the Act, this ordinance, or rules or orders adopted pursuant to this ordinance. Any person who fails to comply within the time specified is subject to additional civil and criminal penalties for a continuing violation as provided in G.S. 113A-64 and this ordinance. If the person engaged in the land-disturbing activity has not received a previous notice of violation under this section, the town shall deliver the notice of violation in person and shall offer assistance in developing corrective measures. Assistance may be provided by referral to a technical assistance program on behalf of the Approving Authority, referral to a cooperative extension program, or by the provision of written materials such as Department guidance documents. If the town is unable to deliver the notice of violation in person within 15 days following discovery of the violation, the notice of violation may be served in the manner prescribed for service of process by G.S. 1A-1, Rule 4, and shall include information on how to obtain assistance in developing corrective measures.
- (d) Investigation. The town shall have the power to conduct such investigation as it may reasonably deem necessary to carry out its duties as prescribed in this ordinance, and who presents appropriate credentials for this purpose to enter at reasonable times, any property, public or private, for the purpose of investigating

and inspecting the sites of any land-disturbing activity.

- (e) Statements and Reports. The town shall also have the power to require written statements, or filing of reports under oath, with respect to pertinent questions relating to land-disturbing activity.

SECTION 19 ~~SECTION 18~~ Penalties

(a) Civil Penalties

- (1) Civil Penalty for a Violation. Any person who violates any of the provisions of this ordinance, or rule or order adopted or issued pursuant to this ordinance, or who initiates or continues a land-disturbing activity for which a Plan is required except in accordance with the terms, conditions, and provisions of an approved Plan, is subject to a civil penalty. The maximum civil penalty amount that the town may assess per violation is five thousand dollars (\$5,000.00). A civil penalty may be assessed from the date of the violation. Each day of a continuing violation shall constitute a separate violation. When the person has not been assessed any civil penalty under this subsection for any previous violation, and that person abated continuing environmental damage resulting from the violation within 180 days from the date of the notice of violation, the maximum cumulative total civil penalty assessed under this subsection for all violations associated with the land-disturbing activity for which the erosion and sedimentation control plan is required is twenty-five thousand dollars (\$25,000).
- (2) Civil Penalty Assessment Factors. The governing body of the town shall determine the amount of the civil penalty based upon the following factors:
 - (i) the degree and extent of harm caused by the violation,
 - (ii) the cost of rectifying the damage,
 - (iii) the amount of money the violator saved by noncompliance,
 - (iv) whether the violation was committed willfully, and
 - (v) the prior record of the violator in complying or failing to comply with this ordinance.
- (3) Notice of Civil Penalty Assessment. The governing body of the town shall provide notice of the civil penalty amount and basis for assessment to the person assessed. The notice of assessment shall be served by any means authorized under G.S. 1A-1, Rule 4. A notice of assessment by the town shall direct the violator to either pay the assessment, contest the assessment within 30 days by filing a petition for hearing with the town as directed in 11.2(E) of the town's UDO or file a request with the Sedimentation Control Commission for remission of the assessment within 60 days of receipt of the notice of assessment. A remission request must be accompanied by a waiver of the right to a contested case hearing pursuant

to Chapter 150B of the North Carolina General Statutes and a stipulation of the facts on which the assessment was based.

- (4) Final Decision: The final decision on contested assessments shall be made by the governing body of the town in accordance with Section 11.2(E) of the town's UDO.

Commented [1A3]: Reference? Will be made once final UDO draft is completed

Commented [1A4R3]: Not sure what to reference here

- (5) Appeal of Final Decision. Appeal of the final decision of the governing body of the town shall be to the Superior Court of the county

- (7)(6) Remission of Civil Penalties. A request for remission of a civil penalty imposed under G.S. 113A-64 may be filed with the town within 60 days of receipt of the notice of assessment. A remission request must be accompanied by a waiver of the right to a contested case hearing pursuant to Chapter 150B of the General Statutes and a stipulation of the facts on which the assessment was based. The following factors shall be considered in determining whether a civil penalty remission request will be approved:

- (i) Whether one or more of the civil penalty assessment factors in G.S. 113A-64(a)(3) were wrongly applied to the detriment of the petitioner.
- (ii) Whether the petitioner promptly abated continuing environmental damage resulting from the violation.
- (iii) Whether the violation was inadvertent or a result of an accident.
- (iv) Whether the petitioner had been assessed civil penalties for any previous violations.
- (v) Whether payment of the civil penalty will prevent payment for necessary remedial actions or would otherwise create a significant financial hardship.
- (vi) The assessed property tax valuation of the petitioner's property upon which the violation occurred, excluding the value of any structures located on the property.

- (8)(7) Collection. If payment is not received within 60 days after it is due, the town may institute a civil action to recover the amount of the assessment. The civil action may be brought in the Superior Court of the county where the violation occurred, or the violator's residence or principal place of business is located. Such civil actions must be filed within three (3) years of the date the assessment was due. An assessment that is not contested and a remission that is not requested is due when the violator is served with a notice of assessment. An assessment that is contested or a remission that is requested is due at the conclusion of the administrative and judicial review of the assessment.

- (9)(8) Credit of Civil Penalties. The clear proceeds of civil penalties collected by the town under this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. Penalties collected

by the town may be diminished only by the actual costs of collection. The collection cost percentage to be used shall be established and approved by the North Carolina Office of State Budget and Management on an annual basis, based upon the computation of actual collection costs by the town for the prior fiscal year. In any event, the cost percentage shall not exceed twenty percent (20%) of the total penalties collected.

Commented [PB5]: ...collected, but in any event shall not exceed 20% of the penalties collected.

Commented [GU6R5]: review

- (b) Criminal Penalties. Any person who knowingly or willfully violates any provision of this ordinance, or rule or order adopted or issued by the Commission or a local government, or who knowingly or willfully initiates or continues a land-disturbing activity for which a Plan is required except in accordance with the terms, conditions, and provisions of an approved Plan, shall be guilty of a Class 2 misdemeanor which may include a fine not to exceed \$5,000 as provided in G.S. § 113A-64.

SECTION 20 ~~SECTION 19~~ Injunctive Relief

- (a) Violation of Local Program. Whenever the governing body has reasonable cause to believe that any person is violating or threatening to violate any ordinance, rule, regulation or order adopted or issued by the town, or any term, condition, or provision of an approved Plan, it may, either before or after the institution of any other action or proceeding authorized by this ordinance, institute a civil action in the name of the town, for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the superior court of the county in which the violation is occurring or is threatened.
- (b) Abatement of Violation. Upon determination by a court that an alleged violation is occurring or is threatened, the court shall enter any order or judgment that is necessary to abate the violation, to ensure that restoration is performed, or to prevent the threatened violation. The institution of an action for injunctive relief under this section shall not relieve any party to the proceedings from any civil or criminal penalty prescribed for violations of this ordinance.

SECTION 21 ~~SECTION 20~~ Restoration After Non-Compliance

The town, may require a person who engaged in a land-disturbing activity and failed to retain sediment generated by the activity, as required by G.S. 113A-57 (3), to restore the waters and land affected by the failure so as to minimize the detrimental effects of the resulting pollution by sedimentation. This authority is in addition to any other civil or criminal penalty or injunctive relief authorized under this ordinance.

SECTION 22 ~~SECTION 21~~ Severability

If any section or section or sections of this ordinance is/are held to be invalid or unenforceable, all other sections shall nevertheless continue in full force and effect.

SECTION 23SECTION 22 Effective Date

This ordinance becomes effective on January 1st, 2022.

Active Sediment Case Report as of August 2, 2021

Atty	Case#	Violator (Name of Case)	County	Date of Assessment	Penalty Assessment Amt	Final Amt Paid	Comments
CM	20-017	Tardiff Property	McDowell	N/A	N/A	N/A	Injunction issued 10/2 Consent Judgement issued 12/30/20
CM	20-019	G&H Hauling, LLC	Brunswick	30-Oct-20	\$25,000.00		Payment request letter sent
CM	20-022	Blue Ridge Mountain Sky, LLC	Polk	16-Dec-20	\$25,000.00		Awaiting response from violator - case stayed until 9/15/21
CM	20-023	Blue Ridge Mountain Sky, LLC	Polk	N/A	N/A		Injunction filed 11/5/20 Consent Judgement signed 2/25/21
CM	21-001	Hubbard Realty of Winston-Salem, Inc.	Davidson	30-Mar-21	\$8,410.00	\$8,410.00	Closed
CM	21-002	Clayton Properties Group, Inc.	Davidson	04-May-21	\$10,800.00		Remission requested
CM	21-003	Chemours Company FC, LLC	Bladen	05-Apr-21	\$5,000.00	\$5,000.00	Closed

N.C. SEDIMENTATION CONTROL COMMISSION ENFORCEMENT REPORT

by the OFFICE OF THE ATTORNEY GENERAL

8/2/2021

Status of Cases	10/16/2020	2/8/2021	4/19/2021	8/2/2021
1. LQS Drafting CPA	2	1	0	0
2. CPAs Out to Violator (30-day)	1	0	2	0
3. CPAs Out to Violator (60-day)	0	1	0	0
4. CPAs Prepared by LQS Under Review	2	1	1	2
5. CP Remission Requests Under Review	3	2	0	0
6. CP Remission Decisions	0	0	2	2
7. Cases Pending in OAH	4	2	1	1
8. Cases Awaiting Final Agency Decision	0	0	0	0
9. Cases Pending in General Courts of Justice				
a. Judicial Review	0	0	0	0
b. Injunctions	2	1	2	1
c. Pre-Judgement Collections	0	0	0	
d. Post-Judgement Collections	0	0	0	
e. Federal Cases	1	1	1	1
10. Cases in Bankruptcy Proceedings	0	0	0	0
11. *Cases where CPA Being Paid by Installment	0	0	0	0
12. Cases to be Closed	0	3	0	
TOTALS:	15	12	9	7
Action Since Prior Quarterly Report:				
New Cases Received by AGO	4	2	2	
Cases Closed by AGO	0	0	0	

Education Program Status Report

Presentations/Exhibits

As a part of the SciMatch Program virtually presented to the NC Cyber Academy's Middle School Science Class on 4/26/21 and 5/3/21; there was approximately 30 6-8th graders in the class.

As part of the SciMatch Program virtually visited Fuquay Varina Middle School on 5/21/2021 and presented to 4 8th grade classes over the course of the day, with approximately 34 students per class.

Workshops

Co-hosted a Project WET workshop for DEMLR employees on May 10 & 17 with the NC DWR water educator/NC Project WET coordinator Lauren Daniel. Project WET is a K-12 water curriculum for educators, and many of their activities can be used to support erosion & sedimentation, non-point source pollution, and stormwater education.

Co-hosted a virtual Project WET workshop for educators with Lauren Daniel on 6/14/21 & 6/15/21.

Co-hosted a virtual Project WET Facilitators' workshop for educators with Lauren Daniel on 6/21/21 & 6/22/21.

The 2021 NC Erosion & Sediment Control Workshop (formally called the E&SC Design Workshop) has been scheduled for December 2 at the McKimmon Center in Raleigh, and is being planned in coordination with SE-IECA and NCSU Department of Crop and Soil Sciences.

The 2022 Local Program Workshop and Awards Program has been scheduled for April 19 & 20 at the Union County Agricultural Center, and is being planned in coordination with the Water Resources Research Institute (WRRI).

Contract Administration

The contract between DEMLR and WRRI for the 2022 Local Program Workshop and Awards Program is currently being drafted.

Updates

The E&SC website pages are continuously being updated as needed.

Volume 24 No. 1 of the Sediments Newsletter was published at the beginning of July. If you would like to contribute an article or suggest a topic for the December edition email the Sediment Education Specialist.

Monthly Activity Report

Activity Definitions

PLAN/APPLICATION REVIEW

1. **New Sedimentation Control Projects Rec'd** – The number of *complete* packages for a project that were received (FR/O form, plans, fee, landowner agreement and/or calculations, if either required). These are projects which have been assigned a new project identification number.
2. **New Sedimentation Plan Reviews** – The number of plan reviews that resulted in issuance of letters of approval and/or letters of disapproval (i.e., review > disapproval > resubmittal > approval = 2 reviews). It should not include preliminary or cursory reviews conducted by technicians that are followed by a detailed review by the ARE and/or RE. This number should be unique to the Project ID, and not to the reviewer.
3. **Sedimentation Plan EXPRESS Reviews** - Of the NEW plans that were reviewed, this item reflects the number of those that were express reviews. This number should always be equal to or less than the number reported under Item 2.
4. **New Sedimentation Plan Disapprovals** - Regular or express plans reviewed and disapproved for the first time. It should not include preliminary or cursory reviews conducted by technicians that are followed by a detailed review by the ARE and/or RE.
5. **Revised Sedimentation Plans Received** - Total number of previously reviewed regular and express plans received this month. It should not include preliminary or cursory reviews conducted by technicians. The same Project ID can be counted multiple times.
6. **Revised Sedimentation Plan Reviews** – Total number of regular and express plans revised and reviewed this month. It should not include preliminary or cursory reviews conducted by technicians. The same Project ID can be counted multiple times.
7. **Revised Sedimentation Plan Disapprovals** – Total number of **revised** regular or **revised** express plans reviewed that were disapproved. The same Project ID can be counted multiple times.
8. **Unreviewed E&SC Plans – End of Month** – The number of complete plans received for the month that have not yet been reviewed. This includes any plans received near the end of the month.

9. **E&SC Plan Reviews > 30 days** – The number of new projects that took more than 30 days from receipt to approve or disapprove. The goal is zero days.

10. **Revised Plan Reviews > 15 days** – Revisions to projects submitted that have not been reviewed within 15 days of receipt. The goal is zero days.

MONITORING

1. **Sedimentation Inspections (Total)** – The total number of inspections conducted under the sedimentation program. This number should always be greater than the sum of A through D. Two inspectors together looking at one project equals one inspection.
 - A. **Landfills** – Inspections conducted at landfill sites
 - B. **DOT Contract** – Inspections conducted on NCDOT projects under a contract (TIP Projects) and any supplemental agreements.
 - C. **DOT Force Account** – Inspections conducted on NCDOT projects under force accounts. These types of arrangements involve notices to contractors to perform extra or altered work not covered by the original contract or by supplemental agreements.
 - D. **Complaints** – Inspections conducted on behalf of citizen complaints. The number of contacts that require field review to determine necessary actions or applicability. Those occurrences that only require office telephone interpretation of the law, rules, and/or procedures are not to be included.

ENFORCEMENT

1. **Sedimentation**
 - A. **Notices of Violation (Total)** – The total number of notices issued under the sedimentation program. This includes first-time and repeat violators.
 - B. **NOVs to Repeat Violators** – Of the total above, this item represents the number of notices issued to repeat violators. This number should always be equal to or less than the number reported under Item A.
 - C. **Cases Referred for Enforcement** – The number of projects that have been issued case numbers (LQS-####-###).

LOCAL PROGRAMS

1. **Local Ordinance Reviews** – The total number of formal reviews of local programs that are reported to the Sedimentation Control Commission through the Raleigh Central Office.
2. **Local Programs Aided (hours)** – The total number of hours spent by staff in informal review of local programs and the total number of hours spent working with local programs on specific projects and program administration (i.e., plan reviews, site inspections, enforcement assistance, presentations, training, etc.)

LAND QUALITY REGIONAL PROGRAM MONTHLY ACTIVITY REPORT

State Total FY 2020-2021 through:

June

Activity	WIRO	WIRO	ARO	ARO	WARO	WARO	WSRO	WSRO	RRO	RRO	FRO	FRO	MRO	MRO	TOTALS
	Month	YTD	Month	YTD	Month	YTD	Month	YTD	Month	YTD	Month	YTD	Month	YTD	
PLAN/APPLICATION REVIEW															
1. New Sedimentation Control Projects Rec'd	28	365	31	201	10	203	23	317	31	397	40	538	38	407	2428
2. New Sedimentation Plan Reviews	31	323	11	119	21	323	11	169	19	111	14	391	33	389	1825
3. Sedimentation Plan EXPRESS Reviews	6	68	1	37	3	57	14	115	10	109	6	113	7	108	607
4. New Sedimentation Plan Disapprovals	0	16	8	68	2	4	5	70	17	148	4	32	13	120	458
5. Revised Sedimentation Plan Received	11	101	8	121	1	24	17	121	10	234	19	131	21	299	1031
6. Revised Sedimentation Plan Reviews	11	112	6	111	1	27	21	121	29	211	4	97	22	311	990
7. Revised Sedimentation Plan Disapprovals	0	5	1	22	0	1	2	16	11	68	1	6	8	83	201
8. Unreviewed E&SC Plans - End of Month	10	215	11	90	8	115	3	18	0	0	0	0	26	0	438
9. E&SC Plan Reviews > 30 Days	0	0	1	3	0	0	0	0	0	0	0	5	0	0	8
10. Revised Plan Reviews > 15 Days	0	0	0	3	0	0	0	0	0	0	0	3	0	0	6
11. Mine Permits Reviewed	5	37	3	24	5	67	0	15	1	3	0	0	2	15	161
12. Dam Safety Plans (Construction/Repair)	0	4	0	4	1	11	0	20	0	2	0	9	2	44	94
13. Dam Safety Plans (Impoundment)	0	0	0	0	0	0	0	1	0	0	0	0	0	8	9
14. Dam Safety Plans (EAP)	0	0	0	0	0	0	0	3	0	0	0	0	0	0	3
15. State Stormwater Plans Received	61	536	0	0	18	243	0	0	0	0	3	11	0	0	790
16. State Stormwater Plans Reviewed	109	1056	0	0	21	254	0	0	0	0	2	14	0	0	1324
17. Stormwater EXPRESS Reviews	18	176	0	0	1	18	0	0	0	0	0	0	0	0	194
18. State Stormwater Revised Plans Received	38	355	N/A	N/A	1	15	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	370
19. State Stormwater Revised Plans Reviewed	73	653	N/A	N/A	1	14	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	667
MONITORING															
1. Sedimentation Inspections (Total)	232	2181	61	542	121	1363	239	2262	130	1026	162	1872	181	3497	12743
A. Landfills	0	1	0	0	0	3	0	3	0	6	1	10	0	0	23
B. DOT Contract	0	1	0	0	0	1	2	4	0	9	0	0	0	1	16
C. DOT Force Account	0	0	0	0	0	0	0	6	0	0	0	0	0	1	7
D. Complaints	5	43	4	123	2	18	20	187	22	121	5	45	13	272	809
2. Mining Inspections (Total)	21	182	2	9	7	133	2	11	2	23	21	83	15	56	497
A. Mining Inspections (Annual)	21	165	1	5	3	60	0	2	0	4	1	30	10	39	305
B. Complaints	0	5	3	8	2	3	1	2	0	4	0	0	0	16	38
3. Dam Safety Inspections (Total)	0	15	0	143	0	28	13	604	5	348	0	187	2	235	1560
A. Existing Dams Added to IBEAM	0	0	0	27	0	0	0	2	0	5	0	0	0	0	34
B. Complaints	0	1	0	3	0	0	0	7	1	12	2	10	1	20	53
C. Emergency Inspections	1	4	0	3	0	17	0	24	0	3	0	2	0	9	62
4. Stormwater Inspections (Total)	25	439	22	400	127	1270	189	1754	141	1104	104	1436	135	3166	9569
A. State Stormwater Inspections	25	233	0	13	40	292	0	0	0	3	1	9	0	27	577
B. Industrial Stormwater Inspections	22	170	1	143	5	31	6	41	12	70	0	22	13	117	594
C. Construction Stormwater Inspections	234	2212	21	227	119	1335	159	1430	84	774	103	1387	103	2890	10255
D. Assisted Inspections	6	129	0	1	4	35	18	137	3	124	0	14	3	37	477
E. No Exposure Certification Inspections	0	9	0	21	0	5	0	19	3	30	0	4	11	52	140
F. Stormwater Complaints	4	48	0	0	5	27	4	70	23	152	1	15	4	96	408
G. Representative Outfall Status Requests	0	2	0	0	0	1	0	0	0	0	1	1	0	4	8
ENFORCEMENT															
1. Sedimentation															
A. Notices of Violation (Total)	2	38	10	65	1	13	5	31	7	33	0	9	0	5	194
B. NOVs to Repeat Violators	0	3	0	2	0	0	0	5	0	0	0	2	0	1	13
C. Cases Referred for Enforcement	0	2	4	10	0	0	0	1	0	0	0	0	0	0	13
2. Mining															
A. Notices of Violation w/o Permit	2	4	1	4	0	3	0	0	0	0	0	0	0	0	11
B. Notices of Violation of Permit	0	0	0	0	0	0	1	1	1	1	0	0	0	0	2

LAND QUALITY REGIONAL PROGRAM MONTHLY ACTIVITY REPORT

State Total FY 2020-2021 through:

June

Activity	WIRO	WIRO	ARO	ARO	WARO	WARO	WSRO	WSRO	RRO	RRO	FRO	FRO	MRO	MRO	TOTALS
	Month	YTD	Month	YTD	Month	YTD	Month	YTD	Month	YTD	Month	YTD	Month	YTD	
C. Letters of Deficiency	0	0	0	0	0	0	0	0	0	0	0	1	0	0	1
D. Cases Referred for Enforcement	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
3. Dam Safety	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
A. Letters of Deficiency	0	0	0	5	0	0	1	1	0	13	2	22	0	0	41
B. Enforcement Requests	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
4. Stormwater	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
A. Notices of Violation (Total)	1	24	0	13	0	3	3	16	4	31	0	4	0	9	100
B. Notices of Deficiency (Total)	0	2	0	3	0	0	0	3	0	1	0	0	0	2	11
C. NOVs to Repeat Violators	0	2	0	0	0	0	0	0	0	0	0	1	0	0	3
D. Cases Referred for Enforcement	0	0	0	2	0	0	0	0	0	1	0	0	0	0	3
LOCAL PROGRAMS															
1. Local Ordinance Reviews	0	0	0	0	0	0	0	22	2	5	0	0	0	2	29
2. Local Programs Aided (hours)	0	14	3	47	0	0	10	186	6	14	0	0	2	83	344
DREDGE & FILL APPLICATIONS	8	110	0	0	9	74	0	0	0	0	0	0	5	87	271
CUSTOMER SERVICE															
Technical Assistance (Aided Hours)	264	2758	68	744	196	2254	66	873	36	658	47	471	59	1139	8896.31
Pre-Application Meetings	86	848	2	11	15	191	5	65	2	7	0	14	6	152	1288

ROY COOPER

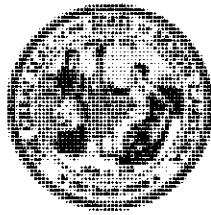
Governor

JOHN NICHOLSON

Interim Secretary

BRIAN WRENN

Director



NORTH CAROLINA
Environmental Quality

June 9, 2021

Mr David McHenry
Division 14 – Environmental Supervisor
NC Department of Transportation
253 Webster Road
Sylva, NC 28779

Subject: Trout Buffer Zone Waiver
I-26 and Old Howard Gap Road (SR 1122) Drainage Repairs
TB-POLK-2021-001
Polk

Dear Mr. McHenry:

This office has received your plan for drainage repairs on I-26 and Old Howard Gap Road (SR 1122) in Polk County, North Carolina. Your plan was submitted to this office for approval because of the proposed encroachments into the buffer zone of designated trout waters. In accordance with NCGS 113A-57(1) and Title 15A NCAC 4B .0125(c) this letter will serve as written approval to encroach on the buffer zone of upper tributaries to the North Pacolet River which is class C, Trout. This authority has been delegated to me by Brian Wrenn, Director, Division of Energy, Mineral and Land Resources, in accordance with NCGS 143B-10. The following conditions will apply to this approval:

1. This approval is based on the revised plans received April 4, 2021.
2. The Resident Engineer shall field verify all proposed stream impacted areas prior to plan implementation and adjust the proposed erosion control measures if necessary.
3. All plantings within the buffer shall be in accordance with the Riparian Planting Plan.
4. Contact the North Carolina Wildlife Recourses Commission (NCWRC) to determine if a moratorium between October 15 and April 15 is applicable.

The contact information is:




North Carolina Department of Environmental Quality | Division of Energy, Mineral and Land Resources
Asheville Regional Office | 2090 U.S. Highway 70 | Swannanoa, North Carolina 28778
828.296.4500

Andrea Leslie
Mountain Habitat Conservation Coordinator NC Wildlife Resources
Commission
20830 Great Smoky Mountain Expressway
Waynesville, NC 28786
828-558-6011; 828-400-4223 (cell)
www.ncwildlife.org

5. This approval does not absolve the permittee from compliance with the surface water quality turbidity standard. More protective erosion and sedimentation
 - a. control measures may be required in order to comply with this water quality standard. If any work is proposed in a stream a 401/404 permit may be required.

Your cooperation in protecting our environment is most appreciated. If you have any questions about this approval, please contact me at Stan.Aiken@ncdenr.gov or (828) 296-4610.

Sincerely,


Stanley E. Aiken, P.E.G.A.
Regional Engineer
Land Quality Section

Enclosure: Guidelines for Riparian Buffer Restoration

cc: Brian Wrenn, Director, DEMLR (brian.wrenn@ncdenr.gov)
Julie Coco, PE, State Sediment Specialist (julie.coco@ncdenr.gov)
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Land Quality Section Report - August 17, 2021

Org Unit Desc	Location	Position Description
ENR SO ASEN EML DO LQ CO Raleigh RO	Raleigh - Reedy Creek	Environmental Specialist I
ENR SO ASEN EML DO LQ CO WET Storm	Raleigh - Archdale	Environmental Program Consultant
ENR SO ASEN EML DO LQ CO WET Storm	Raleigh - Archdale	Environmental Specialist II
ENR SO ASEN EML DO LQ CO Dam Safety	Raleigh - Archdale	Engineer II
ENR SO ASEN EML DO LQ CO Dam Safety	Raleigh - Archdale	Environmental Specialist II TL
ENR SO ASEN EML DO LQ CO Asheville RO	Asheville Regional Office	Environmental Specialist I
ENR SO ASEN DO GS CO Landslide	Asheville Regional Office	Geologist/Hydrogeolo gist TL
ENR SO ASEN DO GS CO Landslide	Asheville Regional Office	Geologist/Hydrogeolo gist TL
ENR SO ASEN EML DO LQ CO Mining	Raleigh - Archdale	Engineer I
ENR SO ASEN EML DO LQ CO Winston Salem RO	Winston Salem Regional Office	Engineer I