



SEDIMENTS

Newsletter of the North Carolina Sedimentation Control Commission

STATE OF NORTH CAROLINA, DEPARTMENT
OF ENVIRONMENT AND NATURAL RESOURCES
William G. Ross, Jr. Secretary

Land Quality Section
Division of Land Resources
James D. Simons, Director and State Geologist

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What You Need to Know About Disturbing Buffers on Trout Waters

by Kelly Porter

In 1991, a change was made to the NC Sedimentation Pollution Control Act (SPCA) stating that “waters that have been classified as trout waters by the Environmental Management Commission (EMC) shall have an undisturbed buffer zone 25 feet wide or of sufficient width to confine visible siltation within the twenty-five percent (25%) of the buffer zone nearest the land-disturbing activity, whichever is greater” (G.S. 113A-57(1)). Trout waters are classified as “suitable for natural trout propagation and maintenance of stocked trout” (15A NCAC 02B .0301) which means trout do not have to be present in the waters for them to be classified as trout waters. All named and unnamed tributaries flowing to the affected trout waters are classified as trout waters as defined by the EMC (15A NCAC 02B .0301(i)(1)).

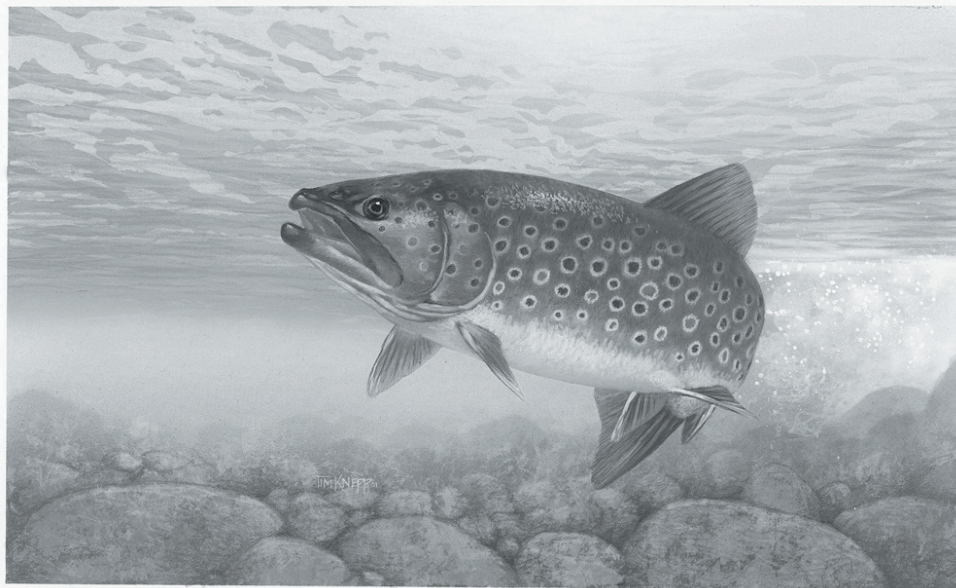
For the past thirteen years this rule has helped protect trout waters in North Carolina. This law also states

disturbance would be temporary and the extent of said disturbance would be minimal” (G.S. 113A-57(1)). The NC Department of Environment and Natural Resources (DENR) has established procedures for granting approval of temporary disturbances in the trout water buffer zone (15A NCAC 04B .0125).

Trout Buffer Variance Request

Parties that plan to conduct land-disturbing activities along EMC classified trout waters must submit a trout buffer variance request in addition to their erosion control plan.

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Brook Trout, Credit: U.S. Fish and Wildlife Service/Creator: Timothy Knepp

that “the Sedimentation Control Commission may approve plans which include land-disturbing activity along trout waters when the duration of said

buffer variance request in addition to their erosion control plan.

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August Action of the North Carolina Sedimentation Control Commission

At its meeting on August 18, 2004, the NC Sedimentation Control Commission (SCC) took the following action:

- ❑ Elected Mr. Ralph Stout as Vice-Chairman of the SCC.
- ❑ The November 17, 2004 SCC meeting will include a field trip to the Greensboro area.
- ❑ Approved Land Quality Section (LQS) recommendation for continued delegation of the Gaston County local program. This program is just over one year old. The Gaston County staff has made a remarkable transition from agricultural and forestry backgrounds to regulation of the construction industry.
- ❑ Approved LQS recommendation for continued delegation of the City of Burlington local program with stipulation to revise ordinance and require more active enforcement.
- ❑ Approved LQS recommendation for continued delegation of the Guilford County local program.
- ❑ Approved LQS recommendation for City of Jacksonville to be taken off probation and continue delegation of its local program with an LQS review in January 2005. On June 8, 2004, the Jacksonville City Council adopted an amended ordinance that allowed the city manager to take enforcement action, including civil penalties, suspension of building permits, final plat approvals, and inspections and building finals.
- ❑ Approved revised *Model Ordinance for Local Programs*. The updates provide a more fluid document that complies with the Sedimentation Pollution Control Act of 1973.
- ❑ Approved local erosion and sedimentation control programs annual workshop and banquet to train and provide networking opportunities for local program staff.
- ❑ Approved Clear Water Contractor training program to be conducted by Buncombe County local program.
- ❑ Approved LQS request for purchase of promotional materials and supplies.
- ❑ Approved local program assistance contract applications.
- ❑ Two new SCC members, Mr. Donnie W. Brewer and Dr. Joseph Kleiss, were welcomed (see announcement page 3).



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Send comments to Janet Paith, CPESC, NCDENR-Land Quality, 1612 Mail Service Center, Raleigh, NC 27699-1612. Email: Janet.Paith@ncmail.net. Send change of address and subscription information to WRRI, Box 7912, North Carolina State University, Raleigh, NC 27695-7912 (919/515-2815; water_resources@ncsu.edu). Fifty-nine hundred copies of this newsletter were printed at a cost of \$1,340 or 23 cents per copy.

Personnel of the Land Quality Section of the NC Department of Environment and Natural Resources provide information and assistance for implementation of the NC Erosion and Sedimentation Control Program. For assistance, please contact the Regional Engineer or the Raleigh headquarters listed below:

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Raleigh, NC 27699-1612 (919) 733-4574

NC Division of Land Resources Land Quality Section Annual Report Total Fiscal Year 2003-2004

Erosion and Sedimentation Control Program

New Projects	3,023
Sedimentation Plan Reviews	4,317
Plan Disapprovals	905
Site Inspections	14,725
Notice of Violations	668
Cases Referred to Enforcement	105

Mining Program

Estimated Mine Total	933
Mine Permits Reviewed	306
Mine Inspections	652

Dam Safety Program

Estimated Dam Total	4,653
Dam Safety Plans Reviewed	141
Dam Inspections	1,769

The North Carolina
Sedimentation Control Commission

The Sedimentation Control Commission (SCC) was created to administer the Sedimentation Control Program pursuant to the NC Sedimentation Pollution Control Act of 1973 (SPCA). It is charged with adopting rules, setting standards, and providing guidance for implementation of the Act. The composition of the Commission is set by statute to encompass a broad range of perspectives and expertise in areas related to construction, industry, government, and natural resource conservation and quality. All members are appointed by the Governor and serve three-year terms, except for the Director of the Water Resources Research Institute of The University of North Carolina, who serves as long as he remains Director. The chairman of the SCC is named by the Governor. The following is a list of current members with the organizations they represent:

Chairman:
Kyle Sonnenberg
Fayetteville

NC League of Municipalities/
NC Association of County Commissioners

Vice Chairman:
Ralph Stout
Greensboro
Carolinas Associated General Contractors

Commissioners:

Donnie W. Brewer
Greenville
NC Environmental Management Commission

W. T. "Buzz" Bryson
Raleigh
NC Public Utilities

Hugh J. Franklin
Marion
NC Mining Commission

Phillip Ray Gibson
Asheville
Non-governmental Conservation

Joseph H. Kleiss
Raleigh
NC State University Dept. of Soil Science

Grover McPherson
Winston-Salem
NC Soil and Water Conservation Commission

Director of Water Resources Research Institute of
The University of North Carolina

Joseph Rudek
Raleigh
Non-governmental Conservation

Mark A. Taylor
Greensboro
Professional Engineers of NC

F. Roger Watson
Asheville
NC Home Builders Association

Sedimentation Education Committee expands

by Janet Paith

Six people have been added to the Sedimentation Education Committee (SEC). This advisory committee is appointed by the Sedimentation Control Commission (SCC) and consists of technical experts to assist in augmenting the state erosion and sedimentation control program. The committee, chaired by Dr. Joseph Kleiss of NC State University, gathers quarterly to take actions on proposed education projects and associated budgets. These proposed education projects establish training and allow distribution of educational materials through many venues. The committee makes recommendations on the education project proposals for the SCC's final review.

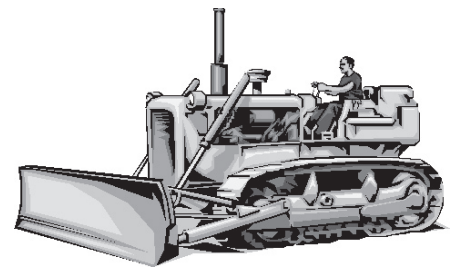
The new members include:

- ❑ Mary Alsentzer, Executive Director, Pamlico-Tar River Foundation
- ❑ Will Autry, Erosion Control Officer, Orange County Erosion Control Local Program
- ❑ David Barnes, Local Builder, Forest Steward, and Environmental Educator
- ❑ W.T. "Buzz" Bryson, Lead Environmental Specialist, Progress Energy, and SCC Member
- ❑ Maurice Cook, Professor Emeritus, Soil Science Department, NC State University
- ❑ Lauren Lodiji, Program Manager, NC Coastal Federation

Existing members include:

- ❑ John Bratton, CEO, Wake Stone Corporation
- ❑ James K. Farnham, P.E., Farnham Engineering
- ❑ David Harris, P.E., State Roadside Erosion Control and Vegetation Management Engineer, NC Department of Transportation
- ❑ Berry Jenkins, P.E., Highway Division Director, Carolinas Association of General Contractors
- ❑ Greg Jennings, P.E., Interim Director, Water Resources Research Institute of the University of North Carolina
- ❑ Joseph Kleiss, Professor, Soil Science Department, NC State University, and SCC Member
- ❑ Ralph Stout, Jr., President, Southern Seeding Service, Inc., and SCC Member

The dedication of these individuals will contribute to the effectiveness of the 13-member committee and the achievements of the statewide erosion and sedimentation control program.



New SCC Members

Mr. Donnie W. Brewer, a member of the Environmental Management Commission (EMC), has been appointed by the Governor to serve on the Sedimentation Control Commission (SCC) as the EMC representative. Mr. Brewer is a professional engineer associated with Rivers & Associates, Inc., of Greenville. By law, a member of the EMC must serve on the SCC. Mr. Brewer has served previously on the SCC as a representative for the Professional Engineers of North Carolina.

Dr. Joseph Kleiss has been appointed by the Governor to serve on the SCC as the NC State University Department of Soil Science representative. Dr. Kleiss has served in this same capacity in years past. He also currently serves as the chair for the Sedimentation Education Committee.

Trout Buffers *continued from page 1*

If land-disturbing activity is to be ten percent or less of the total length of the buffer zone within the tract to be disturbed, and does not exceed 100 linear feet of disturbance in each 1000 linear feet of the buffer zone, then the regional engineer may review the trout buffer variance request (15A NCAC 04B .0125(c)).

If land-disturbing activity is to be more than ten percent of the total length of the buffer zone within the tract to be disturbed, or more than 100 linear feet of disturbance in each 1000 linear feet of the buffer zone, then the trout buffer variance request must be reviewed by the chief of the Land Quality Section, Division of Land Resources (DLR) (15A NCAC 04B .0125(c)).

When submitting a trout buffer variance request the following items must be included:

- A map depicting:
 - all the trout waters on the tract
 - the linear distance and width of the buffer to be disturbed
 - the first 25 feet of the buffer measured from the top of the bank
 - discharge points into the buffer zone
- A description of disturbance in the buffer
- A construction schedule describing how and when the work in the buffer will be done
- A description of measures that will be used to control erosion and sedimentation
- Additional protection, such as planting trees

Points of guidance

Parties that plan to conduct land-disturbing activities in a trout buffer need to be aware of the following:

- DLR looks at erosion and sedimentation control impacts only and does not look at other impacts like water quality or heavy metals.
- There is no fee and no set timeframe to review the erosion and sedimentation control plans with trout buffer variances. The 30-day rule does not apply as with regular erosion and sedimentation control plans.
- DLR reviews the plans thoroughly. If the project can be moved out of the trout buffer, the plan will not be approved as proposed.
- There may be site-specific conditions for variances that are approved. Such conditions may include: hiring a full-time erosion and sedimentation control inspector; monitoring the weather for proper timing of land-disturbing activity;

and not allowing land-disturbing activity in the buffer during fish spawning season.

- Parties are required to coordinate with the Division of Water Quality for 401 certification, if needed.
- If dewatering is part of the plan, the location of the settling device and discharge point must be included in the plan.
- Each side of a stream is considered a separate buffer zone.
- The 25 foot minimum width for an undisturbed buffer zone is measured horizontally from the top of the bank (15A NCAC 04B .0125(b)).
- The erosion and sedimentation control plans must be approved and measures must be in place before land-disturbing activity is allowed to take place in the buffer.
- If any land-disturbing activity is done without approval, the party involved can be fined up to \$5000 per day and restoration of damage may be required (G.S. 113A-64(a)(1)).

If you have any questions about trout buffer variances please contact your local erosion and sedimentation program or contact the Land Quality Section at (919) 733-4574.

Personnel Changes

Bill Denton is the new Dam Safety Environmental Engineer in the Raleigh Central Office.

Cheryl Martineau is the new Environmental Technician in the Mooresville Regional Office.

Todd Milam and **Jodi Pace** are the new Environmental Technicians in the Fayetteville Regional Office.

Todd Walton is the new Environmental Technician in the Wilmington Regional Office.

SCC Chair takes position in Fayetteville

Mr. Kyle Sonnenberg, formerly the town manager for Southern Pines, now serves as an assistant city manager in Fayetteville. He also started serving as the chair of the SCC at its April meeting. He is the representative for the NC League of Municipalities and the NC Association of County Commissioners. He has served on the SCC since 2000.

Clean Water Contractor Workshops in NC Mountains

Five Clear Water Contractor (CWC) workshops were held in the North Carolina mountains this year: March 8 in Henderson County; March 15 in Buncombe County; March 22 in Transylvania County; March 22 in Transylvania County; March 29 in Haywood County; and April 5 in Madison County. Land-of-Sky Regional Council administered the CWC training program certifying a total of 113 contractors. RiverLink coordinated the workshop logistics with the assistance of the Mills River Partnership; Mud Creek Council; Haywood Waterways Association; U.S. Army Corps of Engineers; NC Cooperative Extension Service; NC Division of Water Quality and NC Division of Land Resources. Several development and realtor organizations also assisted in promoting the workshops.

The Clear Water Contractor training program targets businesses involved in land-disturbing activities, such as grading contractors and other earthmovers to make them aware of erosion and sedimentation control measures and regulations. The workshops are designed to be small with



Clear Water Contractor logo given to workshop participants

about 25 participants to encourage dialogue between participants and the presenter. The day-long workshops consisted of three modules:

- ❑ Requirements a contractor must meet to follow the NC Sedimentation Pollution Control Act (SPCA) of 1973.
- ❑ Education on proper placement, construction and maintenance of erosion and sediment control measures.
- ❑ Permit requirements and regulations of the U.S. Army Corp of Engineers and the NC Division of Water Quality.

Workshop participants received the North Carolina Erosion and Sediment Control Field Manual and decals of the CWC logo to display. The workshops were received very well and rated highly by the participants. The majority of attendees felt they were better equipped to install erosion control measures after completing the workshop. The public will be better served by hiring these trained professionals that are now known as Clear Water Contractors.

Upcoming Conferences and Workshops

IECA Annual Conference in Dallas, Texas

The International Erosion Control Association will be having its annual conference February 20-23, 2005, in Dallas, Texas. For more information visit <http://www.ieca.org>.

Spring Advanced Erosion and Sedimentation Control for Construction Sites Workshops will be March 2-3, 2005, in Wrightsville Beach, North Carolina, and April 26-27, 2005, in Asheville, North Carolina.

Erosion & Sedimentation Control and Stormwater Conference

This combined conference will occur October 2-6, 2005, at the Wyndham Peachtree in Peachtree City, Georgia. More information will be available early next year.

To report possible violations of the North Carolina Sedimentation Pollution Control Act call
1-866-STOPMUD
(786-7683)

Local Program Assistance Contract Applications Available October 1

It is anticipated that the North Carolina General Assembly will again appropriate funds to aid local governments in starting or enhancing local erosion and sedimentation control programs. Applications will be available October 1, 2004.

Funds will be available July 1, 2005, or when the state budget is passed, whichever is later. Priority will be given to local governments starting new programs. Funds will be applied to a maximum of a 12-month budget period.

The deadline for completed applications for the 2005 grant cycle is by 5:00 PM on **December 3, 2004**. Interested local governments may obtain a copy of the application and guidelines by contacting the NC Division of Land Resources. Questions should be directed to Ms. Sonya Avant, Assistant State Sediment Specialist, at (919) 733-4574.

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Advanced Erosion and Sedimentation Control for Construction Sites Workshops

**March 2-3, 2005
Blockade Runner
Wrightsville Beach, NC**

**April 26-27, 2005
Renaissance Asheville Hotel
Asheville, NC**

Purpose: These workshops are presented to update design professionals who develop erosion and sedimentation control plans—including engineers, landscape architects, and surveyors—on regulations related to erosion and sedimentation control and present new design concepts and approaches. We anticipate offering twelve PDHs to professional engineers and land surveyors, and ten continuing education units to landscape architects for completion of both days.

Registration and agenda information will be posted in November to: <http://www.ncsu.edu/wrri/erosionseminars.html>

ADDRESS SERVICE REQUESTED

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