

MINUTES  
NORTH CAROLINA SEDIMENTATION CONTROL COMMISSION  
August 19, 2010  
GROUND FLOOR HEARING ROOM, ARCHDALE BUILDING  
RALEIGH, NORTH CAROLINA

The North Carolina Sedimentation Control Commission met on August 19, 2010 at 10:00 a.m. in the Ground Floor Hearing Room, Raleigh, North Carolina. The following persons were in attendance for all or part of the meeting:

**COMMISSION MEMBERS**

Ms. Robin Smith, Chair  
Mr. Richard Vick  
Mr. William "Buzz" Bryson  
Mr. Joe Glass  
Dr. Joseph Kleiss, Vice Chair  
Dr. Bill Miller  
Mr. Robert Weintraub  
Mr. Tommy Esqueda  
Mr. Donnie Brewer  
Dr. Michael Voiland  
Ms. Elaine Chiosso  
Mr. Manly West

**OTHERS**

Mr. Jim Simons, Director, Division of Land Resources  
Mr. Gray Hauser, State Sedimentation Specialist, Land Quality Section  
Ms. Stephanie Lane, Administrative Secretary  
Mr. Mell Nevils, Section Chief, Land Quality Section  
Mr. Tracy Davis, Chief Engineer, Land Quality Section  
Mr. Gowon Goode, Assistant State Sedimentation Specialist, Land Quality Section  
Mr. Noah Klein, CCNC  
Mr. Veron Kumar, CCNC  
Ms. Cathy Smith, NCSU  
Ms. Jan Patterson, NCSU  
Mr. Ross Smith, PCS Phosphate/Potash Corp.  
Mr. Dave Andres, NC Div. of Forest Resources  
Mr. Jim Lowry, NC Utility Contractors Assn.  
Mr. Jay Stem, NCAA  
Mr. Rufus Allen, Assistant Attorney General  
Mr. John Payne, Assistant Attorney General  
Ms. Erin Wynia, NCLM  
Mr. Dean Naujoks, Yadkin River Keeper  
Mr. John Hennessy, DWQ

## **PRELIMINARY MATTERS**

Ms. Smith called the meeting to order and read Executive Order No. 1.

Those in attendance introduced themselves.

Ms. Smith called for approval of the minutes for the meeting of the Sedimentation Control Commission on May 20, 2010. The motion to approve the minutes was made by Ms. Elaine Chiosso. Dr. Kleiss seconded the motion, and it carried unanimously.

## **ACTION ITEMS**

### **Local Program Reviews - Mr. Gowon Goode**

Mr. Goode reported on the review of the City of Monroe. A copy of the Local Program Report to the SCC is attached to the original minutes.

#### **City of Monroe**

The City of Monroe's Local Program was reviewed May 11, 2010. Currently a staff of four contributes two full time equivalents to erosion and sedimentation control. There are currently 17 active projects that are larger than an acre. The staff has approved E&SC plans for 21 projects in the past year. There were 21 plan disapprovals. The staff conducted 230 inspections last year. Four Notices of Violation were issued and no Civil Penalties were assessed.

The erosion and sedimentation control plans for each of the sites were adequate. General documentation was good for all files reviewed. A 1.32-acre commercial site was out of compliance because of inadequate inlet protection and silt fence. A rock ring dam was not installed per plans. The Local Program Staff called the site superintendent to discuss problems with the site during the inspection. The files contain all necessary documentation as well as formal written inspection reports.

Staff recommended continued delegation of the program. Dr. Miller made a motion to continue delegation to the City of Monroe, which was seconded by Mr. Glass and approved unanimously.

## **INFORMATION ITEMS:**

**Summary of Legislation Effecting the SPCA** – Mr. Nevils - provided information on laws passing during the 2010 Session of the General Assembly. Copies of the session laws are attached to the original minutes

Two session laws passed during the short session in 2010 that affect the Sediment and Erosion Control Program. The first session law was to amend the Permit Extension Act of 2009. Sediment and erosions control plans have a three year period between the time a plan is approved and when the project is started. After that three year period the

plan is not longer valid. During the long session in 2009, there was a session law passed to extend the start date of the three year cycle for approved plans by state and local governments to December 31, 2010. During the short session in 2010, the date was extended to December 31, 2011. In Land Quality, a policy was made to apply the start date of the three year cycle for all currently approved plans to December 31, 2011 rather than adjust the date for each of 7,000 to 8,000 individual plans. Therefore, currently approved plans will not expire until December 31, 2014 if the project has not been started. Local programs can opt out of this option. Local governments may pass a resolution that their deadline not be extended through December 31, 2011.

Session Law 2010-180 amended the criteria for SCC membership. Section 10(a)(4), which defines the different groups to be represented on the SCC, was altered to say that the Commissioner for a public utility company can be any representative of the company instead of the president, vice president or general counsel of that public utility company.

\*At this time, the Commission briefly recessed for a new member to sign his oath of office.

**Analysis of the Implementation Level of the NC Sedimentation Pollution Control Act** – Mr. Klein & Mr. Kumor of the Conservation Council of North Carolina presented research on local programs.

Chairman Smith noted that she was not the presenter for this item but provided background information. In 2008, the Neuse River Keeper, Dean Naujoks, gave a presentation on the Muddy Water Watch project asking for support for the project from the SCC. The project was a statewide initiative that involved over ten RiverKeepers to educate the public on sedimentation and erosion control issues, identification of sediment and erosion control violations and where to report those violations. From the time the project started in 2008 to present, there have been 1,100 citizens trained across the state in sediment and erosion control. The Conservation Council was asked to look into the Local Program delegation and the implementation of the Sedimentation Pollution Control Act (SPCA). The Chairman noted appreciation for the two year research effort involving state and local staff, data provided voluntarily by local programs and development and the push for momentum for this project by the RiverKeepers involved. She also thanked the Department of Justice for their legal counsel and the interns who worked hard on this project.

Mr. Kline and Mr. Kumar from Duke University presented the findings of this research. These findings were included in the informational packets provided to the Commission. The three major objectives of the project included the evaluation of local program implementation, identification of deficiencies in implementation, and recommendations to address the deficiencies that were found. Local programs are able to implement the SPCA more efficiently and effectively than the Land Quality Section (LQS). Mr. Kumar reviewed data and methods used in this research and conclusions. Mr. Kline then reviewed the requirements of the local programs, deficiencies, and recommendations.

Details on this research and findings are included in the Commission information packet.

Questions and discussion to clarify conclusions, recommendations and findings of the research followed the presentation.

**Water Quality Program of Division of Forest Resources** – Mr. David Andres provided an informational packet on the activities of the N.C. Division of Forest Resources Water Quality Program. A copy of his report is attached to the original minutes.

Mr. Andres gave an update of the Division of Forest Resources (DFR) Water Quality Program. DFR has service foresters in every county and nine water quality foresters who do the water quality inspections.

Along with educational material, DFR provides multiple workshops, participates in certifications and other informational practices. DFR also loans out bridge crossing mats.

DFR has recently completed the revision of the Forestry BMP Design Manual.

Chairman Smith asked how the DFR interacts with DLR. Mr. Nevils explained that Mr. Hauser has been working closely with DFR to update the memorandum of agreement for the two divisions to work together. The divisions also perform cross training between inspectors.

**Enforcement Report--** Mr. Payne gave a summary of the Attorney General's enforcement report. A copy of this report is attached to the original minutes.

Mr. Payne reviewed the enforcement report. He explained that the majority of cases are cases pending in OAH. Many of those receiving the penalties are not getting attorneys which causes the cases to move much slower. Injunctions are also increasing mostly due to land owners walking away from construction sites. Cases where CPAs are being paid by installment are also rising due to the down economy. Mr. Payne then reviewed the penalties paid.

**Land Quality Section Active Sediment Cases Report--** Mr. Goode presented the status of Civil Penalty Assessments. A copy of this report is attached to the original minutes.

**NCDOT Activity Report--** Mr. Goode presented the list of "Immediate Corrective Action" inspection reports issued by NC DOT Roadside Environmental Unit.

**Education Program Status Report—**Mr. Hauser presented a report on the past and current projects in the Sediment Education Program.

Mr. Hauser explained that three of the educational contracts for the design workshops, local programs workshops and the newsletter have been approved and signed. A fourth contract for providing a turbidity demonstration area at a farm in Fletcher has been scaled back in value, but is on schedule.

A question was asked about who was attending the local program workshop. Mr. Hauser explained that there were two individuals from each program and that there is a higher demand for the workshop than they can accommodate.

Chairman Smith asked about when the next TAC meeting will be scheduled, and wanted to ensure that items on the TAC agenda would not be lost. Mr. Hauser explained that once the Sediment Education Specialist position was filled, the TAC meetings would continue.

**Sediment Program Status Report--** Mr. Nevils provided a report on LQS's current plan approval, inspection, and enforcement activities statewide.

Mr. Nevils first reviewed the monthly activity report for June. The number of new projects and plan reviews was down; however, the number of inspections completed had increased. Number of complaints had decreased and notices of violations had decreased.

A question was asked if every landfill was monitored. Mr. Nevils explained that landfills were monitored in rotation.

A concern was brought to the attention of the Commission that the Raleigh Regional Office does not seem to obtain as high a number of enforcement actions as other Regional Offices. A more aggressive approach from that office was suggested.

**Land Quality Section Report--** Mr. Nevils provided a report on the current number of vacancies in the Section and other LQS activities and issues.

Mr. Nevils reviewed the expenses versus fee collections for the past fiscal year. The total expenses exceeded collections, by over a million dollars. This discrepancy has been going on for about two years. The difference has been covered by a previous surplus and the remainder was covered by the Department. The Department will no longer be able to cover the differences, and the surplus has been depleted. Mr. Nevils explained the changes they have been actively pursuing, which has reduced the deficit to roughly \$350,000. The only other option remaining was a reduction in staff. This process was reviewed in-depth and it was determined that ten positions will need to be cut. This reduction in staff will have an impact on the amount of work that can be done. This plan has not been approved yet and is fluid.

The chairman asked if there was anything the Commission could do to assist in this difficult time. Mr. Simons asked for support with the increase in fees. Mr. Nevils reviewed the federal positions that are currently vacant which they are trying to fill with

current sediment employees to save the positions.

Mr. Nevils also thanked the Land Quality staff for their work during this tight time and picking up the additional work.

Mr. Nevils also wanted to report to the Commission that the EPA is coming down with some new rules that will affect the SPCA. DLR is working with the DWQ within a workgroup to determine how both divisions should move forward. The workgroups are diverse in stakeholders, and have completed one meeting and have planned a second.

## CONCLUSION

**Remarks by the Director** – Mr. Simons welcomed Ms. Robin Smith as the new chairperson. He also welcomed the new members and thanked the past members and Donnie Brewer for his role in being the chairman.

Mr. Simons expressed his excitement about working on the Conservation reports. He also commented about how the CCNC report was not presented to say who is out performing the other, but to demonstrate what has been done by each office.


**Remarks by River Keeper Dean Naujoks** – Mr. Naujoks thanked staff for reviewing the research presented earlier, and expressed his concern for the cut in inspection staff and the need for consistent enforcement staff.

**Remarks by the Commission Members** – Dr. Voiland announced that Kelly Porter (WRRRI) will be leaving and will be reposting her position.

**Remarks by the Chairman** – Ms. Smith thanked all the past members for all of their dedicated work.

**Adjournment**--As there was no further business, Chairman Brewer adjourned the meeting.

  
Stephanie Lane, Recording Secretary

  
James D. Simons, Director