

MINUTES
NORTH CAROLINA SEDIMENTATION CONTROL COMMISSION
May 18, 2017
GROUND FLOOR HEARING ROOM, ARCHDALE BUILDING
RALEIGH, NORTH CAROLINA

The North Carolina Sedimentation Control Commission met on May 18, 2017 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

Mr. Jonathan Bivens (Chair)
Ms. Natalie Berry
Kevin Martin
Dr. Susan White (Vice-Chair)
Karla Hammer-Knotts
Dr. John Havlin

OTHERS

Mr. Tracy Davis, Director, DEMLR
Mr. Toby Vinson, Chief, Program Operations DEMLR
Mr. John Nicholson, Deputy Secretary, DEQ
Mr. Jeevan Neupane, Asst. Sed. Specialist, DEMLR
Mr. Brad Cole, Chief, Regional Operations, DEMLR
Ms. Evangelyn Lowery-Jacobs, Sed. Education Specialist, DEMLR
Mr. Shawn Maier, Attorney General's Office
Mr. Tom Gerow, NC Forestry
Mr. Boyd DeVane, DEMLR
Mr. David Harris, DOT
Mr. Ryan Eaves, Durham County Local Program
Ms. Mackenzie Gentry, Durham County
Ms. Karyn Pageau, Durham County
Jay Gibson, Durham County Local Program
Mr. Kirk Stafford, Town of Cary

PRELIMINARY MATTERS

Mr. Bivens called the meeting to order.

Those in attendance introduced themselves.

Mr. Bivens asked for a motion to approve the minutes from the February 14, 2017 meeting. Kevin Martin made a motion to approve the minutes. John Havlin seconded the motion, and it was approved unanimously.

ACTION ITEMS

There were no Action Items on the calendar for discussion by the Sedimentation Control Commission.

Mr. Bivens read Executive Order No. 1 regarding avoidance of conflict of interest.

INFORMATION ITEMS

Remarks to the Sedimentation Control Commission – DEQ Deputy Secretary John Nicholson – Mr. Nicholson gave background and brief resume on himself as being new to the Department and offered regrets from Sec. Regan missing this meeting. Secretary's goals for DEQ are the people of DEQ as a #1 priority, stakeholder engagement, and re-engaging with the General Assembly. The Department has concerns about the legislative budget and its plans to cut positions as this will hurt the work of the Department. Mr. Nicholson reported on the Governor's budget including 10 FTEs for the Sediment Program. He reported that the Senate's current budget plan is to cut 3 existing FTEs and that he and the Secretary plan efforts to prevent the cuts as they understand that the "fabric" of the programs are stretched thin. Dr. White asked for examples that DEQ is using to prevent elimination of budget and staff. Mr. Nicholson said that efforts in education to the legislature is a must to show the work and value of the work of the Department. Mr. Martin mentioned concerns with Legislatures plans to combine the work of the SCC with the EMC as he believes it will result in a cost increase, reduced representation and that there will be no representation on the EMC with soil science experience once his terms ends while the SCC has such representation from the soil science department at NCSU. Mr. Nicholson said that he would take that information back to the Secretary to share and use in messaging. Ms. Berry commented that the Local Programs would not have adequate representation if the work of the SCC were put on the EMC. Mr. Bivens summarized these comments and concerns and added lack of representation on the EMC by contractors and the concerns this would cause. Dr. White added that there have been multiple vacant positions on the SCC that have not been appointed by the previous administration and the need to get this done. Mr. Nicholson stated that he had been charged with representing the Department with Boards and Commissions and that he will take that concern forward.

Sedimentation Control Commission Fee Schedule Study Group Update – Mr. Davis gave an update in that the Governor's budget does have 10 FTEs for the Sediment Program. He also committed to working with the Department and the Commission to help pass the word on empty SCC member seats. Mr. Davis gave a brief legislative update on Regulatory Reform bills and the consolidation of the Annual Reports for Erosion & Sedimentation Control and Stormwater into one Annual Report per recent legislation. Mr. Bivens asked for clarification in difference in 10 FTEs in the Governor's Budget and 3 FTEs proposed to be cut by the legislature. Mr. Davis reported that the 3 FTEs were based on existing vacant positions and that the 10 FTEs

for the Sediment Program were proposed as new appropriated not fee based positions; however, those positions were not included in the budgets under consideration by the legislature. Mr. Bivens and Ms. White expressed concern over the lack of support for the Commission's proposed sediment fee increase and the staff support that increase would provide in implementing the program.

Durham County Ordinance Update – Mr. Vinson introduced the Durham County Local Program and announced that the program is planning amendments to their UDO. Mr. Vinson also informed the Commission of the process for amendment and approval by the local government and final approval by the SCC. Ryan Eaves of Durham County Local Program provided a presentation on its proposal for planned revision to their Unified Development Ordinance. Plans are to align their local ordinance with the Sedimentation Pollution Control Act amendments over the last two years and summarized those. They also want to include process improvements to address efficiency and the submittal and review process. The last amendment in the UDO that is planned is to remove the requirement for routing plans for comment to the Soil & Water Conservation District as this slows the review process and to free Soil & Water staff time to do other things in Durham County to reduce duplication of effort. Mr. Eaves then introduced Karyn Pageau and Mackenzie Gentry as being new and important staff to the local program. Mr. Martin asked if the Soil & Water representatives could speak on their own behalf as to their opinion as well as that of the Commission and Council on this plan to remove them from the routing and comments for plan review. Mr. Gibson introduced himself as a General Manager with Durham County (Deputy County Manager) and informed the SCC that Durham's Soil & Water District which are under him need to have E&SC duties removed from their workload because they are focusing on Ag. Economic Development not reducing working staff in either program. Mr. Martin's primary concern is to see this on the record for decision making history and documentation. Mr. Vinson informed the SCC that DEMLR staff has no objection to removing Soil & Water from the Durham County Local Program review process as this is not precedent setting and has been done in multiple local programs. Mr. Vinson also stated that in many cases, the expertise for erosion and sediment control on construction sites rests with the local program staff and not with the Soil & Water District Staff.

Rules Review Process Update – Mr. DeVane gave an update on the rules review process and prior rule categorization. Mr. DeVane reported on the stakeholders workgroup that held its first meeting in October, has had seven meetings thus far and will continue until proceeding through the entire rule set. The meetings are held the 1st Friday of each month. He also discussed the removal of five rules as a result of being classified unnecessary and noted that the rules that have received extended discussion have been those related to sensitive areas and declaratory rulings. The Commission discussed the process among themselves and Dr. White requested staff provide a schedule of the remaining process for these rules.

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

Land Quality Section Active Sediment Cases Report – Mr. Vinson presented the status of Civil Penalty Assessments. A copy of this report is attached to the original minutes. Mr. Vinson also introduced DEMLR's new Assistant Sediment Specialist, Jeevan Neupane.

NCDOT Report – Mr. Vinson reported that no ICAs have been issued since February 2017 and one Trout Buffer Waiver has been issued.

Education Program Status Report – Ms. Lowery-Jacobs presented a report on the past and current projects in the Sediment Education Program. She reported on education classroom visits and the local program workshop. Mr. Lowery-Jacobs recognized Wake Forest for use of their facilities for the meeting and gave thanks to Holly Springs and Wake Forest for donating refreshments. She also announced the Local Program of the Year Award Winner as Mecklenburg County. Ms. Lowery-Jacobs announced that we have started talks with the SE Chapter of IECA on producing the fall design workshops.

Land Quality Status Report – Mr. Vinson provided a report on the current statistics and work of the Sediment Program. Activity report is attached to the minutes.

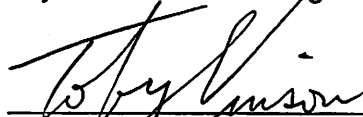
Sediment Program Section Report – Mr. Vinson noted that DEMLR currently has 11 vacancies and has filled the Regional Engineer position in the RRO with Bill Denton, formerly an Assistant Dam Safety Engineer in the Raleigh Central Office. We have also hired Angela Lee as an Environmental Specialist in the MRO. Several position packages are scheduled for interview or are in the review and hiring process.

CONCLUSION

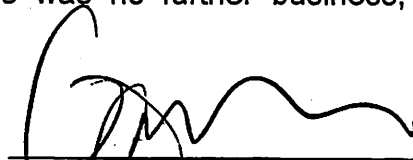
Remarks by the Chief – Mr. Vinson thanked staff and particularly noted the work Mr. Neupane has done to get up to speed and in preparation of getting ready for this meeting.

Remarks by the Chair – Mr. Bivens thanked staff for all the work they've been able to perform given current resources.

Adjournment – Ms. Berry made a motion to adjourn. Dr. White seconded the motion, and it was approved unanimously. As there was no further business, Mr. Bivens adjourned the meeting at 11:45 AM.



Toby Vinson, Chief
Division of Energy, Mineral, and Land
Resources



Tracy E. Davis, PE, Director,
Division of Energy, Mineral, and Land
Resources

N.C. SEDIMENTATION CONTROL COMMISSION ENFORCEMENT REPORT
by the OFFICE OF THE ATTORNEY GENERAL 05/11/2017

Status of Cases:	4/22/16	7/26/16	10/20/16	5/11/17
1. LQS Drafting CPA	0	3	6	4
2. CPA's Prepared by LQS Under Review	0	3	6	1
3. CPA's Out to Violator (30-day clock)	0	3	0	1
4. Cases Pending in OAH	8	8	7	6
5. Cases Awaiting Final Agency Decision	0	0	0	0
6. Cases Pending in General Courts of Justice	8	7	7	8
a. Judicial Review	0	0	0	2
b. Injunctions	7	6	6	5
c. Pre-Judgment Collection	0	0	0	0
d. Post-Judgment Collection	0	0	0	0
e. Federal Cases	1	1	1	1
7. Cases in Bankruptcy Proceedings	1	0	0	0
8. *Cases Where CPA Being Paid by Installment	0	0	0	0
9. Cases to be Closed	0	0	0	0
TOTALS:	17	24	26	20
Action Since Prior Quarterly Report:				
New Cases Received by AGO	0	1	0	4
Cases Closed by AGO	2	4	2	4

* Data collected from the Environmental Division database

Civil Penalties Assessments

(5/11/2017)

Case Name	Denr. #	County	Civil Penalty Date	Closed Date	Check #	Check Received	Amount Paid
LAND QUALITY SEDIMENTATION (6)							
APEX NURSERIES, INC. AND KAREN D. COPELAND	15-016		07/13/2015		3639	04/27/2017	\$2,750.00
					Total:		\$2,750.00
BOMA NORTH CAROLINA, LLC (ELK RIDGE AT CALEB'S CREEK)	16-009		11/09/2016		016854	12/05/2016	\$3,500.00
					Total:		\$3,500.00
FOX RIDGE LAND PARTNERS LLC	15-019		09/24/2015		1062	11/30/2016	\$1,665.00
					1066	03/10/2017	\$1,665.00
					1065	03/10/2017	\$1,665.00
					1063	03/10/2017	\$1,665.00
					1064	03/10/2017	\$1,665.00
					Total:		\$8,325.00
IC3 PARTNERS, LLC	16-008		11/09/2016		1070	12/20/2016	\$15,000.00
					Total:		\$15,000.00
MARTIN, MARIAN	15-018		10/16/2015	04/24/2017	1871	01/03/2017	\$1,000.00
					Total:		\$1,000.00
THE CITY OF REIDSVILLE, A MUNICIPAL CORPORATION	16-006		07/20/2016		5383	11/14/2016	\$4,400.00
					Total:		\$4,400.00
Totals For LAND QUALITY SEDIMENTATION							\$34,975.00

Active Enforcement Report

Case#	Atty Project Name	County	Date of Assessment	Date Paid	Property Assessment Amt	Final Amt Paid	Comments
16-004	JP Venture Properties VII, LLC	Rockingha	7/20/2016	09-Nov-16	\$5,000.00	\$5,000.00	CPA paid and recd 11/9/16, waiting on closure letter from AG
16-007	JP Venture Properties VII, LLC	Rockingha	8/20/2016				CPA assessed
16-008	JP IC3 Partners, LLC	Pender	11/3/2016		\$25,000.00		CPA sent 11/8/16
16-010	JP Tryon Equestrian Properties, LI Polk		11/29/2016		\$5,000.00		outstanding
16-011	JP Tryon Equestrian Properties, LI Polk		11/28/2016		\$5,000.00		outstanding
16-012	JP Tryon Equestrian Properties, LI Polk		12/8/2016		\$5,000.00		outstanding
16-013	JP Tryon Equestrian Properties, LI Polk		12/8/2016		\$5,000.00		outstanding
16-014	JP City of Winston-Salem	Forsyth	5/5/2017	5-May-17	\$5,000.00		under review and draft
16-017	JP Keystone Group, Inc.	Davidson			\$5,000.00		under review and draft
17-002	JP City of Winston-Salem	Forsyth					under review and draft
17-003	JP Buel B. Barker and Vickie B. B Davidson						under review and draft



North Carolina Department of Environmental Quality

NCDOT Trout Buffer Waivers Issued by DEMLR for Maintenance Projects

From 2/15/2017 through 5/11/2017

County	DOT Division	Issue Date	Project	Stream	Linear Feet	River Basin
Surry	11	2/27/2017	Bridge #034 Replacement	Johnson Creek		Yadkin-Pee Dee

North Carolina Department of Environment and Natural Resources

Report of Immediate Corrective Actions Issued by DOT From 2/15/2017 through 5/11/2017

County	Issue Date	Project Number	Location	Regional Office	Project Type	Length	Evaluator	ICA Lifted
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No ICAs reported this period

Update on the Sedimentation Education Program

Presentations/Exhibits

The Sedimentation Education Specialist participated in the annual Area VII Envirothon held on March 23, 2017 at Jones Lake State Park in Bladen County. The mission of the Envirothon is “to develop knowledgeable skilled and dedicated citizens who have an understanding of natural resources and are willing and prepared to work towards achieving and maintaining a balance between the quality of life and the quality of the environment.” Teams of middle and high school students, across the region, came together for an ecology field day/competition. Five member teams are tested on their knowledge of natural resources in the following subject areas: Wildlife, Soils, Forestry, Current Environmental Issues and Aquatics. The top middle school and high school teams at the area Envirothons qualify for the statewide NC Envirothon.

The Sedimentation Education Specialist was invited to participate in the 2017 Cumberland County Green Schools and Sustainable Sandhills Earth Day Celebration hosted by Cape Fear Botanical Garden. The event is scheduled to be held April 25-26, 2017 at the Cape Fear Botanical Garden in Fayetteville, NC. The Enviroscape will be utilized at the event to educate student on water pollution, and issues that affect the environment.

The Sedimentation Education Specialist was invited by Magnolia Elementary School, to participate in a career event on May 4, 2017. The event is intended to help students to start generating ideas about the occupational possibilities that are available.

The Sediment Education Specialist has been invited to attend West Pender Middle School in Burgaw during May to participate in a Career Fair. Students in grades 6-8 will be able to talk with various representatives to learn about their respective career fields and educational backgrounds. The students will have the opportunity to explore displays, and ask questions about the industries represented. Invited guests include companies that represent all of the career clusters identified by the United States Department of Education. The Division of Energy, Mineral, and Land Resources will represent the Agriculture, Food, and Natural Resources Career Cluster.

Workshops

Fall E&SC Design Workshops-Update

The Division of Energy, Mineral, and Land Resources is involved in preliminary planning with the Southeast Chapter of the International Erosion Control Association (IECA) and NCSU Department of Crop & Soil Sciences for the fall 2017 Innovative Erosion and Sediment Control Design Workshop. The date has been scheduled for Tuesday, December 5, 2017. The planning team is working to generate an agenda including critical design topics and case studies to help address problematic sites.

Annual Workshop and Banquet for Local Programs

The 2017 Local Programs Annual Erosion and Sedimentation Control Workshop is scheduled for March 28-29 at the Renaissance Centre in Wake Forest, NC. Accommodations were planned for two representatives from each of the 53 local programs to attend the training.

The Sedimentation Control Commission was represented at the event by Mr. Jonathon Bivens, during the awards luncheon ceremony. Awards are presented each year to recognize local governments that have excelled in erosion and sedimentation control efforts. Nominations were submitted by the regional offices, and final selections were determined by staff. The winner selected this year was Mecklenburg County. The DEQ Assistant Secretary Sheila Holman presented the keynote address.

The collaboration between the local program volunteers and DEMLR staff was vital to the success of the workshop this year. Several programs volunteered to sponsor breaks, while others offered assistance with workshop logistics. Staff received positive feedback from participants supporting the workshop structure and content.
