

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.