

Local Program Report to the SCC Gaston County, August 1, 2023

On June 27, 2023, personnel from NCDEQ, DEMLR conducted a formal review of the Gaston County Erosion and Sedimentation Control Program. The Gaston County program was last reviewed on July 29, 2019. The County requires an erosion and sediment control plan for all projects disturbing 1 acre or more. The County also requires a single lot application for projects which disturb less than 1 acre. These single lot plans include a sketch plan of the proposed measures, standard details, and stabilization specifications. The jurisdiction of the program covers all areas of the County. The County has 5 staff who contribute approximately 5 full time equivalents (FTE) to the program. Staff stated that an additional position has been approved and was recently advertised. This new position would contribute part of an FTE to the program. In the previous year from June 2022 through May 2023, the County conducted 241 reviews or re-reviews, issued 84 approvals and 54 disapprovals. During this period the County also conducted 1075 inspections and issued 42 Notices of Violation (NOV), 6 Civil Penalty Assessments (CPA), and 1 Stop Work Order (SWO). The County stated that they work with the planning department as well as local municipalities to place holds on building and utilities inspections and will hold Certificates of Occupancy if erosion control issues are outstanding. The County has reported the use of these additional tools once in the previous year. At the time of our review the County had 127 open projects. During our review of the program, we looked at three project files and conducted site inspections on those projects.

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

1. Kamdar Industries Warehouse Expansion:

This project consists of 3.07 acres disturbed for industrial use and is located within the Upper Catawba Sub-basin of the Catawba River Basin. The project file contained the approved plan, letter of approval, design calculations, a copy of the property deed, previous inspection reports, and the FRO form. An individual was listed on the FRO form as the financial Responsible Party (FRP), rather than the company they were representing. The County received the complete application for this project on 10/12/2022 and it was approved on 11/9/2022. The County conducted the plan review and rendered their decision within the statutory timeframe. The approved plan appeared adequate. Construction on this project began in February of 2023 and the County had conducted 1 inspection prior to our review. No NOVs or CPAs had been issued to this project.

During our review, demolition and grading were underway. The building pad was being graded and the perimeter measures had been installed. The Skimmer basin was installed and needed to be stabilized. Baffles needed to be extended and tied into the sides of the basin as shown in the construction detail. The diversion ditches did not appear to be installed per the approved plan. Signs of previous silt fence repairs were noted; however, some sections were not trenched in properly. Areas which were completed or inactive needed to be stabilized within the appropriate timeframes. No signs of offsite sediment were noted. Overall, this site was out of compliance.

2. Riverwood Self Storage:

This project consists of 2.23 acres disturbed for commercial development and is located in the Upper Catawba Sub-basin of the Catawba River Basin. The project file contained the approved plan, letter of approval, design calculations, previous inspection reports, and the FRO form. A copy of the property deed was missing from the project file. The County received the complete application for this project on 6/1/2022 and was approved on 7/1/2022. A revision to the plan for this project was approved on 1/23/2023. The County conducted the plan reviews and rendered their decisions within the appropriate statutory timeframes. The approved plan appeared to be adequate. Construction on this project began in March of 2023 and the County had conducted 2 inspections prior to the day of our review. No NOVs or CPAs had been issued to this site prior to our review.

During our review, construction of the building was underway, and the curb and gutter had recently been poured for the drive. The skimmer basin had been converted to a permanent sand filter with the riser structure closed off to ensure that runoff was captured and treated through the filter until the surrounding areas are stabilized and the project completed. County staff stated that they had informed the developer that if the basin could no longer function properly, the temporary basin design will have to be reinstalled. Silt fence and silt fence outlets throughout the site appeared to be maintained. The main construction entrance had been installed and appeared to be functioning. A secondary construction entrance had been installed and needed to be extended and refreshed. Minor tracking onto the road was noted at the secondary entrance location. One drop inlet protection device appeared to be well maintained while another one needed additional stone. The diversion ditch along the perimeter of the site had been matted. Overall, this site was in compliance with minor maintenance needs noted.

3. River Heights:

This project consists of 18.50 acres disturbed for residential development and is located within the South Fork Catawba Sub-basin of the Catawba River Basin. The project file contained the approved plan, letter of approval, design calculations, a copy of the property deed, previous inspection reports, and the FRO form. The financially responsible party was listed as a different entity than the landowner and a letter of landowner consent had not been obtained. The County received the complete application for this project on 2/16/2021 and went through 2 review cycles before being approved on 7/15/2021. The approved plan for this project had been revised twice with the most recent revision being approved on 2/8/2022. The County had conducted all plan reviews and rendered their decision within the appropriate statutory timeframe. The approved plan appeared to be adequate. Construction on this project began in October of 2021 and the County had conducted 16 inspections prior to our review. The County issued a NOV to this site on 2/16/2022 noting offsite sedimentation and numerous repairs needed. The County conducted a follow up inspection on 3/23/2022 and noted that corrective actions had not been completed. A Civil Penalty was assessed following this inspection. Staff continued to monitor progress towards repairs and cleanup of offsite sediment. Staff noted that corrective actions had been completed, the CPA paid, and the NOV lifted as of 4/25/2022.

A stream and buffer area ran through the middle of the site splitting the site into two sections. During our review, vertical construction was underway in the first section while grading was still

underway in the second. The roads in both sections had been paved. Vegetation was establishing in the first section where grading had been completed. Silt fence and construction entrances were installed on active individual lots and appeared to be maintained. The skimmer basin in the first section had been converted to a permanent stormwater pond. The County required that the skimmer device remain in place and active even after the basin was converted. A turbidity curtain had been added in the main basin cell to facilitate additional settling. The curtain needed to be reattached to one side of the basin. Curb inlet protection measures had been installed along the paved roads and appeared to be well maintained. This project included the extension of a culvert on the existing road which had been completed and the adjacent slopes had been matted. Sediment beyond a silt fence outlet above this culvert area was noted. Offsite sediment was also noted at a few silt fence outlets throughout the second section. Crews were actively spreading seed and straw mulch on recently completed slopes and lot pads throughout the second section of the site. The stockpile had been seeded and sprayed with hydro-mulch. Overall, this site was out of compliance with minor sedimentation noted beyond silt fence outlets in multiple locations. The County conducted a follow up inspection on 7/14/2023 and found the site to be out of compliance. Staff noted that the sediment losses noted during our review on 6/27/2023 had been cleaned up prior to the follow up inspection; however, new losses were noted. The County noted that additional measures such as J-hooks with silt fence outlets and additional stone on existing silt fence outlets may be needed in this location to prevent future offsite sediment from the existing road runoff collecting at this location. The County set a deadline of 7/31/2023 for all corrective actions to be completed.

Positive Findings:

During the review DEMLR Staff noted positive aspects about the Gaston County Local Erosion and Sedimentation Control Program including:

- The County requires a single lot development permit for projects that disturb less than 1 acre. Single lot permits require the applicant to provide financially responsible party information and a general lot layout with erosion control measures. The Single lot permit also includes standard construction details and the stabilization specifications.
- The County requires a preconstruction meeting for all projects. Staff stated that coverage under the NCG01 permit, and all municipal approvals must be obtained prior to scheduling the preconstruction meeting.
- The County can place a hold on the issuance of a Certificate of Occupancy if there are outstanding erosion control issues. Staff also stated that they will work with local municipalities to place holds on various utilities inspections if there are outstanding erosion control issues.

Issues Noted and Required Actions:

During the review DEMLR Staff found that the Gaston County Erosion and Sedimentation Control Program had deficiencies including:

- An Individual was listed as the financially responsible party (FRP) on the FRO form rather than the company/firm they represented.
- Documentation of property ownership and landowner consent when the FRP and landowner differed were not retained in each project file reviewed.

- The County has transitioned to a new electronic permitting system. Through this system, plans are submitted, reviewed and the plan decision is issued. Letters of approval, approval with modifications and disapprovals are being sent to the applicant within the system. However, this system does not provide a means to track receipt of a letter of disapproval by the applicant.

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

- If the financially responsible party is a company/firm, an individual with signatory authority should sign the FRO form on behalf of the company/firm, however, the company/firm should be listed as the financially responsible party.
- Documentation of land ownership must be obtained prior to approval of a plan. 15A NCAC 04B.018(c). 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 and to conduct the land-disturbing activity. G.S. 113A-54.1(a). County staff stated that the plan review checklist had been recently updated so that documentation of property ownership and landowner consent, when applicable, are requirements within the new electronic permitting system. The current FRO and Application forms include language stating these requirements as well.
- The County is conducting all reviews and issuing their review decisions within the statutory timeframe. When a plan is found to be inadequate and a letter of disapproval is issued, the County must be able to track receipt of this letter, as the applicant has the right to appeal this decision if written request is made within 15 days of receiving the notice of disapproval. G.S. 113A-61(d). The County should adjust the review process to ensure that letters of disapproval are sent with the ability to track receipt by the applicant.

Recommendations for Improvement:

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

- The County has updated the local ordinance to reflect the changes made in the 2020 Model Ordinance. The County should update the Local Ordinance to reflect the minor changes made in the 2021 Model Ordinance. A redlined version is available on the [Local Erosion and Sediment Control Programs website](#).
- The County is requiring that coverage under the NCG01 permit is obtained prior to scheduling the preconstruction meeting and then is routinely reviewing the NPDES and ESC joint self-inspection forms onsite. It is recommended that the County continue to monitor and provide guidance for NPDES violations including operating without a permit, improper concrete washout, and fuel containment onsite during inspections. Note possible NPDES violations and refer to the NCDEQ Mooresville Regional Office when necessary.

Conclusion:

Overall, DEMLR found the Gaston County locally delegated erosion and sedimentation control program to be robust but had a few minor deficiencies. The County has recently made adjustments to the plan review process to ensure that documentation of property ownership and landowner consent are obtained prior to approval of a plan. Staff have developed working relationships with local municipalities and can request holds be placed on various utilities inspections when erosion control issues are present. The County utilizes these inspection holds and their ability to hold the Certificate of Occupancy as additional tools to bring sites into compliance. Plan reviews are conducted, and the plan review decision is being issued within the appropriate statutory timeframes. However, when plans are found to be inadequate and a letter of disapproval is issued, notice of the plan disapproval is not being sent with the ability to track receipt by the applicant. County staff are familiar with the NCG01 permit requirements and require that coverage under the permit be obtained prior to scheduling the preconstruction meeting. County staff have demonstrated a comprehensive understanding of the enforcement process and their knowledge and willingness to use the additional tools at their disposal to bring sites back into compliance. Staff noted all areas seen by State staff while conducting inspections and all approved plans appeared adequate.

The County demonstrated their ability to effectively implement the local program's delegated authority. DEMLR staff recommends to "Continue Delegation" of the Gaston County locally delegated program. This report has been prepared based on the formal review of the Gaston County Erosion and Sedimentation Control Program conducted on June 27, 2023, and will be presented to the Sedimentation Control Commission during the 2023 Q3 meeting on August 1, 2023.