

Local Program Report to the SCC City of High Point Continued Reivew, February 22, 2022

On February 9, 2021, personnel from the NCDEQ Land Quality Section conducted a formal review of the City of High Point's locally delegated Erosion and Sedimentation Control program. Based on this review a report was presented to the Sedimentation Control Commission (SCC) on February 24, 2021. The Commission voted to "Continue Delegation with Review" for 6 months. DEMLR staff conducted a follow up review on July 21, 2021, and a follow up report was presented to the SCC on August 17, 2021. The Commission voted to "Continue Delegation with Review" for another 6 months. In addition to the formal review conducted in February and the follow-up visit conducted in July, DEMLR staff conducted periodic oversight inspections.

The following deficiencies were noted during our initial and follow up review:

- An individual representative was listed as the Landowner on the FRO Form and did not reflect the information on the property deed.
- The number of inspections being reported was low in comparison to the number of active projects and did not indicate a regular monthly inspection being conducted on each site. This was noted during the last formal audit in 2017 as well.
- The City should no longer accept clearing plans that allow tree clearing in preparation for land development prior to having an approved erosion and sedimentation control plan and temporary measures installed.
- The addition of a temporary full-time inspector during the months of May and June helped to distribute the workload and the City was able to conduct monthly inspections with their staff. However, with the temporary inspector no longer on staff, the current workload is not sustainable. The addition of two full-time inspectors with proper training should allow the program to distribute the workload and provide the City with an adequate staff to effectively monitor and enforce their delegated program.
- The City should continue to use the enforcement tools available to them when areas of continued non-compliance persist, reoccurring violations are found and especially in cases of off-site sedimentation.

Throughout the continued review periods, the City has been responsible for uploading inspection reports and enforcement documents for the projects reviewed during the February formal review and follow-up review in July. DEMLR staff conducted another follow up review on 1/25/2022. During this follow up we inspected 6 projects, 2 of which were previously reviewed. The following is a summary of the program's overall activity and some projects that have been reviewed throughout the continued review periods since our February 9th review.

Program Overview:

During the 2021 calendar year, the City of High Point has reported that they have received 106 new sedimentation control plans. The City reported that they have conducted 128 reviews or re-reviews, issued 45 approvals and 40 disapprovals. The City has conducted 801 inspections and issued 9 Notices of Violation (NOVs) and 3 Stop Work Orders (SWOs). The City had an average of 107 projects open throughout the year. The City hired 2 full time inspectors during the month of September and now have 5 staff members who contribute 4 full time equivalents

(FTE). The following is a summary of a few projects which have been reviewed throughout the continued review periods.

1. Rich Fork heights

This project consists of 42.3 acres disturbed for residential development. This project was first reviewed during our initial review on 2/9/2021 and found to be out of compliance at the time. This site remained out of compliance on 4/5/2021. The City found this site in compliance during the next inspection conducted on 5/5/2021. This site was found to be out of compliance during the following inspection conducted on 9/8/2021 for failing to maintain measures, needing to repair rills which had formed and to provide ground stabilization in recently completed areas and slopes where vegetation had died off. The site was out of compliance during an inspection conducted on 10/27/2021; however, the violations found during this inspection were not continuing from the month prior. During inspections conducted on 11/17/2021, 12/9/2021 and 1/3/2022, this site was found to be out of compliance for needing to repair silt fence outlets above the wetland areas, maintain inlet protection throughout, repair silt fence and stabilize completed or inactive areas. Rills were beginning to form and minor sedimentation offsite had occurred during the inspection conducted on 1/3/2022. The City gave a deadline of 1/15/2022 to address these continued violations and found this site in compliance on 1/19/2022.

2. Keystone at Penny Road:

This project consists of 17.9 acres disturbed for residential development. This project was reviewed during the follow-up review on 7/21/2021 and was found to be out of compliance at the time. This site had significant sediment loss into a stream buffer and wetland areas. Two basins were not functioning properly, and diversion ditches had not been installed per the approved plan. As a result of this inspection, the City issued a SWO to this site on 7/28/2021. The SWO and inspection report noted that measures such as skimmer basins, diversion ditches, slope drains, silt fence and silt fence outlets needed to be installed or repaired. The SWO noted that sediment lost into the unnamed tributary should be removed under the guidance of the City and the Division of Water Resources. The City staff met with DWR staff and representatives of the Financially Responsible Party (FRP) on 8/8/2021 and then found the site to still be out of compliance during an inspection conducted on 8/16/2021. The City conducted another follow-up inspection on 9/14/2021 and found the site to still be out of compliance. One of the skimmer basins was still missing the skimmer device and the City had still not received a report of the evaluation of possible wetlands performed by an environmental consultant. This inspection report did note that the stream had been cleaned out as directed and disturbed areas had been seeded and strawed throughout the site. The City conducted a follow-up inspection on 10/7/2021 and found that all actions listed in the SWO had been taken except for delineation of wetlands areas as determined by the environmental consultant hired to evaluate possible wetlands. The City lifted the SWO on 10/19/2021. The City found this site to be out of compliance during the following inspection conducted on 12/14/2021 and noted that minor offsite sedimentation had occurred at a silt fence outlet and below a skimmer basin outlet. City staff noted that the skimmer device needed to be reinstalled and that a riprap pad and silt fence outlet below the skimmer outlet needed to be installed at one basin. Slope drains, inlet protection for the slope drains and baffles needed to be installed in another basins. During the most recent inspection conducted by the City on 1/5/2022, this site remained out of compliance and additional offsite sedimentation was noted. The same violations from the previous inspection report were noted along with failure to stabilize inactive areas. During the day of our follow-up review on 1/25/2022, this site

remained out of compliance. The skimmer device and slope drains noted on previous inspection reports had been installed; however, riprap dissipator pads at skimmer pipe outlets had not been installed and sediment was still being lost in one area. The baffles in one basin needed to be repaired and the emergency spillway liner needed to be resecured to the ground in another. The slope along the southwest side of the site had recently been graded and the perimeter diversion berm was no longer functioning properly, thereby increasing the potential for sediment loss. Diversion ditches throughout the site needed to be stabilized. State staff noted that this site has remained out of compliance for nearly the entire continued review period since the 7/21/2021 follow-up review with several violations being noted on multiple inspection reports.

3. Pegg Road Development:

This project consists of 17.4 acres disturbed for commercial development. This project was initially reviewed during our follow-up review on 7/21/2021. At that time this site was out of compliance needing to install one basin per the approved plan and repair another basin which was not dewatering properly. This site also needed to be stabilized within the required timeframes where grading had been completed or become inactive. As a result of this inspection, the City issued a SWO to this site on 7/23/2021. During a follow up inspection conducted on 7/29/2021, the City found that all corrective actions had been taken and the site was in compliance. The City lifted the SWO at this time. This site remained in compliance during the following two inspections conducted on 9/8/2021 and 9/29/2021 with some general maintenance needs noted. The City found this site out of compliance during its inspections conducted on 10/14/2021 and 10/21/2021 for failure to maintain measures and failure to provide ground cover on slopes. Silt fence along the road needed to be repaired, inlet protection maintained, and skimmer outlet pipes needed to be cleaned. During the following inspection on 11/4/2021 this site remained out of compliance and the City stated that if corrective actions were not taken by the next inspection on 11/18/2021, a NOV would be issued. The City found this site in compliance during its inspection conducted on 11/18/2021 and 12/9/2021. On 1/4/2022 City staff conducted an inspection of this site and found that one of the basins was being dewatered and was being pumped directly into the Storm Sewer, which eventually discharged into a nearby creek. City staff immediately halted pumping and reported this to DWR. It was also noted that completed areas had not been properly stabilized and measures throughout the site needed to be maintained. Following this inspection, the City issued this site an NOV on 1/10/2022. A follow up inspection conducted by the City on 1/13/2022 found this site to be in compliance. During our follow-up review on 1/25/2022, this site remained in compliance. The basin which had previously been dewatered was being converted into the permanent stormwater pond and the dewatering pump and silt bag were still onsite. The slopes of the larger basin had been seeded and mulched with straw and slopes throughout the site had been matted. Inlet protection devices throughout the site appeared to be maintained.

4. The Landing at Sycamore Creek

This project consists of 11 acres disturbed for residential development. This project was first reviewed during our follow-up on 1/25/2022. On the day of our 1/25/2022 follow-up review, this site was found to be out of compliance. Grading had been completed and most of the site had been stabilized. The right of way throughout the site had not been stabilized, rills had formed, and sediment was beginning to wash into the street. Sedimentation was occurring in one area where a temporary basin had been removed. The City previously found this site to be out of compliance during inspections conducted on 10/28/2021, 11/16/2021, 12/6/2021, 12/20/2021,

12/29/2021 and 1/20/2022. During a discussion on why this site had remained out of compliance for so long with sediment loss noted on the 12/6/2021 and following reports, City staff mentioned that the developer indicated they were waiting on the utility company to come in and install power before permanent stabilization was established. State staff reiterated that regardless of the status of utilities and the developers schedule, all inactive or completed areas must be temporarily stabilized within the required 7- or 14-day timeframes and violations noted in inspection reports should be promptly addressed. The City stated that they had met on site with the developer on 1/6/2022 and 1/20/2022 to discuss the violations and set a deadline for corrective actions to be completed by the end of January. Staff indicated that no work had occurred on the entire site since the 1/6/2022 inspection. The City issued an NOV upon finding that no corrective actions had been taken during a follow-up inspection conducted on 2/1/2022.

Conclusion:

During our initial formal review conducted on 2/9/2021 and follow-up on 7/29/2021, deficiencies were noted. The City has taken steps to address the deficiencies in the plan review process and documentation missing from project files. The City is no longer approving plans unless a copy of the property deed and a correctly filled out FRO Form have been submitted. The City is also no longer approving tree clearing plans and allowing disturbances to begin prior to a full Erosion and Sediment Control Plan being approved and implemented. In addition to the three formal reviews conducted, State staff also conducted three days of oversight inspections. Throughout the past year, State staff has requested information, updates, and documents from the City. Responses from the City during the first continued review period were delayed at times with deadlines not being met and State staff having to make multiple requests. Responses from the City during the recent months have been in a timely manner. The City hired two additional full-time inspectors, in September 2021, which has helped distribute the workload and has increased the inspection frequency, although the reported numbers reflect a current frequency of inspections on a project every 6-7 weeks. Following our initial review, the City stated that one of their inspectors had received their NCDOT Level II Erosion and Sediment Control Certification. City staff have participated in additional training opportunities such as the 2021 Local Program and Design Workshops. Through review of the City's inspection reports and oversight inspections conducted with State staff, City staff appear to be conducting adequate inspections and noting all violations and areas of concern while onsite. Inspection reports appear to accurately reflect the conditions of each site; however, these reports show a pattern of non-compliance and persisting violations. The City has issued a few SWOs and NOV's in the past year, yet developers under an NOV or SWO are not always responsive. The City stated that it is standard practice for an NOV to be issued upon the third non-compliant inspection report, yet there are multiple instances where this practice has not been used. The Keystone at Penny Road and the Landing at Sycamore Creek projects are two instances where sites have remained out of compliance and no further action has been taken by the City. While the City has addressed some deficiencies throughout the past year, there has been little improvement in the effectiveness of the overall program. Sites continue to remain out of compliance and non-responsive to inspection reports and NOV's.

This report has been prepared based on the initial formal review conducted on 2/9/2021, follow-up reviews conducted on 7/29/2021 and 1/25/2022, and the continued review periods in between. DEMLR staff recommends to "Revoke Delegation" of the City of High Point Erosion and Sedimentation Control Program.

This report will be presented to the Sedimentation Control Commission during its 2022 Q1 meeting on February 22, 2022.