

Local Program Report to the SCC Jackson County, February 21, 2023

On November 30, 2023, personnel from NCDEQ, DEMLR conducted a formal review of the Jackson County Erosion and Sedimentation Control Program. The County was last reviewed and presented to the Sediment Control Commission in April 2019. The County requires an erosion and sediment control plan for any projects disturbing 1 acre or greater. The jurisdiction of the program covers all areas of Jackson County including within all town corporate limits. The County has 6.5 staff who contribute to the program. From November 2022 through October 2023, the County conducted 12 plan reviews or re-reviews, issued 10 approvals and 2 disapprovals. During this period, the County conducted 739 inspections and issued 3 Notices of Violation, 0 Civil Penalties, and 68 Stop Work Orders. The County also has the authority to issue building permits and inspection holds and, over the past year, had issued 10. When plans are submitted to the County, they are reviewed and either approved or, if found to be inadequate, disapproved, with notification of the decision being sent to the applicant. The Letters of Disapproval were being sent with the ability to track receipt. Plans were being reviewed and review decisions were being sent to the applicant within the statutory timeframes. County staff stated they were inspecting sites on at least a monthly basis, and this was reflected in the project files DEMLR staff reviewed. At the time of the audit, the County had 34 open projects. DEMLR staff looked at four project files and conducted site inspections for three of those projects.

The following is a summary of projects reviewed:

1. Silver Run Reserve Meadow House and Pool (paperwork review only)

This project consists of 6.1 acres disturbed for commercial development and is located within the Seneca Subbasin of the Savannah River Basin. The project file contained the approved plan, letter of approval, design calculations, previous inspection reports, property deed, and the financial responsibility/ownership (FRO) form. The County received the complete application for this project on November 8, 2022, and after two review cycles, approved it on January 4, 2023. A revised plan was submitted August 17, 2023, and was approved August 18, 2023. The County conducted the plan reviews and rendered its decisions within the appropriate timeframe. The approved plan appeared to be adequate. Construction on this project began in February 2023, and the County had conducted 9 inspections prior to our review, on about a monthly basis. No NOV or Civil Penalties had been issued for this project. A site inspection was not conducted on this project due to time constraints.

2. Chinquapin Packs Creek Road Construction

This project consists of 11.77 acres disturbed for residential development and is located within the Tuckasegee Subbasin of the Little Tennessee River Basin. The project file contained the approved plan, letter of approval, design calculations, previous inspection reports, property deed, and the FRO form. The County received the complete application for this project on May 4, 2023, and approved it on May 16, 2023. The County conducted the plan review and rendered a decision within the appropriate timeframe. The limits of disturbance on the approved plan did

not include all areas to be disturbed. Construction on this project began in June 2023, and the County had conducted 6 inspections prior to our review. No NOV or Civil Penalties had been issued for this project. At the time of the audit, perimeter measures had been installed and a gravel road and bridges were being constructed. The slopes had recently been hydroseeded. Rock outlet protection needed to be installed at one slope drain and a silt fence outlet needed to be added as per the plan. One area had a hole in the silt fence that needed to be repaired. Overall, this site was in compliance with a few maintenance needs noted.

3. Chinquapin Wolf Lake Road Construction

This project consists of 2.95 acres disturbed for residential development and is located within the Seneca Subbasin of the Savannah River Basin. The project file contained the approved plan, letter of approval, design calculations, previous inspection reports, property deed, and FRO form. The County received the complete application for this project on March 20, 2021, and approved it on April 19, 2021. The County conducted the plan review and rendered a decision within the appropriate timeframe. The approved plan appeared to be adequate. Construction on this project began in May 2021, and the County had conducted 31 inspections prior to our review. On June 27, 2022, the County issued this site a Notice of Violation for offsite sediment that had entered a stream and cited them for failure to follow approved plan, failure to provide groundcover, failure to protect property, failure to install and maintain erosion and sediment control measures, and failure to self-inspect. The County worked with the Division of Water Resources and the Army Corps of Engineers for cleanup. At the time of the audit, the road construction project was nearing completion. Slopes had been stabilized with vegetation. Cleanup from the 2022 sediment loss had been completed and riparian vegetation was established. A slope drain going into a sediment basin had erosion around it and needed to be maintained. Overall, this site was in compliance with a few maintenance needs noted.

4. LH Cedar Hill LT V2

This project consists of 1.95 acres disturbed for residential development and is located within the Seneca Subbasin of the Savannah River Basin. The project file contained the approved plan, revised plan, letters of approval, design calculations, previous inspection reports, property deed, and FRO form. The owner listed on the deed was not the same as the Financially Responsible Party on the FRO form, and a letter of consent between the landowner and the FRP was not obtained. The County stated that the individual landowner was also the owner of the business listed as the FRP, however, even in this case a letter of consent between the individual and the business is still required. The County received the complete application for this project on May 13, 2022, and approved it on May 17, 2022. The County conducted the plan review and rendered a decision within the appropriate timeframe. The approved plan appeared to be adequate. Construction on this project began in August 2022, and the County had conducted 15 inspections prior to our review. No NOV or Civil Penalties had been issued for this project. At the time of the audit, a gravel driveway had been installed and vertical construction of the house was underway. A sediment trap at the rear of the property had been installed at the request of the County. That trap needed to be stabilized and the outlet needed to have additional rock added for it to function as intended. Sediment accumulated along the silt fence needed to be removed

and the silt fence needed to be maintained. Overall, this site was in compliance with a few minor maintenance needs noted.

Positive Findings:

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

- The County requires a preconstruction meeting for all projects.
- For projects disturbing more than 5 acres, the County requires a security bond of \$2,000 per acre disturbed.
- County staff utilize the ability to place holds on various permits and construction inspections as additional tools to bring sites into compliance.
- If a project begins construction prior to an ESC plan being approved, the County doubles the permit fee, as a deterrent for working without an approved plan.

Issues Noted and Required Actions:

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

- In one instance, written landowner consent was not obtained when the financially responsible party (FRP) and landowner differed.
- The limits of disturbance as shown on one of the plan sets did not include all areas to be disturbed.

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

- 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). The County should obtain a letter of consent when the landowner and FRP differ and retain this in the project file.
- The County should verify that all areas disturbed are included within the LOD on the plan.

Recommendations for Improvement:

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

- 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 Asheville Regional Office when necessary.
- It is recommended that the County continue to cooperate and communicate with the NCDEQ Asheville Regional Office on any complaints received by the Regional Office.
- Updates from the 2021 Model Ordinances had not been included into the County’s ordinances such as sections which refer to the right to request remissions when issued a civil penalty. It is recommended to review the local ordinances to ensure that they are in

accordance with most recent state statutes and administrative codes and update template letters, as necessary, to reflect any changes.

Conclusion:

Overall, DEMLR found the Jackson County Locally Delegated Erosion and Sedimentation Control Program to be robust but had a few minor deficiencies. The County will need to obtain a letter of consent when the landowner and FRP differ and retain this in the project file. And the County will need to ensure that all areas to be disturbed are included within the “limits of disturbance” on the plan. When plans are submitted to the County, they are reviewed and either approved or, if found to be inadequate, disapproved, with notification of the decision being sent to the applicant. The Letters of Disapproval were being sent with the ability to track receipt. Plans were being reviewed and review decisions were being sent to the applicant within the statutory timeframes. County staff stated they were inspecting sites on at least a monthly basis, and this was reflected in the project files DEMLR staff reviewed. The County requires a preconstruction meeting for all projects and, for projects disturbing greater than 5 acres, requires a security bond of \$2,000 per acre disturbed. DEMLR recommends that the County update their local ordinance to reflect the most recent Model Ordinance. During the review, the County demonstrated a thorough understanding of the enforcement processes and tools which are delegated to them. The County will take additional action such as placing a hold on various construction inspections, building permits and final plat approval, when necessary, as incentives to bring sites into compliance. County staff noted all areas seen by DEMLR staff on site and demonstrated their ability to conduct adequate inspections. The County demonstrated their ability to effectively implement the local program’s delegated authority. DEMLR staff will recommend to “Continue Delegation” of the Jackson County locally delegated program.

This report has been prepared based on the formal review of the Jackson County Erosion and Sedimentation Control Program conducted on November 30, 2023, and will be presented to the Sedimentation Control Commission during its 2024 Q1 meeting on February 21, 2024.