

Local Program Report to the SCC Lincoln County, November 16, 2023

On October 10, 2023, personnel from NCDEQ, DEMLR conducted a formal review of the Lincoln 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 residential projects disturbing greater than 1 acre and any non-residential building projects disturbing greater than 20,000 sq ft. The jurisdiction of the program covers all areas of Lincoln County including within all city/town corporate limits. The County has 4 staff who contribute approximately 3 full time equivalent (FTE) positions to the program. From September 2022 through August 2023, the County conducted 124 plan reviews or re-reviews, issued 54 approvals and 34 disapprovals. During this period, the County conducted 1054 inspections and issued 12 Notices of Violation, 8 Civil Penalties, and 10 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 via certified mail; however, the letters were missing necessary language informing the applicant of their right to appeal the decision within 15 days of receipt. Applicants must be notified of their right to appeal. Review of new plans submitted to the County were being conducted within 30 days, however, revised plans were not always reviewed within the 15-day deadline. Plans must be reviewed, and notification of the review decision sent to the applicant within the statutory timeframe. At the time of DEMLR's audit, the County had 148 open projects. DEMLR staff looked at project files and conducted site inspections for four projects.

The following is a summary of projects reviewed:

1. Forest Park at Lincolnton Phase 1

This project consists of 5.0 acres disturbed for residential development and is located within the South Fork Catawba Subbasin of the Catawba River Basin. The project file contained the approved plan, revised plan, letters of approval, design calculations, previous inspection reports, and the FRO form. An updated FRO form had not been obtained showing the increase in acreage approved on the revised plan. The property deed was missing from the file; however, staff was able to print a copy from online. The County received the complete application for this project on September 22, 2021, and approved it on October 4, 2021. A revised plan was submitted November 10, 2021, and was approved the same day. 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 on November 8, 2021, and the County had conducted 17 inspections prior to our review. No NOV or Civil Penalties had been issued for this project. At the time of the audit, vertical construction had been completed, sediment basins had been removed and much of the site had been permanently stabilized. Some slopes and ditches throughout the site required overseeding to ensure sufficient stabilization. The perimeter edge of some lots needed to be regraded and stabilized. Overall, this site was in good condition but

was out of compliance due to some minor maintenance and stabilization needs. On October 20, 2023, the County reinspected the site and noted that all required corrective actions noted in the previous inspection report had been completed.

2. Combine Academy Soccer Field #1

This project consists of 4.69 acres disturbed for institutional development and is located within the South Fork Catawba Subbasin of the Catawba River Basin. The project file contained the approved plan, letter of approval, design calculations, previous inspection reports, property deed, and the FRO form. The FRO form was missing the Registered Agent information for the company listed as the Financially Responsible Person (FRP). The County received the complete application for this project on April 26, 2023, and after two review cycles, approved it on May 19, 2023. 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 on June 20, 2023, and the County had conducted 4 inspections prior to our review. No NOV or Civil Penalties had been issued for this project. At the time of the audit, grading of the soccer field had been completed and E&SC measures had been installed. Construction traffic along the dirt/gravel road was creating dust and County staff noted the need for adequate dust control. In several areas, the perimeter silt fence had been undermined and at one location this had resulted in a minor amount of offsite sediment. A few Silt fence outlets needed to be maintained and stone needed to be refreshed. Sediment had overtopped an area of silt fence resulting in minor offsite sedimentation. Basin slopes had been stabilized and the basin appeared to be functioning as designed. The diversion ditch leading to the basin had been vegetated but needed to be maintained; wattle check dams needed to be maintained and accumulated sediment removed. Sediment blocking the slope drain into the basin needed to be removed and a rock inlet protection measure needed to be added. The clean water diversion ditch had been matted and stabilized. Overall, this site was out of compliance. On October 20, 2023, the County reinspected the site and found that the required corrective actions noted in the previous inspection report had been completed.

3. Huber Technology

This project consists of 10.94 acres disturbed for industrial development and is located within the Upper Catawba Subbasin of the Catawba 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 August 22, 2022, and after three review cycles, approved it on November 3, 2022. A review cycle starts when the package is deemed complete and ends when a plan has been approved or disapproved. Not all review cycles for this project were completed within the statutory timeframe. The approved plan appeared to be adequate. Construction on this project began on November 9, 2022, and the County had conducted 5 inspections prior to our review. No NOV or Civil Penalties had been issued for this project. At the time of the audit, vertical construction was nearly complete, and the roads and parking areas had been paved. Curb inlet protection measures needed to be maintained. The sediment basin had recently been converted to stormwater configuration and the slopes had been hydroseeded. Vegetation had been established throughout most of the site, however some areas required reseeding. A small amount of gravel and fines had been washed

offsite onto the road (Airlie Parkway) and needed to be removed. Overall, this site was in good condition but was out of compliance due to maintenance needs. On October 20, 2023, the County reinspected the site and found that all required corrective actions noted in the previous inspection report had been completed.

4. Carrington Subdivision Phase 2 (paperwork review and partial inspection):

This project consists of 25 acres disturbed for residential development and is located within the Upper Catawba Subbasin of the Catawba 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 County received the complete application for this project on October 19, 2020, and after two review cycles, approved it on March 10, 2022. A revised plan was submitted March 24, 2023, and was approved the same day. Not all review cycles for this project were completed within the statutory timeframe. The approved plan appeared to be adequate. Construction on this project began on May 17, 2023, and the County had conducted 3 inspections prior to our review. No NOV or Civil Penalties had been issued for this project. During the audit, a partial inspection of this site was conducted due to time constraints. The site had been graded and E&SC measures had been installed. Sediment basins had been installed, however the baffles in two basins were not properly spaced as per the plan. Additional baffles needed to be installed to achieve 25% spacing of the basin floor. Basin slopes had been seeded and matted, however in some locations, rills had formed, and slopes lacked vegetative cover. Some inlet protection measures required additional stone. Rock inlet protection was needed at the slope drain going into the basin. Soil stockpiles needed to be stabilized and silt fence needed to be added. Diversion ditches had been seeded and strawed, however in one area rills had begun to form and needed to be repaired. Overall, this site was in good condition but was out of compliance due to maintenance needs. On October 20, 2023, the County reinspected the site and found that all required corrective actions noted in the previous inspection report had been completed.

Positive Findings:

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

- The County has a more restrictive criterion than the State as to when an Erosion and Sediment Control Plan is required. Plans are required for residential projects disturbing greater than 1 acre and any non-residential building projects disturbing greater than 20,000 sq ft.
- The Program requires a preconstruction meeting for all projects.
- County staff utilize the ability to place holds on various permits and construction inspections as additional tools to bring sites into compliance.
- Approval by the County is required prior to any sediment basin removal.

Issues Noted and Required Actions:

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

- The information on the FRO forms was not always complete, correct, and up to date. For one project the Financially Responsible Person was listed as the individual and the

Registered Agent was listed as the company who owned the property. Additionally, the FRO form was not updated to reflect an increase in approved disturbed acreage. For another project the Registered Agent information for the corporation listed as the FRP was left blank.

- Staff appeared to be verifying property ownership during plan review, however, a copy of the property deeds were not always being retained in the project file.
- 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 via certified mail; however, the letters were missing necessary language informing the applicant of their right to appeal the decision within 15 days of receipt.
- Review of new plans submitted to the County were being conducted within 30 days, however, revised plans were not always reviewed, and the applicant notified of the decision within the 15-day statutory deadline.

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

- Staff should verify that the information on the FRO is complete, correct, and updated if there are any changes.
- Documentation of land ownership must be obtained prior to approval of a plan. 15A NCAC 04B.018(c).
- Letters of Disapproval should include language notifying applicants of their right to appeal the decision. § 113A-61 (C). Template letters with references to the NCAC and state statute can be found on our [Local Program SharePoint Reporting site](#).
- 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 and within 15 days of receipt of a revised plan. G.S. 113A-61(b) and MOA Part III.C.1 & 3. Staff should ensure that plans are being reviewed and notice of the official review decision is being sent within the statutory timeframes.

Recommendations for Improvement:

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

- It is recommended that the Program 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.
- DEMLR and County staff discussed the increase in development throughout the County over the past few years. The County appears to be capable of handling the recent increase in workload, although this could place a considerable strain on each employee if workload continues to trend up. It is highly recommended to consider future increases or sustained levels of development and evaluate staffing workloads. Additional staffing may be

necessary to ensure that the program employs a sufficient number of qualified personnel and provides adequate resources for plan review and compliance inspections as agreed upon in Part III.A.3 &4 of the MOA.

Conclusion:

Overall, DEMLR found the Lincoln County Locally Delegated Erosion and Sedimentation Control Program to be robust but had a few minor deficiencies. The County will need to verify information on the FRO form for completeness and accuracy and ensure the information is updated should any changes occur. Property ownership will need to be verified documentation retained in each project file. 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. This process will need to occur within the statutory timeframes for new and revised plans. The County is sending letters of disapproval with the ability to track receipt by the applicant. The County will need to ensure that letters of disapproval include language notifying the applicant of their right to appeal the decision. The County has a more restrictive criterion than the State as to when an E&SC plan is required, and the County requires a preconstruction meeting prior to the commencement of any grading activity onsite. The County is in the process of updating 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 provided follow-up on all projects once corrective actions were completed. Current staffing levels appear to be adequate; however, with the recent increase in construction projects, the addition of staff would aid in the distribution of workload and ensure any future increase in workload would be sustainable. The County demonstrated their ability to effectively implement the local program's delegated authority. DEMLR staff recommend to "Continue Delegation" of the Lincoln County locally delegated program.

This report has been prepared based on the formal review of the Lincoln County Erosion and Sedimentation Control Program conducted on October 10, 2023, and will be presented to the Sedimentation Control Commission during its 2023 Q4 meeting on November 16, 2023.