

Local Program Report to the SCC City of Monroe, May 23, 2023

On April 27, 2023, personnel from NCDEQ, DEMLR conducted a formal review of the City of Monroe Erosion and Sedimentation Control Program. The City of Monroe program was last formally reviewed and presented to the Sediment Control Commission in 2012. DEMLR staff conducted an informal review of the program on April 30, 2019. The City requires an erosion and sediment control plan for residential projects disturbing greater than 1 acre and commercial projects disturbing greater than 12,000 sq ft. Jurisdiction of the program covers the City of Monroe's corporate limits and extraterritorial jurisdiction. The City has 4 staff who contribute approximately 2 full time equivalents (FTE) to the program. Staff stated that due to increased development in the area, they will be seeking funding approval to increase staffing in the next fiscal year. From April 2022 through March 2023, the City conducted 134 plan reviews or re-reviews, issued 35 approvals and 99 disapprovals. During this period the City also conducted 381 inspections and issued 6 Notices of Violation, 1 Civil Penalty, and 1 Stop Work Order. The City can place a hold on building permits or deny a request for construction inspections if erosion control issues are noted or have not been corrected; the City has used this ability once in the past year. Staff stated they are sending letters of disapproval with the ability to track receipt by the applicant to ensure that notice of these disapprovals was properly handled. At the time of our review the City had 49 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. The Ridge at 601:

This project consists of 57 acres disturbed for residential/mixed use development and is located within the Rocky River Sub-basin of the Yadkin-Pee Dee River Basin. The project file contained the approved plan, letter of approval and letters of disapproval, design calculations, a copy of the property deed, previous inspection reports, and the FRO form. The City received the complete application for this project on November 10, 2021, and went through 5 review cycles before being approved on September 22, 2022. The City conducted the review and rendered a decision within the statutory timeframe during each review cycle. The approved plan did not show stable conveyances from diversion ditches into the basin and showed discharge into the basin in such a way that water would bypass the first baffle. Plans must show stable conveyances from diversion ditches into the basin and from the skimmer outlet to perimeter silt fence/silt fence outlet. Construction on this project began in November of 2022 and the City had conducted 6 inspections prior to our review. The City issued a NOV to this project on November 21, 2022, for failure to install sedimentation and erosion control devices sufficient to retain the sediment onsite. Staff conducted a follow up inspection on January 6, 2023, and found that corrective actions had not been completed. On January 27, 2023, the City issued a Civil Penalty Assessment for \$20,800.00 for violations noted in the NOV. A Notice of Compliance was issued on March 2, 2023, stating that all violations noted in the NOV had been resolved and civil penalty paid. During the review, the site was in the grading phase; the project area had been cleared with all basins

and perimeter measures installed and stormwater pipe was being installed. Minor tracking of dirt from the construction entrance into the road was noted. Baffles had been installed properly and basin slopes had been stabilized. However, slope drains at two of the basins were bypassing the first baffle. One sediment basin outlet was missing protection. Diversion ditches throughout the site had been stabilized and check dams had been installed. Some check dams needed to be maintained and accumulated sediment removed. Silt fence was damaged at various places and needed to be repair. A ditch had been cut into one of the basins that was not shown on the plans. Soil stockpiles were located within 50 feet of the basins without protection. Signs of repaired silt fence and stabilization of areas where previous offsite sediment had been removed were noted. Overall, this site was out of compliance.

2. Autumn Drive:

This project consists of 14.41 acres disturbed for residential development and is located within the Rocky River Sub-basin of the Yadkin-Pee Dee River Basin. The project file contained the approved plan, letter of approval and letters of disapproval, design calculations, a copy of the property deed, previous inspection reports, and the FRO form. The City received the complete application for this project on April 9, 2021, and went through 3 review cycles before being approved on November 29, 2021. The City conducted the review and rendered a decision within the appropriate timeframe during each review cycle. The approved plan appeared to be adequate. Construction on this project began in April of 2022 and the City had conducted 18 inspections prior to our review. The City issued an NOV to this project on December 20, 2022, for failure to provide adequate groundcover, failure to maintain erosion control measures, insufficient measures to retain sediment on site, and failure to take all reasonable measures. A Notice of Compliance was issued on April 13, 2023, after the inspection found that the violations in the NOV had been resolved. During the review, home building pads had been graded across the site and most of the site had been seeded and mulched with straw. The road had been paved and the ditch along the back had been stabilized with matting. The silt fence was damaged at the west corner of the site and needed repair. Permission had been granted by the City to convert the basin to the stormwater configuration to allow for additional storage and reduce the frequent activation of the emergency spillway which had been occurring. Baffles needed to be reinstalled in the basin. Staff stated that offsite water was being directed to the basin instead of the clean water diversion and that a revised diversion and permanent swale to address this increase in flow was currently being reviewed by the Stormwater department. Overall, this site was in compliance, with a few maintenance needs noted.

3. Camp Sutton Nursery:

This project consists of 7.84 acres disturbed for commercial development and is located within the Rocky River Sub-basin of the Yadkin-Pee Dee River Basin. The project file contained the approved plan, letter of approval and letters of disapproval, design calculations, a copy of the property deed, previous inspection reports, and the FRO form. The City received the complete application for this project on January 14, 2022, and went through 4 review cycles before being approved on April 4, 2022. The City conducted the review and rendered a decision within the appropriate timeframe during both review cycles. The approved plan appeared to be adequate. Construction on this project began in June of 2022 and the City had conducted 10 inspections

prior to our review. No NOV or CPAs had been issued to this project. At the time of the review, the project area had been cleared, perimeter measures installed, and gravel had been applied to a large portion of the project area. The silt fence rock outlet near the construction entrance was damaged and needed to be repaired. Completed areas adjacent to the construction entrance had been matted. The sediment basin had been installed and appeared to be functioning properly. Signs of previous repairs to the slopes and silt fence were observed. This project is on one of three parcels owned by the FRP. The two outside parcels have separate plans/permits which have been approved; however, the middle parcel has not submitted an E&SC plan. Staff stated the City had previously observed tracks through the middle parcel from equipment being moved across to the other project and informed the FRP that this was not allowed. Silt fence had been reinstalled in this location at the limits of disturbance and staff instructed the FRP to stabilize the areas disturbed on the middle parcel. Overall, this site was in compliance, with a few maintenance needs noted.

Positive Findings:

During the review DEMLR Staff noted positive aspects about the City of Monroe Local Erosion and Sedimentation Control Program including:

- The City has a more restrictive criterion than the State as to when an Erosion and Sediment Control Plan is required. Plans are required for all commercial projects disturbing greater than 12,000 square feet and for all other projects disturbing greater than one acre.
- The City requires a preconstruction meeting for all projects.
- The City requires a bond specifically for erosion and sediment control, in the amount of 100% of the estimated cost.
- The City requires that all the initial erosion and sediment control measures be installed and approved by City staff prior to issuing the grading permit and allowing for mass grading to begin.
- The City has created standard specifications and details for E&SC measures and have made them available online for applicants to use when submitting plans. This provides consistency and ensures that construction and maintenance notes are included for each measure.
- City staff utilize the ability to place holds on various permits and construction inspections as additional tools to bring sites into compliance.

Issues Noted and Required Actions:

During the review DEMLR Staff found that the City of Monroe Erosion and Sedimentation Control Program had deficiencies including:

- The recently issued Civil Penalty Assessment document did not contain language notifying the violator of his or her right to contest or remit the assessment.
- Language notifying the recipient of his or her right to appeal the decision was missing from the Letters of Disapproval observed during the review.

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

- The City should update Civil Penalty Assessment documents to include language notifying the violator of his or her option to contest the assessment within 30 days by filing a petition for hearing with the local government as directed by procedures within the local ordinances or regulations adopted to establish and enforce the erosion and sedimentation control program. § 113A-64 (a)2. Template CPA documents with references to the NCAC and state statute can be found on our [Local Program SharePoint Reporting site](#).
- The City should update Letters of Disapproval to include language notifying the recipient of his or her right to appeal the disapproval. § 113A-61 (C). Template letters with references to the NCAC and state statute can be found on our [Local Program SharePoint Reporting site](#).

Recommendations for Improvement:

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

- The City is in the process of updating its erosion and sediment control ordinances. If substantive changes from the 2021 Model Ordinance are made, review and approval is required from the Sedimentation Control Commission. The City has provided DEMLR with a draft of the proposed changes.
- Staff noted that increased development in the City has resulted in increased workload. The program plans to seek funding in the next fiscal-year's budget for additional staff to help distribute the increased workload. Based on the reported activity over the previous years, the current workload is manageable, however, staff indicated that the program has begun to pull in additional staff from other departments as needed to sustain the increased activity. It is highly recommended to continue to evaluate staffing workload and seek approval for additional staff as 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 City of Monroe locally delegated erosion and sedimentation control program to be robust but had a few minor deficiencies. The City will need to ensure that letters of disapproval include the right to appeal the decision and that CPA documents include the right to contest or remit the assessment. When reviewing plans, staff should ensure that plans show stable conveyances into and out of the basins and show discharge into a skimmer basin which enters the basin before the baffle farthest from the skimmer. The City is reviewing plans and sending official notice of the review decision within the statutory timeframes and the City is sending letters of disapproval with the ability to track receipt by the applicant. The City has a more restrictive criterion than the State as to when an Erosion and Sediment Control Plan is required. In addition, the City requires a preconstruction meeting, an E&SC bond, and measures to be installed prior to receiving a grading permit. The City has created and made available standard specifications and details for E&SC measures. The City is in the process of

updating their local ordinance to reflect the most recent Model Ordinance and has provided a draft copy of those changes to DEMLR for review. During the review, the City demonstrated a thorough understanding of the enforcement processes and tools which are delegated to them. The City 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. City staff noted all areas seen by state staff on site and demonstrated their ability to conduct adequate inspections. 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 City demonstrated their ability to effectively implement the local program's delegated authority. DEMLR staff recommends to "Continue Delegation" of the City of Monroe locally delegated program.

This report has been prepared based on the formal review of the City of Monroe Erosion and Sedimentation Control Program conducted on April 27, 2023, and will be presented to the Sedimentation Control Commission during its 2023 Q2 meeting on May 23, 2023.