

## **Local Program Report to the SCC Rowan County, February 21, 2023**

On December 8, 2022, personnel from NCDEQ, DEMLR conducted a formal review of the Rowan County Erosion and Sedimentation Control Program. The Rowan County Program was last reviewed on 1/26/2018. The County requires an erosion and sediment control plan for all projects disturbing greater than 1 acre. Jurisdiction of the program covers all areas of the county excluding the city limits of the City of Kannapolis. During the period from November 1, 2021, through October 31, 2022, the County conducted 81 plan reviews or re-reviews, issued 44 plan approvals and 36 plan disapprovals. The County also conducted 607 inspections, issued 22 NOVs and 14 SWOs/Building permit or Building inspection holds. The program staff work with the building inspections department to place holds on building inspections and permits and to issue Stop Work Orders as additional tools to bring sites into compliance. When plans are found to be inadequate the County is sending their review comments to the applicant via certified mail. However, this letter does not include the official review decision language and is only a list of comments which need to be addressed. Under this current plan review process, plans are not always reviewed, and an official review decision given within the required timeframes. The County has 1 full time staff administering the program. At the time of our review, the County had 53 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. Country Club Village:**

This project consists of 26.0 acres disturbed for residential development. 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. A letter of landowner consent was missing from the project file. The complete application for this project was received on 9/17/2021 and went through 2 review cycles before being approved on 4/14/2022. Construction of this project began in August of 2022 and the County had conducted 5 inspections prior to our review. No NOVs or CPAs had been issued to this project prior to our review. On the day of our review active grading was underway throughout the site. Lots that had been brought to final grade had been stabilized. Silt fence had been installed around the toe of a stockpile and a rill had been repaired, seeded, and mulched with straw. Both items had been completed in response to the required corrective actions of the previous inspection report. The basins had been installed and were well maintained. However, it appeared that the riser structures needed to be closed off to provide adequate storage volume per the approved designs. Perimeter silt fence appeared to be well maintained and functioning properly. No offsite sediment was noted.

### **2. Bostian Road Storage Facility:**

This project consists of 3.8 acres disturbed for commercial development. The project file contained the approved plan, letter of approval, design calculations, previous inspection reports and the FRO form. Documentation of land ownership was missing from the project file. The complete application was received on 3/3/2022 and went through 2 review cycles before

being approved on 5/2/2022. Construction of this project began in June of 2022 and the County had conducted 9 inspections prior to our review. The County issued an NOV to this project on 11/22/2022. Staff indicated that this was during a transitional period between contractors. A follow up inspection was conducted on 12/5/2022. Staff noted that the corrective actions on the NOV had been completed and the site was in compliance. It was also noted that recent rain events had caused some new maintenance and repair needs. On the day of our review, gravel had been brought in and graded across the majority of the site. The basin had been partially filled in as grading continued. Baffles had not been reinstalled and the basin did not appear to be functioning properly. The diversion ditches to the basin also needed to be stabilized. Wattles had been installed at one of the silt fence outlets below the skimmer basin, however, the wattles did not extend fully across the outlet section. Minor sediment loss was noted in this area. Following our review, County staff met with the developer on site to discuss corrective actions needed. The County conducted an inspection on 1/3/2023 and noted that the diversion ditches and slopes had been stabilized. The County noted that due to recent weather the basin repairs had not been completed. The County conducted a follow up inspection on 1/27/2023 and found that all corrective actions previously noted had been completed.

### **3. Cloninger Body Shop:**

This project consists of 4.7 acres disturbed for commercial development. The project file contained the approved plan, letter of approval, design calculations, previous inspection reports, the FRO form and a letter of consent from the landowner. Documentation of land ownership was missing from the project file. The complete application was received on 8/24/2021 and was approved on 9/9/2021. Construction of this project began in March of 2022 and the County had conducted 9 inspections prior to our review. No NOVs or CPAs had been issued to this site prior to our review. On the day of our review the parking lot was being prepared for paving and construction of the building was nearing completion. Completed areas throughout the site were being stabilized and slopes had been matted. The permanent stormwater basin had been installed and the riprap drainage swale had been completed. The County had previously noted a rill which had formed along the perimeter slope and needed to be repaired. This repair appeared to have been completed and the area had been stabilized. No offsite sediment was noted.

### **Positive Findings:**

During the review DEMLR staff noted a few positive aspects about the Rowan County Erosion and Sedimentation Control Program including:

- In addition to NOVs and CPAs, the program can use SWOs and place a hold on building permits and various building inspections to halt construction progress and bring sites into compliance.
- The County enforces a 30-foot undisturbed buffer on all water features within the county and a 100-foot undisturbed buffer on all water features within the Town of China Grove through the Local Ordinances.
- The County requires a pre-construction meeting for all projects.
- The County provides reference to the NCG01 permit and the process to obtain coverage within their letters of approval.

**Issues Noted and Required Actions:**

During the review DEMLR staff found that the Rowan County Erosion and Sedimentation Control Program had a few deficiencies including:

- Documentation of property ownership was not obtained and retained in each project file. A letter of consent from the landowner was not obtained in all cases when the financially responsible party and landowner differed.
- The County is sending review comments back to the applicant when plans are reviewed and found to be inadequate. The County has recently begun to send these comments with the ability to track receipt, however, the comment letters does not contain an official review decision. Therefore, the statutory timeframes for a plan review decision and notification are not always being met.
- The current letter of approval issued by the program does not include a statement conditioning the approval upon the applicant's compliance with federal and state water quality laws, regulations, and rules.
- Certain sections within the local ordinance are devoid or no longer adhere to the most recent statutes and administrative code.

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

- Documentation of property ownership should be obtained prior to approval of an erosion and sedimentation control plan. 15A NCAC 04B.0118(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 to conduct the land-disturbing activity. G.S. 113A-54.1(a). A letter of consent from the landowner should be obtained when the financially responsible party and landowner differ, and a copy of the property deed should be retained in each project file. Staff indicated that these documents had recently been added to their plan review checklist and are now required as part of the complete package.
- The County has recently adjusted their plan review process to include sending their review comments back to the applicant with the ability to track receipt. This current process is procedurally correct. However, the comment letters that are being sent do not include an official plan review decision. Once a complete application is received, the local program shall notify the person submitting the plan that it has been approved, approved with modifications, or disapproved within 30 days for new plans and 15 days for revised plans. The official disapproval language should be added to the comment letters sent out when plans are found to be inadequate to ensure that the review timeframe and plan review decision notice requirements of G.S. 113A-61(b) are being met.
- The County should update its letter of approval to include language that shall condition approval of the erosion and sediment control plan upon the applicant's compliance with federal and state water quality laws, regulations, and rules pursuant to G.S. 113A-61(b1).

- The Sedimentation Control Commission (SCC) approved the 2021 Model Ordinance in November of 2021. The local ordinance should be updated pursuant to this model. If substantive changes from the Model Ordinance are proposed, the updated ordinance must be reviewed and approved by the SCC. The current Model Ordinance is available on the [DEMLR Local Programs website](#).

**Recommendations for improvement:**

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

- The County is providing reference to the NCG01 permit and the requirement for obtaining coverage within their approval letters. It is recommended to verify that coverage is obtained when applicable, and to monitor and provide guidance for NPDES violations including improper concrete washout onsite during inspections. Failure to obtain coverage and possible violations should be noted and referred to the Mooresville Regional Office.
- The approved plans reviewed appeared to be adequate. As an additional training opportunity, it is recommended that County staff coordinate with State Regional Office staff to schedule an additional meeting to share plan review tips and experiences.
- Once the local ordinance has been updated, all template letters, inspection report and guidance documents should be updated to reflect the most recent statutes, administrative code, and the updated local ordinance.

**Conclusion:**

During the review DEMLR staff found that the Rowan County locally delegated erosion and sedimentation control program had a few deficiencies. The County needed to adjust the language within their approval and review comment letters to ensure that all statutory requirements and conditions are being met. A copy of the property deed and letter of landowner consent was not retained in the files of the projects we reviewed. Staff indicated that these items had recently been added to the plan review checklist and are now required prior to approval of the plans. Staff demonstrated an understanding and willingness to use the enforcement tools available to them to bring sites into compliance. Evidence of previously completed corrective actions could be seen while onsite. County staff noted all areas seen by State staff during site inspections. The approved plans reviewed appeared to be adequate. Following the review, the County has revised their plan review decision letters to include all of the appropriate language. The County has also begun the process of updating the local ordinance in accordance with the most recent model ordinance. The County has demonstrated their knowledge and ability to effectively implement the local program's delegated authority. DEMLR staff recommends to Continue Delegation of the Rowan County locally delegated program.

This report has been prepared based on the formal review of the Rowan County Erosion and Sedimentation Control Program conducted on December 8, 2022 and will be presented to the Sedimentation Control Commission during its 2023 Q1 meeting on February 21, 2023.