

Local Program Report to the SCC Orange County, May 23, 2024

On March 19, 2024, personnel from NCDEQ, DEMLR conducted a formal review of the Orange County Erosion and Sedimentation Control Program. The County was last reviewed and presented to the Sedimentation Control Commission (SCC) in November 2019. The County requires an erosion and sediment control plan for all projects disturbing greater than 20,000 sq. ft. and projects disturbing greater than 10,000 sq. ft. if the project is located within the Cane Creek, University Lake, or Upper Eno Watersheds. Jurisdiction of the program covers all areas of the County. The County has approximately 4.25 full time equivalents (FTE) contributing to the program. During the previous year from March 2023 through February 2024 the County conducted 85 plan reviews or re-reviews, issued 61 approvals and 19 disapprovals. During this same period the County conducted 1290 inspections, issued 4 NOVs, 3 Stop Work Orders and no CPAs. The County has the ability to place a hold on building and other developmental permits and inspections in order to bring sites into compliance and has used this additional tool 6 times in the previous year. At the time of DEMLR's review, the County had 167 open projects. DEMLR staff reviewed three project files and conducted site inspection on these projects. The following is a summary of the projects reviewed.

1. Rutowski Residence:

This project consists of 7.0 acres disturbed for residential development and located within the Haw Subbasin of the Cape Fear River Basin. The project file contained the approved plan, letter of approval, design calculations, a copy of the property deed, the FRO form and previous inspection reports. The FRO form on file for this project had not been signed and notarized. The County received the complete application on 10/3/2022 and issued the approval letter on 10/26/2022. The approved plans for this project appeared to be adequate from a design standpoint; however, specific maintenance notes were not included for all proposed measures. Construction on this project began in February 2023 and the County had conducted 7 inspections prior to the review. No NOVs or CPAs have been issued to this project. On the day of the review, vertical construction of the home and barn were underway. The perimeter silt fence and check dams along the entrance drive appeared to be properly installed and maintained. The outlet pipe of the skimmer device needed to be extended through the geotextile liner of the spillway to prevent the discharged water from eroding soil below the liner. The baffles needed to be extended and tied into the basin slopes. A stockpile had been placed directly adjacent to the basin. This had been noted in the previous inspection report from the County and silt fence had been installed along the toe of the stockpile above the basin. This stockpile still needed to be stabilized as it did not appear to have been recently worked. Some minor silt fence maintenance needs and the need to stabilize inactive areas within the appropriate timeframes were noted throughout. Overall, this site was out of compliance, needing to stabilize inactive areas previously noted by the County and some minor maintenance needs. No offsite sediment was noted. The County conducted a follow up inspection on 4/5/2024. Staff noted that corrective actions had not been completed. The County placed a hold on the building permit and set a new compliance deadline of 4/10/2024 for corrective actions to be completed. The building permit hold prevents

any additional building inspections from being scheduled, it also carries a \$200 reinspection fee that must be paid prior to building inspections resuming.

2. Stanat's Place:

This project consists of 7.46 acres disturbed for residential development and is located within the Haw Subbasin of the Cape Fear River Basin. The project file contained the approved plan, letter of approval, design calculations, a copy of the property deed, the FRO Form, a letter of landowner consent and previous inspection reports. The County received the complete application on 4/25/2023 and issued the letter of approval on 5/17/2023. The approved plan for this project showed silt fence to be installed just outside of the limits of disturbance; however, the plan notes stated that all measures were to be installed inside the LOD. One of the slope drains was shown to be placed in the same bay of the skimmer basin bypassing the baffles. A construction detail for the proposed silt bag curb inlet protection and specific maintenance notes for a few other proposed measures were not included. County staff should ensure that all measures are shown within the limits of disturbances and that a construction detail and maintenance notes are included for each proposed measure. Construction on this project began in August 2023 and the County had conducted 5 inspections prior to the review. No NOV's or CPAs had been issued to this project. Active grading was underway on the day of the review. The skimmer basin was installed and appeared to be functioning. One of the slope drains had been installed in the same cell as the skimmer devices as shown on the plans. Staff discussed the need to place the slope drain in the first basin bay to ensure that baffles are not bypassed. County staff noted that one section of the diversion ditch had been disturbed during recent grading and would need to be reinstalled per the approved plan as soon as grading of the area is complete and prior to the next rain event. Diversion ditches throughout the remainder of the site had been stabilized and check dams had been installed. The construction entrance appeared to be functioning and maintained. No offsite sediment was noted. Overall, this project was in compliance with a few minor maintenance needs noted.

3. Buckhorn Business Center Ph. 2:

This project consists of 23.95 acres disturbed for industrial development and is located within the Haw Subbasin of the Cape Fear River Basin. The project file contained the approved plan, letter of approval, design calculations, a copy of the property deed, the FRO form and previous inspection reports. The registered agent information for the FRP was missing from the FRO form. The County received the complete application on 8/1/2022 and went through 5 review cycles before being approved on 12/6/2022. When the plan was found to be inadequate review comments were sent back to the applicant, but no official disapproval was issued. Following the approval in December, the plan for this project has had 2 revisions submitted to and approved by the County. Both revisions were reviewed and notice of the official review decision were sent to the applicant within the appropriate timeframe. The first being adding acreage to the limits of disturbance and the second to change the financially responsible party. The approved plan appeared adequate from a design standpoint; however, the silt fence detail was outdated and did not have the appropriate trenching dimensions. Specific maintenance notes were also missing for some proposed measures. Construction on this project began in February of 2023 and the County had conducted 37 inspections prior to the review. No NOV's or CPAs had been issued

to this project. On the day of the review vertical construction of the building and the stream crossing installation were underway. The skimmer basin appeared to be functioning properly and maintained. The stream diversion and work area dewatering pump with a silt bag was installed. Pumping was not active during the inspection. Staff stated that they had recommended additional silt fence and a couple of silt fence outlets be installed above the stream crossing work area to provide additional protection. These additional measures had been installed and appeared to be maintained. A few drop inlet protection measures needed to be maintained but appeared to be functioning. Completed slopes and diversion ditches had been matted throughout the site. No offsite sediment was noted. Overall, this project was in compliance.

Positives Findings:

During the review DEMLR Staff noted positive aspects about the Orange County Erosion and Sedimentation Control Program including:

- The County has a more restrictive criterion than the State as to when an ESC plan is required. Plans are required for all projects disturbing 20,000 sq. ft. and projects disturbing greater than 10,000 sq. ft. if the project is located within the Cane Creek, University Lake, or Upper Eno Watersheds. Also, the County requires that a “Waiver” is obtained for projects in a protected watershed but disturbing less than 10,000 sq. ft. This waiver requires the owner to acknowledge that while an approved ESC plan and permit is not required, the responsibility to retain sediment still applies.
- The County requires a preconstruction meeting for all approved projects.
- The County can place a hold on building permits and various development inspections and issue Stop Work Orders as additional tools to bring sites back into compliance.
- The County requires that perimeter and initial phase ESC measures be installed and approved by County staff before mass grading of a project can begin.

Deficiencies Noted and Corrective Actions Needed:

During the review DEMLR staff found that the Orange County Erosion and Sedimentation Control Program had a few deficiencies and will need to implement the following changes:

- The FRO form in one of the project files had not been signed and notarized. The registered agent information for the company listed as the FRP was missing on the FRO form for another project.
 - Erosion and sedimentation control plans shall be disapproved unless the application includes an authorized statement of financial responsibility and documentation of property ownership. 15A NCAC 04B.0118. The signed and notarized FRO form should be obtained and retained in the project file prior to approval of the ESC plan. When the FRP is a company or firm, their registered agent information should be included on the FRO form. This applies to both in- and out-of-state companies.
- Maintenance notes for some proposed measures were not included in all approved plans.
 - Specific maintenance notes for each proposed measure should be included within each approved plan.

Recommendations for Improvement:

DEMLR staff have also noted a few recommendations that would help to improve the program:

- Staff appear to be monitoring for potential NPDES violations and provide guidance to contactors onsite. Staff should continue to monitor for potential violations and provide guidance to contractors while conducting inspections. Refer potential violations to the Raleigh Regional Office when necessary.

Conclusion:

During the review, DEMLR staff noted the Orange County locally delegated erosion and sedimentation control program had a few deficiencies. Staff should ensure that the registered agent information is provided on the FRO form if the FRP is a company or firm. The County also needs to retain the fully signed and notarized FRO form in the project file. Plans should not be approved until this form is completed. Following the local program workshop last year, the County adjusted their plan review process to ensure that notice of the official review decision is being sent to the applicant within the appropriate timeframes. The Buckhorn Business Center Ph. 2 project was reviewed prior to these changes being implemented. The other two projects were reviewed and notice of the review decision was sent to the applicant within the appropriate timeframe. Staff discussed the current plan review process and provided a copy of the current review decision letter templates. These templates included all of the required language. Staff also stated that letters of disapproval are being sent with the ability to track receipt by the applicant. Overall, staff appeared to be conducting adequate plan reviews but should ensure that proposed measures are shown within the limits of disturbance and that all construction details are up to date. Staff noted all areas seen by State staff while conducting inspections. The County requires an erosion control plan for projects disturbing a lower threshold than the state and also requires a signed waiver for projects that do not require a plan. This waiver helps to ensure that the responsible parties are aware of their responsibility to retain sediment on their site regardless of if a plan is required or not. Staff have demonstrated their understanding and ability to implement enforcement tools to bring sites back into compliance, including placing a hold on the building permits and development related inspections. The County has also updated the Local Ordinance in accordance with the most recent Model Ordinance. Staff stated they are starting to host a quarterly luncheon with developers, engineers and contractors as an additional outreach and educational opportunity. The County has worked to update the local ordinance and had taken proactive actions to address some of the common deficiencies discussed during the previous Local Program Workshop and in other program audits. Overall, the County demonstrated their ability to effectively implement the Local Program's delegated authority.

DEMLR staff recommend to "Continue Delegation" of the Orange County Erosion and Sedimentation Control Program. This report has been prepared based on the formal review of the Orange County Sedimentation Control Program conducted on March 19, 2024, and will be presented to the Sedimentation Control Commission during its 2024 Q2 meeting on May 23, 2024.