**Minimum Design Criteria (MDC) Team
4/27/2015
Triangle J COG, Durham
Quote of the day “don’t want to throw a wrench in the monkey basket” - Annette**

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| **Attendees** |  |
| ***Team Members*** |  |  | ***Others*** |  |
| Eban Bean Bradley Bennett Jonathan BivensTim ClinkscalesTracy DavisBoyd DevaneHunter FreemanMike GallantJoe Hinton Marc HouleRon HorvathBill HuntLinda Lewis | **[ ]** **[x]** [ ] [x] [ ] [x] [x] [x] [x] [x] [x] [ ] [x]  | Brian LipscombAnnette Lucas Mike MacIntyreTodd Miller Cameron MooreTom MurrayRobert PattersonDerek PielechPeter RaabeLarry RaglandJD SolomonVirginia SpillmanToby VinsonRob Weintraub | [x] [x] [ ] [x] *[ ]* [ ] [x] [x] [ ] [ ] [x] [x] [ ] [x]  | Georgette Scott, NC DEMLRBen Brown – City of RaleighCraig Bromby, NCDENRDrew Hargrove, NCDNER |

 **Updates since last meeting**
Annette gave an overview of where the group is at this point. She also noted that the Division hopes to be able to have time with the group to get input on the rule re-adoption process and the proposed rules. Also hope to keep this team together for some regular meetings in the future for updates, etc.

The group was encouraged to track any pending Bill’s that could impact stormwater requirements since these could possibly impact previous MDC agreements that the group has come to and may impact time frames for development of the Fast Track rules.

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**Fast-Track Permitting Process**

Focus of the discussion for this meeting were on Boxes 5, 7, 8, 9 and 10 of the Fast-Track Permitting Process Flow Chart. The remaining areas, which are compliance related, will be discussed at the May MDC meeting when we should have representative from NC BELS to participate again.

**Box #5**

**#1 – Engineering design documents**

Annette reviewed language on engineering design documents that was provided prior to the meeting. The language is taken from the existing fast track sewer program requirements. The language requires that engineering design plans be prepared prior to submittal of the application and made available upon request by the Division.

Todd – When do these documents become public information? Annette and other DEMLR staff noted that information submitted is public information.

Mike G – questioned whether plans submitted are signed and sealed for construction

Robert – if submitted, you should have for construction plans available

Mike G – a lot of times companies won’t send out for construction plans unless they have to

Ron W. – until you get permits things aren’t released for construction

Gerogette – may have other permits, so all need to be received before finalization

Mike G. – sewer has an audit program so you need to have plans, but they could be preliminary plans

Todd – could there be a requirement that before construction (after ATC issued) the applicant would have to submit plans.

Mike G- okay with this, but doesn’t think it will happen in the process that is ongoing now.

Mike G – noted that site plans should go through local review and approval for different things, so some information should be available. Also asked if the documents are public record if they aren’t submitted?

Annette – if we get a request for information, could we get the owner to supply the information?

Bradley – the ATC could the owner to provide information when requested.

Craig – public records law is broad, if delivered to an agency then the information has to be provided.

Rob W. – whole point of the process is taking things out of the hands of the state and putting it in the engineers’ hands. State should not be concerned about the public responsibility, if the owner builds something then it is their liability. Agreed we weren’t submitting plans, people will have some site information, but not plans.

Annette – sewer program says that plans are completed and available upon request.

Georgette – most projects today get requests for information on plans

Tim – sewer has no public record, so why is stormwater any different?

Todd – current process allows people to have access.

JD – the manual should be the design, so that should be all that people need. Why are plans so important?

Georgette – where do we send calls/requests when we get them?

Mike G. – gets calls all the time now.

Tim – not their business

JD – under the building code, you don’t have to show what is in the building

Annette – actual foot prints of development are not on the plans they have to send in.

Mike G – again noted plans have moved forward through the local government (zoning, planning)

JD – feels the language should say that info that doesn’t meet the MDC be made available.

BB – not consistent with the fast track process or with sewer program

Todd – people need to see information to show water quality protection

Tim – law is not set up for this process…information is only available if the client wants to provide it

Mike G – not sure the client wants to provide it

Tim – things submitted would be available

Rob W – plans meet the MDC, seems people have more they could use at the end of the process rather than the beginning…bigger risk for the owner.

Marc – MDC are a set of standards that people may understand better than what they would get from the plans

Georgette – people want to know how the project might impact them, so they need enough information up front to be able to evaluate the project

Virginia – plans may help other engineers…may hurt your own client to not have plans available.

Mike G – leave the language as it is

Tim – what triggers a request?

Georgette – may be an audit or inspection

Tim – don’t want it to be any time that an individual asks for it

Ben – worried that we are shutting off an access point for the public by moving away from the sewer process. Allows ability to solve problems up front rather than major problems at the end. Craig, Linda, Todd, Robert, Virginia agreed.

Tim – no problem with the language, it is the implementation that is the issue

Craig – public record request is what is in the file. Complaint may be different, but would lead to an inspection anyway.

Annette – based on discussion keep language as it was.

Mike G – change 1-3 of 1(b) to make sure the language is specific to stormwater instead of sewer.

**#2 – Approval of As-Built plans required prior to Sediment plan close out**

Rob W. – how can this be done, especially if sediment and stormwater plans aren’t phased the same?

Annette – design professional would have to phase together

Robert – Moorisville never closes out a sediment plan until stormwater is in place

Marc – get with ESC when stable enough to do conversion…keep permit open while converting (esc to stormwater)

Rob W – this will add time to existing program (sediment).

Robert – if changes need on stormwater, may need grading permit

Mike G – hard to put together – two different reviewers, etc. Let the two stand alone.

Annette – should have one or the other in place at all times, Fast track is a higher standard, state can’t tie to CO so this is best alternative. Could use process with current inspectors to train and develop better close out process.

Tim – may be phases that have to be closed out differently

Annette – can work through the phasing issues – Georgette – may need a schedule for phasing

Rob W – questioned the sediment plans expiring

Annette noted this is tied to whether the project has started or not.

After further discussion, language was approved as proposed

Ron W – on as-built, does it indicate where the information has to come from?

Mike G –PE Board indicated the professional needed – land surveyor?

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**Box # 6 – Permittee Submits As-Built Drawings**

Annette reviewed this information that was previously approved by the group.

Some discussion of 3.f. and what “reasonable compliance” meant. Agreed to leave as is since this is used today, just understand it may need clarification in the future.

**3.h. – Construction Sequence to protect SCM’s with future development**

This item was tabled in the previous discussion with the intent to discuss in April.

Linda – item is needed, especially considering the phasing issues just didcussed.

Rob W – this should be a part of future sediment plans

Georgette – want to avoid having to rectify issues in the future.

Hunter – once certified the issues should move to operation and maintenance and tied to O&M rather than as-builts. Ex – one SCM needing repair should not hold up six others that are final, people responsible for the last one should be responsible.

Various speakers – lots of discussion about different scenarios.

Hunter – should be one contact –> permit holder

Virginia – subdivision may take 20 yrs to complete

Ben – wouldn’t the state require updated sediment plans? Raleigh would require updated plans to use completed BMP as a sediment device

Hunter – if a PE certifies then they should not be responsible for anything after certification, it becomes the permitee’s responsibility.

Georgette – SCMs only certified when no longer used as sediment device. Need language in Box #2 indicating need for construction sequence to show how project will be phased then item 3.h. can be removed

Tim **– item #1**, where it discusses SHWT, language should be added that indicates the practices this is required for…only if SHWT required in the code.

Annette – will work on language for the next meeting

Robert – **Item #7** shouldn’t O&M documents be recorded so they show up with property transfers? Should be recorded like an easement

Todd – is there a time frame for all of the specified information to be submitted?

Boyd – some local governments don’t close until end of the last lot.

Tim – not waiting until the last lot is built, that isn’t the intent. Need some partial certification

Linda – that is where the construction sequence is needed.

Rob W – sometimes plats show limited BUA etc.

Linda – rules say recorded restrictions and protective covenants, needs to be information in the hands of the property owner.

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**Box #7 As-Built Drawing Review for Compliance**

Annette – proposal to allow 25 business days for the review

Georgette – will have to go out to the site and inspect, so depending on other projects in line the process could be shorter but don’t know when we will get the submittal to schedule.

Rob W – concerned the reviewer will get busy and request more information at day 24. Need two dates, one to establish a complete plan submittal. Proposed completeness review within 10 business days.

Georgette – may depend on how much is submitted, one BMP vs 10 BMPs, etc.

Tim – point was to make the process quicker not the same…

Bradley & Georgette – quickened up front, but need time at the end to assure compliance.

Tim – just inspecting the BMPs, not everything on the site, only certify the BMPs

Georgette – completeness response within 10 business days then set up site visit.

Tim – what is the timeframe, need clarity on the maximum time.

Robert – maybe set time after site visit

Todd – timeframe could be based on notification of the site visit.

Rob W – should be able to approve without the engineer. Need a drop dead date for approval of final plan.

Craig – could allow for waivers in the timeframe process

Robert – should include information on the as-built submittal application to indicate who to contact.

Hunter – in completeness response, go ahead and set inspection date. This is the date unless the applicant or engineer wants to change this time and reschedule, then DENR is no longer subject to the timeframe.

Group discussed the process of review times including the following steps:

* Step 1 - Completeness Review – 10 business days
* Step 2 - Technical Review and Site Visit
* Step 3 – Approve As-built submittal within 25 business days of complete application.

Georgette – felt it should be 25 days from site visit

Linda – more time for completeness review would allow setup, etc. to go quicker.

Todd – if rule says 25 days then why do we need the in between timeframes

Todd – what happens if the package isn’t complete – do they start over? What happens if the site visit finds issues?

Mike G – questions about workshops/training on MDC and Fast Track before things start

Tim – wants any training to be optional, not required

Linda – 25 days would be the shortest time, only longer if add info is needed.

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**Box #9 Final Permit Issuance**

Comment – first sentence under table isn’t a complete sentence, modify to note approved devices are listed in the table, etc.

Linda, Georgette – usually have a lot more information on our template permits

Local Governments – noted some have info on their plans rather than in the permit

Robert – Moorisville has a table on plans that is a design submittal that can then be modified at the as-built stage - > note in #1 “as-built plans” instead of just “plans”

Discussion suggested that a summary table be developed for submittal on the plan sheets with a standard format that people can download and use. All info o one sheet

Item #2 – (d) is mainly for low density (can’t pipe swales)

Tim – in 2. a – if reducing BUA you should not have to get approval to revise plans.

Hunter – would not be the case if the SCM size has changed because of this. Could handle by adding “increase” in BUA in a. or just remove a. and let b. handle since it talks about increases in BUA

Robert – in d. – need to exclude driveway culverts. Should this just be residential?

Ron – commercial can be pretty large. Would not discuss culverts there.

Item #3 – transfer language – use the new language – show group the language at next meeting.

Item #4 – SCMS in recorded easements

Hunter plats – don’t need in the permit, is required as part of submittal of as-built, should instead be in the ATC approval.

Item #5 – Deed Restrictions

Rob W. – questions about whether people really could change the restrictions…group agreed that the language was okay.

Item #6 – Can’t use SCM as sediment device in the future

Robert – should be able to use and then recertify (may be a new engineer)

Mike G – doesn’t make sense to build another pond.

Annette – concern that the SCM is treating final BUA areas and allowing to be used for sediment control would impact the SCM function. What if it is a device other than a pond like infiltration?

Hunter – they could hold off converting it and leave as a sediment device…is that what we want?

Todd – they are still on the hook and can’t transfer the permit, etc.

Hunter – have to design the sediment device for all water coming to it, so the device may end up bigger

Discussion about changing the language to indicate that if used in the future for sediment control the device must be restored and design re-certified after completion.

Todd – are WQ standards being protected? Ex. If an infiltration device is used for sediment and this goes on for years then waters won’t be protected. This is a bad practice, should not go back and forth like this. Suggested that this not be allowed under fast track and number of the group felt that was appropriate.

Hunter – should be okay if restored and recertified

Tim – these would not be for new BUA, would only be area that was phased through the process.

Georgette – no new permit, just need to go back and recertify, so no new application. May have to step up sediment control or O&M.

Mike G – sediment program already requires keeping sediment on site. Add language about appropriate O&M to protect.

Hunter – how is this different than any ongoing construction?

Mike G – sediment control my require an outlet where there wasn’t one before

Hunter – shouldn’t create a penalty for people converting to a long term SCM. They would just keep the grading permit open and stay with the sediment device longer.

Todd – they can’t perpetually violate sediment, construction and stormwater conditions

Tim – better than just letting the system stay as a sediment device and not convert

Georgette – don’t disallow it now, so just indicate need for added O&M then restore and recertify

Bradley – do we need the language? Staff will discuss and get back with the group.

Item #7 – Renewal – language okay

Item #8 – Enforcement – have newer language to incorporate

Item \*9 – Complying with Other Requirements – language okay

Item #10 – Requirements for immediate actions to correct problems – comments to take out “nuisance conditions”

Item #11 – Access Requirements

May already be handled in #4, but 4 was moved to ATC permit.

Georgette – take last sentence in #4, combine with #11 to assure that appropriate easements, etc are in place to allow for DENR access.

Item # 12 - okay

Item #13 – Permit reopener

Rob W – concerns that once the project meets MDC it should be done, don’t want any further changes

Bradley – noted that statute/rules allow the Commission to reopen a permit for cause

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**Box #10 On-Going Maintenance**

Questions about timeframe for keeping records – need to check on these requirements

Need to review requirements for annual report in the rules

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**Next Meeting – May 18, 2015 – 9:30 to 3:00, Fast-Track Process continued: Compliance**

Hope to complete fast track review in May and use June and July for rules review