



NORTH CAROLINA
Environmental Quality

May 10, 2022

ROY COOPER

Governor

ELIZABETH S. BISER

Secretary

BRIAN WRENN

Director

Mr. Jimmy Taylor
Erosion Control Specialist
PO box 10
Wilson, NC 27894

Subject: Erosion and Sedimentation Control Program

Dear Mr. Taylor,

On June 16, 2021, personnel from the NCDEQ Land Quality Section, conducted a review of the City of Wilson's Erosion and Sedimentation Control Program. A report based on this review was presented to the Sedimentation Control Commission (SCC) on August 17, 2021, who voted to place your program on Probation for 8 months with a follow up report to be presented during the 2022 2nd quarterly meeting on May 19, 2022. During our initial review the following issues and required actions that the program should implement to address said issues were noted:

Issues Noted:

- The City is providing a pre-review meeting for some projects prior to receiving the complete application and conducting a formal review. This a good practice to streamline the formal review process; however, plans are not always reviewed, and notification of the review decision is not being sent out within statutory deadlines.
- Approved plans were not all drawn at an adequate scale. Proposed silt fence, limits of disturbance (LOD) and grade lines were sometimes difficult to distinguish from each other and other features on the plan. Multiple phases of the plan were shown on one plan sheet and lacked sequencing of how to conduct the construction during and in-between each phase.
- While regular inspections are good and areas of non-compliance are being documented, corrective actions taken by the contractor are not being documented making areas of continued non-compliance difficult to distinguish and does not provide documentation of when contractors are being responsive and bringing sites back into compliance.
- Certain sections within your ordinance are devoid or no longer adhere to the most recent state statutes or state administrative code pertaining to that which constitute your delegation authority for erosion and sedimentation control.

Required Actions:

- Once a complete application is received, plans are to be reviewed, and the applicant 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).



- When plans are drawn at a scale which makes measures, contours, LOD and/or perimeter measures difficult to see, plans should not be approved, and a larger scale plan set should be required. Plans should be drawn to clearly distinguish between phases and should be labeled as such. The construction sequence and notes should address the transition between phases and erosion control measures during said transitions. If the proposed plan is found to be inadequate or drawn at an illegible scale, the plan should be disapproved, and a disapproval letter should be sent out to notify the applicant within the appropriate time-period.
- Multiple reports showing the same areas needing maintenance or repair suggests that no corrective actions have been taken and out of compliance areas are continuing violations of the SPCA. Inspectors should note when corrective actions have been taken and whether areas are a continuing violation or due to a subsequent rain event after corrective actions were taken. When areas of non-compliance persist, the use of enforcement should be considered. NOV's should be issued in cases where sites are continuously found to be out of compliance, are non-responsive to previous inspection reports and communications from inspectors, or when offsite sedimentation due to violations is found. G.S. 113A-61.1 and MOA Part III(E).
- Your local ordinance should be updated to meet the changing requirements of the program. It appears that your ordinance has not been updated in at least ten years. The Commission recently approved an updated Model Ordinance, and it is available on the NC DEQ Erosion and Sedimentation Control website.

Follow up:

During the probationary period the City provided periodic updates and has provided documentation to DEMLR staff. DEMLR Regional and Central staff conducted two days of oversight inspections and conducted a follow up review on April 13, 2022. During the probationary period from August 2021 through April 2022, the City reported that they have conducted 25 reviews or re-reviews, issued 13 approvals and 6 disapprovals. The City also conducted 177 inspections and issued 17 NOV's and 1 SWO. During the probationary period, City staff faced Covid-19 related complications resulting in little to no program activity during the months of September and October. The City has reported that they are in the process of restructuring the program's staffing to include an engineer and two inspectors that would contribute to the program FTE count to replace the previous 1 staff responsible for plan reviews and inspections. Until this staffing change has been completed, the City has contracted with an engineering consultant to conduct plan reviews and currently splits inspection duties between 2 inspectors. The City indicated that proposed plans are submitted to the City and then forwarded to the consultant, at which point the consultant is to conduct a review and provide comments to the City within 10 days. All official letters are being sent by the City to the applicant. The City is currently reporting 1 FTE and 26 open projects. The staffing changes would sustain the 1 FTE and provide the ability to increase time dedicated to the ESC program as workload increased.

The following is a summary of a few projects that were reviewed during the probationary period:



1. Evolve Phase II:

This project consists of 18 acres disturbed for residential development. The City issued an NOV to this site on 10/25/2021. The City found this site to be in compliance on 11/3/2021 and lifted the NOV. The City issued a second NOV to this site on 1/5/2022 noting that sediment was leaving the site in multiple locations and materials were being stored beyond the limits of disturbance. DEMLR and City staff conducted an inspection on this site on 1/28/2022 as part of our second oversight inspection day. At the time of our inspection this site remained out of compliance. Sediment was still leaving the site and flowing onto the Phase I parking lot where residents were already living. The drainage swales between buildings had been driven through and were not functioning. Numerous bare areas throughout the site needed to be stabilized as well. Following our inspection, the City issued a Notice of Continuing and Additional Violations (NOCAV). The City conducted a follow up inspection on 2/16/2022 and found this site to be in compliance. We conducted an inspection of this site during our follow up review on 4/13/2022 and found that sediment was again leaving the site onto the Phase I parking lot. Diversion ditches between two buildings had been repaired and drop inlet protection measures had been removed in preparation for sodding. The other two swales had not been repaired and inlet protection measures were damaged. Diversion ditches had been driven over and no longer appeared to be functioning. The slope running behind the buildings, diversion ditches and inactive areas need to be stabilized per the approved plan. Overall, this site was out of compliance with minor sediment losses noted.

2. Cranberry Ridge Phase II – Section 3:

This project consists of 6.5 acres disturbed for residential development. This project was reviewed during our initial review on 6/16/2021. DEMLR and City staff conducted inspections on this site during both days of oversight inspections and during our follow up review on 4/13/2022. On the day of our follow up review this site was in compliance. The City indicated that this site was slowly progressing, and little activity had occurred since our last oversight inspection on 1/28/2022. The site remained well stabilized and perimeter silt fence appeared to be functioning. The construction entrance and skimmer basin appeared to be maintained and functioning properly. Overall, this site was in compliance.

3. Bojangles:

This project consists of 3 acres disturbed for commercial development. This project was initially reviewed during our follow up review on 4/13/2022. On the day of our review, this site was nearing completion. The areas surrounding the sidewalk were being prepped for sod and the parking lot was being paved. Silt fence was still installed around the area where the stockpile had been located and appeared well maintained. Self-inspection records after February were not available onsite. Overall, this site was out of compliance for failing to self-inspect. Self-inspections under the SPCA are to be conducted during or after each phase of the plan as described in 15A NCAC 04B .0131 and G.S. 113A-54.1(e). Additional weekly and rain-event self-inspections are required under the NPDES Construction General Permit No. NCG01, however locally delegated erosion and sediment control programs are not delegated the authority to enforce the NCG01 requirements. No signs of sediment loss were noted.

Conclusion:

During our initial review it was noted that some approved plans were drawn at an inadequate scale making measures difficult to distinguish from one another and lacking descriptive



construction sequencing and phasing. It was also noted that the while inspections were being conducted frequently, sites would remain out of compliance with no corrective actions taken by the developers and little to no actions taken by the City to bring sites into compliance. During the probationary period, the City was required to submit inspection reports, proposed ESC plans, plan review documents and enforcement documents. DEMLR noted a shift in willingness and effort towards using enforcement tools available to bring sites into compliance. The City has taken steps toward addressing the deficiencies previously noted but have been hindered due to the ongoing global pandemic resulting in prolonged staff absences. The City has begun the process of restructuring the staff which contribute to the ESC program. The City will propose the reclassification of the ESC administrator position to an engineer in the upcoming budget. Following the approval of this reclassification, the program will consist of 1 engineer to oversee administration and plan reviews and 2 inspectors to conduct site inspections. The City is also working to update their local ordinance pursuant to the 2021 Model Ordinance to reflect all recent changes in the general statutes and administrative code. The City is anticipating having approval for the engineer position and updates to the Local Ordinance in June and July of 2022. The City has updated its template letters, inspection reports and review policies to ensure that plans are reviewed, and a decision rendered with proper documentation within the appropriate timeframes. Until the City has received approval and filled the new engineer position, plan reviews will be contracted out to an engineering consultant. The City has developed a specific procedure for this process to ensure that the responsibilities of the program are being met. The City states that they are currently conducting formal inspections every two weeks though inspectors are onsite even more frequently for other inspection duties. The City has demonstrated a willingness and desire to address all deficiencies and implement an effective program but must continue to work to address the question of staffing and demonstrate a consistent fulfillment of their program responsibilities. Based on the initial review conducted on June 16, 2021, and the probationary period which followed, DEMLR staff will recommend that the City of Wilson's Erosion and Sedimentation Control Program be placed on "Probation" again for 3-months with a follow up report to be presented at the 2022 Q3 meeting, while City works to implement the changes to their staffing structure and updates to the local ordinance. The City shall continue to work to address the deficiencies noted during our initial review and demonstrate that the City can effectively implement the authority delegated to them.

This report will be presented to the Sedimentation Control Commission (SCC) on May 19, 2022.

Sincerely,



Graham Parrish, EI
Assistant State Sedimentation Specialist

cc: Julie Coco, PE, CPESC, State Sedimentation Specialist
Bill Denton, PE, Regional Engineer
Lauren Garcia, Environmental Specialist

