

**MINUTES
NORTH CAROLINA SEDIMENTATION CONTROL COMMISSION
FEBRUARY 8, 2018
GROUND FLOOR HEARING ROOM, ARCHDALE BUILDING
RALEIGH, NORTH CAROLINA**

The North Carolina Sedimentation Control Commission met on February 8, 2018 at 10:00 a.m. in the Ground Floor Hearing Room, Raleigh, North Carolina. The following persons were in attendance for all or part of the meeting:

COMMISSION MEMBERS

Dr. Susan White (Chair)
Mr. Jonathan Bivens
Ms. Natalie Berry
Ms. Karla Hammer-Knotts
Ms. Heather Deck
Dr. John Havlin
Ms. LeToya Ogallo
Mr. Mark Taylor
Mr. Hartwell Carson

OTHERS

Mr. Toby Vinson, Chief, Program Operations and Interim Director, DEMLR
Ms. Julie Coco, State Sedimentation Engineer, DEMLR
Mr. Jeevan Neupane, Assistant Sedimentation Engineer, DEMLR
Mr. Shawn Maier, Attorney General's Office, General Counsel to the Commission
Mr. Boyd DeVane, DEMLR
Ms. Karyn Pageau, Durham County Local Program
Mr. Scott E. Ford, City of High Point Local Program
Mr. Kirk Stafford, Town of Cary Local Program
Mr. Daniel Colavito, Town of Holly Springs
Mr. Tom Gerow, Jr., NC Forest Service

PRELIMINARY MATTERS

Dr. White called the meeting to order.

Those in attendance introduced themselves. Dr. White announced any potential conflicts with the new Commission members, and reminded them to recuse themselves from any discussions related to those conflicts.

Dr. White read Executive Order No. 1 regarding avoidance of conflict of interest.

Dr. White asked for a motion to approve the minutes from the November 16, 2017 meeting. Ms. Deck moved to approve the minutes. Ms. Berry seconded the motion, and the minutes were approved unanimously.

ACTION ITEMS

Local Program Review, Recommendation and Vote on Continued Delegation – Mr. Jeevan Neupane – Mr. Neupane summarized DEMLR staff's review of each of the Local Programs listed in the agenda. See the 18-page report entitled "Local Program Report to the SCC" dated February 2018 attached to the original minutes for this meeting. The Commission voted to continue delegation of all local programs as recommended by DEMLR staff. The City of Newton and Village of Whispering Pines are operating under conditional approval, pending further review.

The motions were as follows:

City of Newton: After much discussion, a motion was made by Ms. Deck to continue delegation to the city pending review for another six months. Mr. Carson provided a second to the motion. The DEMLR will report on the status of the program at the third quarter meeting. The motion was approved.

City of Archdale: Motion by Mr. Carson for approval with a second to the motion for approval from Mr. Bivens. All members voted to approve continued delegation.

City of High Point: Motion by Ms. Ogallo for approval with a second to the motion for approval from Dr. Havlin. All members voted to approve continued delegation.

Town of Holly Springs: Motion by Mr. Taylor for approval with a second to the motion for approval from Mr. Bivens. All members voted to approve continued delegation.

Town of Apex: Motion by Ms. Deck for approval with a second to the motion for approval from Mr. Carson. All members voted to approve continued delegation.

Village of Whispering Pines: After a discussion, a motion was made by Mr. Carson to continue delegation to the Village pending further review. The DEMLR will report on the status of the program at the next meeting. A second to the motion was made by Ms. Ogallo. The motion was approved.

County of Iredell: Motion by Ms. Knotts for approval with a second to the motion for approval from Mr. Bivens. The motion was approved.

County of Rowan: Motion by Ms. Knotts for approval with a second to the motion for approval from Mr. Carson. All members voted to approve continued delegation.

Discussion on the Civil Penalty Remission Process & Hearings – Ms. Julie Coco

Ms. Coco led the discussion with an overview of the remission process and how it had been modified since the last commission meeting. An outline of the process supplemented with alternatives presented in flowcharts were presented to the commission for review. Draft letters which represented certain steps within the flowcharts were also presented. All three types of handouts were provided to aid in illustrating the overall process. Alternate “1” proposed allowing for delegation of the initial remission decision to the DEMLR Director’s office. If the petitioner was not satisfied with the decision, then the remission process would continue to allow the Commission to make the final decision on the penalty. Alternate “2” would provide for the Commission to make the final decision on the penalty, directly. This alternative would also be the *de facto* process for cases where the civil penalty was assessed by a locally delegated program. In either alternative, the case file and recommendations from the DEMLR would be provided to the Commission for their consideration.

A discussion ensued whereby if Alternate “1” was accepted and the case rested with the decision being made by the DEMLR Director’s office, the Commission would then be made aware of DEMLR’s decision within the next meeting’s Enforcement Report as an Information Item.

A motion was made by Dr. White to accept Alternate “1”. A second to the motion was made by Mr. Bivens. The motion was approved.

INFORMATION ITEMS

Rules Review Process Update – Mr. Boyd DeVane – Mr. DeVane explained that the DEMLR staff had been working with a Sedimentation Workgroup on revising the Sedimentation Control Rules for about a year. He said that they had met 10 times during that year and had prepared a draft version of the revised rules in August of 2017 and presented them to the Commission at their August meeting. He said that he had shown the draft to the Commission again in November and had asked for them to inform their contacts of the proposal. He related that the staff had not received any written comments thus far and only one suggestion for a minor change. He said that he had planned to come back in February of this year with a revised version of the rules but had received 20 pages of comments from the Rules Review Commission (RRC) staff which slowed down his revision schedule. He said that he hoped to have the changes completed in a few weeks that would address the RRC comments. Then he related that it had been suggested that a smaller group of Commission members might want to review the proposed language before it came back to the full Commission in May and asked if there was any interest in doing that. Dr. White asked if there was any interest in participating in that group. Ms. Deck said that she would volunteer, and also

volunteered Mr. Carson. Mr. Vinson suggested that Mr. Bivens serve since he participated in all the Workgroup meetings. Dr. White summarized that we had three members, Ms. Deck, Mr. Carson and Mr. Bivens who will work with Mr. DeVane in reviewing the final draft of the rule revisions and bring them back to the Commission in May.

Local Program Awards Procedure – Mr. Toby Vinson explained the process by which locally delegated erosion and sediment control programs are nominated and selected for awards.

Enforcement Report – Mr. Vinson presented a statewide summary of our enforcement proceedings.

Land Quality Section Active Sediment Cases Report – Mr. Vinson summarized the status of active sediment cases against violators, whereby the penalty was assessed by the Division.

NCDOT Report – Mr. Jeevan Neupane reported on one Immediate Corrective Action (ICA) that was generated and extended five days later. The ICA was lifted in eight days. One other ICA was issued and subsequently lifted in seven days.

Education Program Status Report – Ms. Coco stated that an educational workshop was held in December for engineers, designers, and contractors. There were almost 140 attendees, including DEMLR personnel, from across the state. A variety of speakers and topics related to erosion and sediment control and post-construction stormwater were presented.

Another educational workshop and awards banquet is being planned for our locally delegated erosion and sediment control programs.

Sediment Program Status Report – Ms. Coco reported on the number of plan approvals, inspections, and enforcement activities from each of the regional offices with the most activity occurring in the Raleigh and Mooresville offices.

Land Quality Section Report – Mr. Vinson reported to the Commission about the existence of twelve statewide vacancies within the DEMLR.

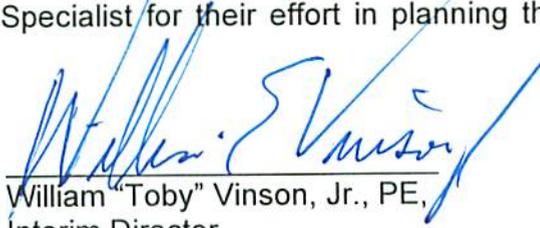
CONCLUSION

Remarks by the Interim Director – Mr. Vinson thanked the Commission for their support of the Division's staff and programs. He also thanked the State Sedimentation Specialist and Assistant State Sedimentation Specialist for their effort in planning the meeting.

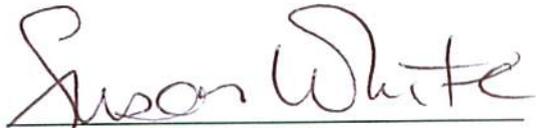


Julie Coco, PE, State Sediment Engineer

Division of Energy, Mineral, and Land Resources



William "Toby" Vinson, Jr., PE,
Interim Director,
Division of Energy, Mineral, and Land Resources



Dr. Susan White, Chair
Sedimentation Control Commission