

Local Program Report to the SCC

Henderson County, July 7, 2021

On July 7, 2021, personnel from the NCDEQ Land Quality Section, conducted a review of the Henderson County Erosion and Sedimentation Control Program. Henderson County was last reviewed on 3/21/2013. The County has 2 full time staff. The County requires an erosion and sedimentation control plan for any land disturbing activity which uncovers 1 acre or more, any land disturbing activity which uncovers ½ acre or more of land with an average slope of 16-25% in its natural state and any land disturbing activity which uncovers ¼ acre or more of land with an average slope over 25% in its natural state, in all areas of the county excluding the Town of Mills River. During the period from June 2020 through May 2021 the County reviewed/re-reviewed 42 plans and approved 21. During this same period, the County conducted 388 inspections. No NOV's or CPAs were issued during this period, however the County can and has been placing holds on building and other permits to achieve compliance. The County currently has 24 open projects. The County stated that due to staff turnover and Covid-19 restrictions, inspection frequency over the last few months had decreased.

The following is a summary of the projects that were reviewed:

1. Cottages at Cypress Run:

This project consists of 14.1 acres disturbed for residential development. The project file contained the approved plan, letter of approval, calculations, a copy of the property deed, previous inspection reports and the FRO form. The approved plan for this project was received on May 4, 2018, and was approved by the County on June 29, 2018. The County has conducted regular monthly inspections on this project since construction began in 2018, but only conducted 8 inspections during the last year. During the most recent inspection conducted by the County on 4/7/2021, this site was found to be in compliance. This project has not been issued an NOV or CPA. On the day of our review this site was found to be out of compliance. Rock check dams within the diversion ditch in the northwest corner of the site and slope drain inlet protection needed to be installed per the approved plan and construction details. Yard inlet protections and silt fence needed to be maintained throughout the site. A slope drain and reinforced silt fence outlet needed to be reinstalled per the details in the approved plans towards the southwest corner of the site. The inactive areas needed to be stabilized within the appropriate timeframes. Adequate documentation was indicated to be onsite in the construction trailer but was not accessible. Self-inspection records are being sent via email to County staff.

2. Project Wheel:

This project consists of 21.72 acres disturbed for development of an industrial park. The project file contained the approved plan, the letter of approval, calculations, a copy of the property deeds, Landowner/builder consent agreements, and the FRO form. This project was initially approved and then revised after the preconstruction meeting to amend the location to be used to access the site. The revised plan for this project was received on 6/23/2021 and was approved on 6/25/2021. This project had recently begun, so the County had not conducted any inspections prior to the day of our review. On the day of our review this site was found to be out of compliance. The contractor had started to clear and mass grade the site before fully installing

the temporary measures per the construction sequence of the approved plan. The construction entrance and silt fence had been installed but the diversions and basins were not. One basin had been excavated and baffles installed but the skimmer and emergency spillway were missing. The County contacted the contractor and had all grading halted until temporary measures were installed. An update and self-inspection report from the engineer of record given to the County on 7/8/2021 showed the installation of all basins and diversions occurring. Adequate documentation was present onsite.

3. Southeast Storage:

This project consists of 5.55 acres disturbed for commercial development. The project file contained the approved plan, the letter of approval, design calculations, a copy of the property deed, previous inspections and the FRO form. The approved plan for this project was received by the County on 2/2/2020 and was approved on 3/19/2020. This project began in May of 2020 and the County had conducted 7 inspections prior to the day of our review. This site was found to be in compliance during the County's most recent inspection on 6/16/2021. On the day of our review this site was found to be in compliance. The majority of this site had been completed and stabilized. A small stockpile that was being actively used had been placed next to a basin and it was suggested to either relocate or install silt fence around the toe of the stockpile to prevent any erosion into the basin. All inactive or completed areas had been stabilized. Self-inspection records are sent to County staff via email.

Positive Findings:

During our review we found a few positive aspects about the Henderson County local erosion and sedimentation control program including:

- The County has stricter criteria than the State when requiring Erosion and Sedimentation Control Plans. Plans are required for all land disturbances greater than 1 acre, greater than ½ acre with an average slope of 16-25% in its natural state or, greater than ¼ acre with an average slope over 25% in its natural state.
- The County requires pre-construction meetings for all projects.
- The County requires that any 404/401 permits be obtained and presented to the County prior to the start of any land disturbance.
- The County provides reference to the NCG01 permit application process in their approval letters.

Issues Noted and Required Actions:

During our review we found that the Henderson County Erosion and Sedimentation Control Program had deficiencies including:

- A plan review occurred outside the 30-day time frame given to review and notify the applicant of the review decision. The County sends back comments and requests for additional information when plans are found to be inadequate for approval but does not send out letters of disapproval.
- Inspection frequency has dropped off significantly since last fall; County staff indicated that this is the result of a combination of staff turnover and Covid-19 restrictions.

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

- 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 a plan is not approvable, a formal disapproval letter should be sent out within 30 days of receiving the complete application.
- Regular inspections should be conducted G.S. 113A-61.1(a). Regular inspections should be conducted at least monthly.

Recommendations for improvement:

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

- Update your Local Ordinance to reflect the most current references to the North Carolina Administrative Code and the 2020 Model Ordinance. Update all template letters and inspection reports once your ordinance is completely up to date. Templates can be found on our Local Program Reporting SharePoint site.
- Monitor and provide guidance for NPDES violations including operating without a permit, improper concrete washout, and fuel containment on site during inspections. Note possible NPDES violations and refer to the NCDEQ Asheville Regional Office.

Conclusion:

During our review we found that the Henderson County locally delegated Erosion and Sedimentation Control Program had a few deficiencies. County staff showed adequate knowledge and experience in plan reviews and during inspections. The County is sending out letters with comments and required additional information when plans are not approved but a formal disapproval letter is not being sent out within the appropriate timeframe. The drop off in inspection frequency may be heavily contributed to a combination of staff turnover and Covid-19 restrictions over the past 6-7 months. However, as restrictions are lifted and staff are being trained, inspection frequency must return to adequate levels. The second Erosion and Sedimentation Control position has been filled and the program is in the process of training new staff. For the minor administrative changes needed and to ensure that the program's activity and inspection frequency returns to adequate levels, a short period of continued guidance would be beneficial to the program.

Based on the review, DEMLR staff recommends that the Henderson County Erosion and Sedimentation Control Program "Continued Delegation with Review" for 3-months.

This report has been prepared based on the Formal Review of the Henderson County Local Program conducted on July 7, 2021 and will be presented to the Sedimentation Control Commission (SCC) on August 17, 2021.