

Local Program Report to the SCC Iredell County, Continued Review Follow-up

On May 4, 2021, a report was presented to the Sedimentation Control Commission based on the formal review of the Iredell County Erosion and Sedimentation Control Program conducted on April 8, 2021. The Commission voted to “Continue Delegation with Review for 6 months.” During the April 8th review, the following issues and required actions that the program should implement to address said issues were noted:

Previous Issues Noted:

- The number of monthly inspections conducted has dropped since September of 2020. Though this was attributed to staff turnover and illness, site inspections had not returned to an adequate frequency at the time of the review.
- Self-Inspection records and permit documents are not being reviewed during site inspections.
- Lack of knowledge of whether a stream is considered jurisdictional as well applicability of 404/401 permits, or Riparian Buffer Authorization. Staff does require that 404/401 permits be obtained or a declaration stating that no 404/401 permits are required, be presented at the preconstruction meeting or prior to disturbing land in the subject area on projects where jurisdictional waters are clearly delineated by the designer.
- Very few plan disapprovals are being issued; conditional approvals are being issued during plan reviews as “Approval with Modifications.” Some of these “modifications” are for documentation that is needed upon plan application but instead are being requested prior to breaking ground and after a letter of certificate of approval has been issued.
- NOV/Penalty assessment document has conflicting language regarding deadline for payments or appeals. One paragraph states a 15-day deadline, while another states a 30-day deadline for payment. Penalties assessed still included “Staff investigative costs” in the total penalty calculation.

Required Actions:

- Regular inspections should be conducted. §113A-61.1(a). Reports should be generated when inspections are conducted.
- County staff should be checking for self-inspection records and required permit documentation during their site inspections. Self-inspections should be conducted for initial installation or modification of any erosion and sediment control devices and practices described in the approved plan as well as during or after each of the phases of the approved plan. §113A-54(e) and 15A NCAC 04B.0131. In addition, weekly and rain-event inspections are required by federal regulations, that are implemented through the NPDES Construction General Permit No. NCG010000.
- Staff should be verifying the waterbodies listed on the plans when they are received, and ensure they are properly labeled on all plans prior to approval. All applicable State and Federal permits and certifications should be presented to the County prior to land disturbance commencing in subject areas. If land disturbance is allowed to start on other

sections of a site, the area not to be disturbed should be clearly marked on the plans and in the field until all applicable 404/401 permits and certifications are in hand.

- The only conditional approval allowed is that of compliance with federal and state water quality laws. §113A-54.1(a). No other conditional terms may be offered when issuing a letter or certificate of plan approval. Approvals with Modifications are not conditioned approvals and should not be used as such.
- Staff investigative costs can no longer be included in the penalty total. This consideration in calculation penalty amounts has been removed from Title 15A of the NC Administrative Code, Chapter 04B.
- Update all template letters to reflect the most current references to the North Carolina Administrative Code. Plan approval letters should be updated with the most recent reference to the NCG01 permit process through the State Website when required and since preconstruction meetings are no longer required to be shown on the plans, the last sentence of your approval letters regarding these meetings should be removed. 15A NCAC 04B.0120(d).

Follow-Up Update:

During the period from May 2021 through September 2021, the County has conducted 55 plan reviews/re-reviews, approved 51, disapproved 4 and conducted 414 inspections. The County issued 4 NOVs, 1 CPA and 9 Stop Work Orders/ Permit or Inspection holds. The County currently has 188 open projects. The County reported that they currently have 2 Full Time Equivalent Staff for the erosion control program and have hired a third full time staff member who will start in late October. The County has updated the template language in their Letters of Approval, Disapproval and NOVs to reflect the most up to date administrative code. The County is currently working to update their Local Ordinance per the 2020 Model Ordinance. During the Continued Review period, DEMLR staff has worked with County staff to conduct oversight inspections as well as observe and provide guidance during plan reviews.

The following is a short update based on the inspections conducted by the County following the site inspections conducted on the day of the April 8th review and updates given by County and DEMLR Staff.

1. The Revere at Mooresville:

This project consists of 30.0 acres disturbed for residential development. This project was found to be out of compliance the day of the April 8th review for the clean water diversion not being properly stabilized, rills forming, exposed stockpiles located directly above the clean water diversion ditch and basins needing to be cleaned out or installed properly per the approved plan. On April 15, 2021, the county conducted a follow-up inspection and found that progress had been made to address issues noted during the initial review, but the site remained out of compliance until all areas had been addressed. The County found this site to be in compliance with minor maintenance needs on its next inspection on May 18, 2021. This site continued to be in compliance with general maintenance needs noted on subsequent inspections. The most recent inspection conducted by the County on October 11, 2021, noted the need to reseed areas of the clean water diversion ditch where vegetation has died off, maintain a few inlet protections and a reminder to stabilize a basin once conversion to its post-construction sizing was completed.

2. Late Apex Storage:

This project consists of 6.1 disturbed acres for commercial development. This project was found to be out of compliance the day of the April 8th review for off-site sedimentation which had occurred in the rear of the site and was beginning to encroach on a stream buffer.

Construction on this project had been completed and the landscaping was being installed during our initial review. On April 15, 2021, the County conducted a follow-up inspection and found this site to be in compliance. The areas of sediment loss had been cleaned up and were being re-stabilized. Silt fence and outlet protections had been replaced or repaired. The remainder of the site was being permanently stabilized. The County found this project to be in-compliance during subsequent inspections and have continued to monitor for permanent vegetation before the project can be closed out.

3. Pine Street Townhomes:

This project consists of 7.0 acres disturbed for residential development. This project was found to be out of compliance the day of the April 8th review for minor off-site sedimentation below one basin and the skimmer being buried in mud and unable to function properly. During the following inspection conducted by the County on May 18, 2021, this project was found to have addressed all areas and was in-compliance. On the most recent inspection conducted by the County on October 11, 2021, this project was out of compliance for failure to maintain measures and inadequate temporary stabilization. County staff noted a silt fence stone outlet above a stream which needed immediate maintenance and silt sack curb inlet protections which needed to be installed, perimeter slopes needing to be stabilized where work had been completed and self-inspection records being incomplete. No off-site sedimentation was noted during this inspection.

4. Mill One:

This project consists of 2.5 acres disturbed for residential development. This project was not reviewed during our April 8th review. DEMLR staff conducted an oversight inspection with county staff on this site on August 19, 2021. The County had received a complaint of a large slope failure into an adjacent park from this project. Prior to the August 19th inspection the majority of the offsite impact had been removed. Maintenance needs on measures throughout the site were noted along with the need to finish repairing and stabilizing the failed slopes. Staff also determined that waste piles had been removed from the project and placed on another site which was not included in the approved plan. The County sent an NOV and assessed a civil penalty on August 27, 2021, for violations found during the August 19th inspection. The County conducted a follow-up inspection on September 28, 2021 and found that all areas of non-compliance from the NOV had been addressed. The County found this site to be in compliance during its most recent inspection on October 13, 2021.

Conclusion:

During the continued review period, DEMLR staff has received periodic updates from the County and noted the improvements made by the program. The County has taken steps to correct the deficiencies found during the April 8th review and has begun to implement some of the recommendations DEMLR staff made. The County has updated their template letters and is working to update their Local Ordinance per the 2020 Model Ordinance. The County is verifying that streams and water bodies are properly labeled and delineated during plan review and that all applicable water quality permits are being obtained. The addition of a third inspector will further

aid in distributing the program's workload. DEMLR staff has seen the improvement over the past few months through the inspection reports, updates provided by the County, and through multiple oversight inspections and plan reviews. County staff has shown their knowledge of erosion and sedimentation control practices and policies and their ability to effectively implement the local program's delegated authority.

Based on the formal review conducted on April 8, 2021, and the Continued Review period, DEMLR staff recommends to "Continue Delegation" of the Iredell County Local Erosion and Sedimentation Control Program.

This report will be presented to the Sedimentation Control Commission (SCC) on November 4, 2021.