

MINUTES  
NORTH CAROLINA SEDIMENTATION CONTROL COMMISSION  
August 21, 2014  
GROUND FLOOR HEARING ROOM, ARCHDALE BUILDING  
RALEIGH, NORTH CAROLINA

The North Carolina Sedimentation Control Commission met on August 21, 2014 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**

Ms. Robin K. Smith (Chair)  
Mr. Joe Glass  
Mr. Jonathan Bivens  
Mr. Tom Anderson  
Ms. Heather Jacobs Deck  
Mr. Randy Veltri  
Ms. Karla Hammer Knotts  
Dr. Susan White  
Mr. Kevin Martin  
Dr. John Havlin  
Ms. Charlotte Mitchell

**OTHERS**

Mr. Tracy Davis, Director, DEMLR  
Mr. Toby Vinson, Section Chief, Land Quality Section  
Ms. Stephanie Lane, Administrative Secretary  
Ms. Evangelyn Lowery-Jacobs, Sed. Education Specialist, Land Quality Section  
Ms. Ashley Rodgers, Sedimentation Specialist, Land Quality Section  
Ms. Karyn Pageau, DEMLR, RRO  
Mr. John Holley, Land Quality Section, RRO  
Mr. Joe Dupree, Land Quality Section, RRO  
Ms. Chandra Coats, Johnston County  
Mr. Carlos Bagley, Johnston County  
Mr. John Payne, Attorney General's Office  
Mr. Shawn Maier, Attorney General's Office  
Mr. Kirk Stafford, Town of Cary  
Ms. Lisa Martin, NC Homebuilders Association  
Mr. Dan LaMontagne, Chatham County  
Mr. Fred Royal, Town of Pittsboro

## **PRELIMINARY MATTERS**

Chair Smith called the meeting to order and read Executive Order No. 1.

Those in attendance introduced themselves.

Chair Smith asked for a motion to approve the minutes from the May 15, 2014 meeting.

The motion to approve the minutes was made by Mr. Glass. Ms. Knotts seconded the motion, and it carried unanimously.

Mr. Vinson read the Evaluation of the Statement of Economic Interest for Dr. John Havlin from the State Ethics Commission. There were no findings of an actual conflict of interest or the potential for a conflict of interest. Dr. Havlin will fill the role of a soil scientist from the faculty of North Carolina State University on the Commission.

## **ACTION ITEMS**

Chair Smith added an action item to the agenda: Appointment of new Vice-Chair. She acknowledged the recent departure of Dr. McLaughlin from the Commission, which vacated the Vice-Chair position. Chair Smith nominated Dr. White, and made a motion she serve as the new SCC Vice-Chair. Ms. Deck seconded the motion, and it carried unanimously.

### **Incorporation of the Town of Pittsboro into Chatham County's Delegated Local Program – Mr. Toby Vinson**

Chatham County seeks approval to incorporate the Town of Pittsboro within its delegated Erosion Control Program.

Mr. LaMontagne indicated the Town of Pittsboro and Chatham County have been working for a number of years to come to an agreement, among the political bodies and attorneys. Mr. Royal added the Town and County desire consistency among erosion control plan reviews and the inspection process.

Mr. Martin made a motion to approve the interlocal agreement between Chatham County and the Town of Pittsboro as proposed. Mr. Anderson seconded the motion, and it was approved unanimously.

### **Incorporation of Benson and Wilson's Mills into Johnston County's Delegated Local Program – Mr. Toby Vinson**

Johnston County seeks approval to incorporate Benson and Wilson's Mills within its delegated Erosion Control Program.

Mr. Veltri made a motion to approve the interlocal agreement between Benson, Wilson's Mills and Johnston County. Ms. Deck seconded the motion, and it was approved unanimously.

## **Adoption of Meeting Dates for 2015 – Mr. Toby Vinson**

Mr. Vinson presented the following proposed dates for the 2015 Sedimentation Control Commission meetings:

February 5, 2015  
May 7, 2015  
August 20, 2015  
November 12, 2015

Mr. Glass indicated conflicts on the mornings of February 5 and May 7 due to prior obligations. He indicated availability to participate in the meetings via teleconference after 10:00 AM on both dates. Chair Smith asked staff to coordinate the teleconference for remote participation.

Ms. Deck made a motion to accept the SCC meeting dates in 2015. The motion was seconded by Ms. Knotts, and it was approved unanimously.

## **Appointment of New Ethics Liaison – Mr. Toby Vinson**

Ms. Knotts volunteered to serve as the new ethics liaison for the SCC. Mr. Bivens made a motion to accept Ms. Knotts as the new Ethics Liaison. The motion was seconded by Mr. Anderson and Mr. Glass, and it was approved unanimously.

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## **Old Business – Chair Smith**

Chair Smith asked if unanswered questions from the SCC's previous meeting needed to be addressed by the SCC or undertaken by staff before the next meeting. Mr. Davis stated staff could address any concerns of the group.

Chair Smith indicated clarification for the term "qualified professionals" was previously debated. Mr. Davis discussed the requirements for potential qualified professionals related to the Oil and Gas Program staff, including various levels of engineers, geologists, and scientists with knowledge in the issues related to development of a well pad site. Hiring of qualified staff in the Oil and Gas Program within the Division's Energy Section will be similar to the hiring practices used by the Land Quality Section of the Division and a local government starting a new program in selecting skilled employees.

Chair Smith reiterated a question raised by Mr. Glass during the last meeting regarding the potential for concurrent jurisdiction allowing local programs to inspect oil and gas well sites in response to citizen complaints without risk of violating trespass laws. Mr. Maier indicated concurrent jurisdiction allows the SCC to take a look at approved plans and enforcement action taken by the local government that has a delegated program, but it does not allow for the local government to oversee the state program. Mr. Vinson

added the delegation to the Energy Section for oil and gas well pad sites is similar to the delegation to NCDOT, which provides for annual audits of the program by DEMLR Land Quality Section Sediment Program staff. Mr. Davis stated that complaints received by local governments related to these sites should be directed to DEMLR, which will be handled by the Energy Section or through assistance from the Land Quality Section. Chair Smith recommended staff clearly define the complaint process to the local governments and clarify their authority in this regard.

Chair Smith asked if the local governments will be notified of Oil and Gas projects. Mr. Vinson indicated notifications will be sent to local programs when a permit has been issued in their area.

Mr. Glass expressed concern with potential delays in responding to complaints on Oil and Gas sites. Mr. Davis indicated staff would prioritize the severity of the complaints for such projects to ensure timely inspections are conducted. He added staff is currently working to get the regulatory structure in place to implement the program (i.e., application, permit review, and inspection processes) and that DEMLR Energy Section staff will provide an update to the SCC after January 2015.

## **INFORMATION ITEMS**

**Sedimentation Control Commission Fee Schedule Study Group** – Mr. Vinson provided a report on the status update on Fee Schedule study group. Another analysis will be provided this fall to the Review Committee to verify the issues facing the Land Quality Section with respect to productivity and efficiency compared to the local programs. Chair Smith asked the Fee Study Work Group to be prepared to assist in updating the report for the Assistant Secretary.

**Town of Wake Forest Revised Ordinance Clarification Letter** – Ms. Rodgers provided an update on the letter submitted by the Town of Wake Forest clarifying definitions and determinations with respect to their watercourse buffer zones. A copy of the letter is attached to the original minutes.

Mr. Martin discussed concerns with undefined terms contained in the Town of Wake Forest revised ordinance, and requested the Town comply with the contingencies outlined during the May meeting. Ms. Mitchell stated the regulated and the regulators need to have a clear understanding to minimize conflict.

Mr. Maier stated the authority of the SCC to approve or deny a local ordinance is based on whether the ordinance is at least as strict as the Sedimentation Pollution Control Act. The Commission does not have the ability to craft their ordinance. Ms. Knotts indicated the Administrative Code (115A NCAC 04A .0105) does contain a definition for watercourse, and indicated the ordinance did not meet the standard.

Mr. Martin indicated the ordinance does contain a similar definition, but includes "wash" among the categories which classify as a watercourse. Chair Smith indicated the

inclusion of the similar definition would make the ordinance as strict as the SPCA. Mr. Maier suggested making a recommendation to the Town on this issue to clarify the terms, rather than suggesting changes to the ordinance itself.

Mr. Bivens made a motion to approve the Town of Wake Forest Ordinance, and send a recommendation letter requesting clarification of the undefined terms (“wash”, “channel”, “natural watercourse”, and “other site specific evidence”). Mr. Anderson seconded the motion, and it was approved by majority. The motion was opposed by Mr. Martin and Ms. Knotts. Staff will report any updates to the SCC at the November meeting.

**Report on Local Program Assistance by Regional Offices** – Ms. Rodgers presented a report on Regional Office Contacts with the Delegated Local Programs. A copy of this report is attached to the original minutes.

**Enforcement Report** – Mr. Payne gave a summary of the Attorney General's enforcement report. A copy of this report is attached to the original minutes.

**Land Quality Section Active Sediment Cases Report** – Ms. Rodgers presented the status of Civil Penalty Assessments. A copy of this report is attached to the original minutes.

**NCDOT Report** – Ms. Rodgers presented a report on Trout Buffer Waivers for Secondary Road Projects and ICA's that have been issued since May 1, 2014. A copy of this report is attached to the original minutes.

**Education Program Status Report** – Ms. Lowery-Jacobs presented a report on the past and current projects in the Sediment Education Program. A copy of this report is attached to the original minutes.

**Sediment Program Status Report** – Mr. Vinson provided a report on the LQS current plan approval, inspection, and enforcement activities statewide.

**Land Quality Section Report** – Mr. Vinson provided a report on the current number of vacancies in the Section and other LQS activities and issues. An update was provided on progress of the new AMANDA database. He thanked staff for their efforts.

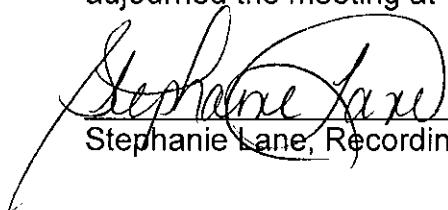
## **CONCLUSION**

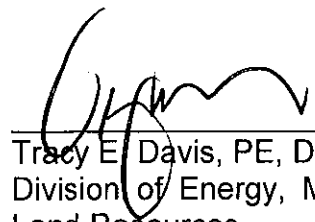
Remarks by the Director – Thanked the staff for their continued hard work, and also welcomed Ashley Rodgers and Karyn Pageau to their new positions in the Sediment Program.

Remarks by the Commission – none

Remarks by the Chair – none

Adjournment – Mr. Glass made a motion to adjourn. Mr. Bivens seconded the motion, and it was approved unanimously. As there was no further business, Ms. Smith adjourned the meeting at 11:51 AM.

  
Stephanie Lane, Recording Secretary

  
Tracy E. Davis, PE, Director,  
Division of Energy, Mineral, and  
Land Resources