

MINUTES
NORTH CAROLINA SEDIMENTATION CONTROL COMMISSION
February 5, 2015
GROUND FLOOR HEARING ROOM, ARCHDALE BUILDING
RALEIGH, NORTH CAROLINA

The North Carolina Sedimentation Control Commission met on February 5, 2015 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. Natalie Berry
Ms. Charlotte Mitchell
Ms. Heather Jacobs Deck
Dr. Susan White, Vice-Chair, Presiding
Mr. Kevin Martin

COMMISSION MEMBERS VIA TELECONFERENCE

Ms. Robin K. Smith (Chair)
Mr. Joe Glass
Mr. Charles Hughes
Ms. Karla Hammer Knotts
Mr. Gordon Randolph

OTHERS

Mr. Tracy Davis, Director, DEMLR
Mr. Toby Vinson, Section Chief, Land Quality Section
Ms. Stephanie Lane, Administrative Secretary
Ms. Ashley Rodgers, Sedimentation Specialist, Land Quality Section
Ms. Karyn Pageau, Assistant Sediment Specialist, Land Quality Section
Mr. Brad Cole, Land Quality Section, FRO
Mr. James Bernier, Jr., Attorney General's Office
Mr. Walt Haven, DEMLR Oil and Gas Program
Mr. Ryan Channel, DEMLR Oil and Gas Program
Ms. Katherine Marciniak, DEMLR Oil and Gas Program
Mr. Chandler Warner, DEMLR Oil and Gas Program
Mr. Robert Josey, Rule Coordinator, Mining and Energy Commission
Mr. Will Hendrick, Southern Environmental Law Center
Mr. Matthew Starr, Upper Neuse Riverkeeper
Ms. Jennifer Everett, DENR Rulemaking Coordinator
Mr. Kirk Stafford, Town of Cary
Mr. Todd Hoefler, Town of Cary

PRELIMINARY MATTERS

As Chairwoman Smith was attending via teleconference, Dr. White presided over this meeting. Dr. White called the meeting to order and read Executive Order No. 1.

Those in attendance introduced themselves.

Dr. White asked for a motion to approve the minutes from the November 20, 2014 meeting.

The motion to approve the minutes was made by Ms. Deck. Ms. Berry seconded the motion, and it carried unanimously.

ACTION ITEMS

Memorandums of Agreement – Ms. Ashley Rodgers

Chatham County, the Town of Holly Springs, Johnston County and Orange County have submitted revised or amended Memorandums of Agreement with the Commission, to address the language changes with respect to jurisdiction over oil and gas development for well pad sites.

Ms. Mitchell made a motion to approve the revised MOA with Chatham County. Ms. Deck seconded the motion, and it was approved unanimously.

Ms. Deck made a motion to approve the revised MOA with the Town of Holly Springs. Ms. Berry seconded the motion, and it was approved unanimously.

Mr. Martin made a motion to approve the amendment to the MOA with Johnston County. Ms. Mitchell seconded the motion, and it was approved unanimously.

Ms. Deck made a motion to approve the MOA with Orange County. Ms. Berry seconded the motion, and it was approved unanimously.

Mr. Martin made the request that future MOAs submitted to the Commission for approval be provided with strike-throughs or other notations to show where changes or updates have been made.

Local Program Reviews – Ms. Karyn Pageau

Ms. Pageau gave a report on the reviews of the Town of Cary, Town of Apex, and Orange County delegated programs. A copy of the Local Program Report to the SCC is attached to the original minutes.

Town of Cary

On December 8, 2014, Joe Dupree and Karyn Pageau conducted a review of the Town of Cary's Local Program. Three staff members contribute 3 full time equivalents to the erosion control program. The Town has 132 active projects and has reviewed 354 plans, with 66 approvals and 288 disapprovals. The town has conducted 1,498 inspections, issued 37 notices of violation, and assessed 2 civil penalties in the past 12 months. Four projects were reviewed, and three were in compliance.

The Town of Cary's Local Program is visiting sites on a frequent basis, which is appreciated. The local program should implement the following recommendations to improve the program:

- 1) Continue to check for self-inspection records on site.
- 2) Remember to establish a timeline for establishing ground cover by documenting when slopes have been graded or areas are left idle in comments section of inspection reports.

Ms. Knotts questioned why the disapproval numbers were so high. Ms. Pageau replied that disapprovals could be issued for many reasons, including plan design problems, missing calculations, or documentation issues, and that the Town's review process seemed thorough. Mr. Todd Hoefler, representing the Town of Cary, addressed the Commission and thanked them for the continued support of their program.

Staff recommended continued delegation. Ms. Deck made a motion for continued delegation. Mr. Martin seconded the motion, and it was approved unanimously.

Town of Apex

On December 15, 2014, Joe Dupree and Karyn Pageau conducted a review of the Town of Apex's Local Program. Three staff members contribute 1.7 full time equivalents to the erosion control program. The Town has 85 active projects and has reviewed 104 plans, with 36 approvals and 68 disapprovals. The town has conducted 312 inspections, issued 8 notices of violation, and assessed 1 civil penalty in the past 12 months. Five projects were reviewed, and two were in compliance.

The Town of Apex's Local Program is visiting sites on a frequent basis, which is appreciated. The local program should implement the following recommendations to improve the program:

- 1) Continue to check for self-inspection records on site.
- 2) Remember to establish a timeline for establishing ground cover by documenting when slopes have been graded or areas are left idle in comments section of inspection reports.

Ms. Berry asked whether the NOV on the severely out of compliance site was issued before or after the State's review. Ms. Pageau replied that the NOV was sent after the

local program review. Chairwoman Smith asked whether the local programs were being reminded to issue NOV's for all sites with off-site sediment. Karyn affirmed that this was being reiterated to all local programs.

Staff recommended continued delegation. Ms. Mitchell made a motion for continued delegation. Ms. Deck seconded the motion, and it was approved unanimously.

Orange County

On December 16, 2014, Joe Dupree and Karyn Pageau conducted a review of the Orange County Local Program. Three staff members contribute 3 full time equivalents to the erosion control program. The County has 25 active projects and has reviewed 71 plans, with 71 approvals and 0 disapprovals. The County has conducted 457 inspections, issued 4 notices of violation, 2 stop work orders, and assessed 0 civil penalties in the past 12 months. Four projects were reviewed, and three were in compliance.

Orange County's Local Program is visiting sites on a frequent basis, which is appreciated. The local program should implement the following recommendations to improve the program:

- 1) Remember to request for skimmer dewatering times on drawings and dewatering sequence for temporary pump-around or basin conversion to permanent BMP.
- 2) Remember to establish a timeline for establishing ground cover by documenting when slopes have been graded or areas are left idle in the comments section of inspection reports

Ms. Deck asked about the fact that all plans had been approved, and whether that was because of pre-submittal efforts by the County. Ms. Pageau responded that Orange County had implemented a strong education program and also made efforts to be available for face-to-face discussions before submittals.

Staff recommended continued delegation. Mr. Martin made a motion for continued delegation. Ms. Mitchell seconded the motion, and it was approved unanimously.

Ms. Deck asked whether local programs had questions or issues with the many solar farms that are being undertaken throughout the State. Ms. Pageau responded that the local programs have had the same learning curve as the State with respect to plan review and the pace at which the projects move. Ms. Rodgers noted that solar farms were also a topic at last year's Local Program Workshop, and were going to be addressed again this year.

INFORMATION ITEMS

Oil and Gas Rulemaking and Program Update – Mr. Walt Haven, Oil and Gas Program Supervisor, introduced his staff to the Commission. Mr. Robert Josey gave a brief presentation on the rulemaking efforts and program updates, especially as they relate to erosion and sedimentation control. A copy of this presentation is attached to the original minutes.

Rules Review Process for 2015 – Ms. Jennifer Everett, DENR's Rulemaking Coordinator, gave a brief presentation to the Commission regarding the process and schedule for the periodic rules review and categorization of the Sediment Rules. A copy of this presentation is attached to the original minutes. Ms. Rodgers will post the Rules Review Workgroup's initial rule determinations on the SCC's website and staff will follow up with Commissioners to determine whether the workgroup needs to reconvene prior to the May SCC meeting.

Sedimentation Control Commission Fee Schedule Study Group – Mr. Vinson provided a report on the status of the Fee Schedule study group's proposed fee increase. Two concerns have been raised by the Governor's office – how to protect small builders from excessive plan review fees and also a request for a sunset provision to the increased fees. To address protection of small builders, staff has proposed that single family home construction on projects ≤ 2 acres (and not part of a multi-home development) would have an E&SC fee capped at \$90/acre. With respect to a sunset provision, staff proposed that a fee analysis be conducted every 5 years to determine whether E&SC fees should be adjusted up, down, or stay the same. It is DEMLR's understanding that this provision may appear in the Governor's budget or we may be looking for a legislative sponsor for the provision. Mr. Davis will follow up with Commissioners and provide updates on the proposed sediment fee increase and where it stands in the process as information is available. Commissioners also requested an update on legislative proposals affecting the SCC along with this year's Annual Sediment Report to be presented at the fall SCC meeting.

Report on Local Program Assistance by Regional Offices – Ms. Pageau discussed the Raleigh Regional Office's assistance and informal review of Johnston County. A copy of this report is attached to the original minutes.

Enforcement Report – Ms. Rodgers 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 Immediate Corrective Actions issued by NCDOT since November 2, 2014 as well as trout buffer waivers issued for secondary road projects throughout the state. A copy of this report is attached to the original minutes.

Education Program Status Report – Ms. Rodgers 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. He thanked staff for their efforts.

CONCLUSION

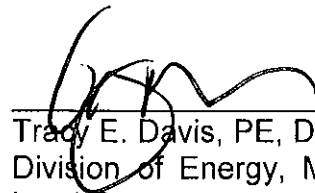
Remarks by the Director – Mr. Davis thanked staff, in both the Central and Regional Offices, for their hard work in all programs. He also noted changes in senior management within the Department of Environment and Natural Resources, including a new Secretary, Assistant Secretary, and legislative liaisons.

Remarks by the Commission – Ms. Berry thanked Ms. Pageau for the way she put together the local program reports. She also noted how much the local programs appreciate assistance from Regional Offices throughout the State. Mr. Glass thanked staff for setting up the Web-Ex and teleconference capabilities for this meeting. Dr. White asked whether there was any further information regarding the definition of terms in Wake Forest's revised ordinance. Ms. Rodgers responded that Wake Forest's Board was unlikely to take the matter up until at least March, so there was no update at this time.

Remarks by the Chair – Chairwoman Smith thanked Dr. White for running the meeting.

Adjournment – Ms. Deck made a motion to adjourn. Ms. Berry seconded the motion, and it was approved unanimously. As there was no further business, Dr. White adjourned the meeting at 11:45 am.


Stephanie Lane, Recording Secretary


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