



MEMORANDUM

To: Stormwater/Land Resources Subcommittee

Cc: Matt Einsmann

From: Andrew Rodak

Date: November 2, 2007

Subject: Meeting Minutes

The Stormwater/Land Resources Subcommittee held a meeting with staff from the North Carolina Division of Land Resources at ACEC's office on September 21, 2007. The meeting began at 9:00 a.m. Meeting attendees were:

Andrew Rodak, Rodak Engineering
Mark Taylor, Ecologic
Ken Carper, WK Dickson
Matt Einsmann, Withers & Ravenel
Jesse Barker, MACTEC
Betsy Bailey, PENC
Ashley Rodgers, NCDENR/DLR
Grey Hauser, NCDENR/DLR
Mell Nevils, NCDENR/DLR

The purpose of the meeting was to discuss issues with the quality of Erosion/Sediment Control Plan submittals and options for addressing/correcting the increasing frequency of substandard quality submittals. A summary of the discussion follows:

Mell Nevils opened the discussion by stating that substandard quality of ESC Plan submittals has been a long-standing problem with the Division of Land Resources on a state-wide level. He provided the results of a recent audit conducted by the Central Office on the rejection frequency of ESC Plans within all Regional Offices. The results of the audit revealed a state-wide disapproval rate of 33% for ESC Plans prepared by Professional Engineers and Landscape Architects, and a disapproval rate of 34% for ESC Plans prepared by non-Professionals. Mr. Nevils indicated that the goal of the DLR was to reduce the disapproval rate to below 25%.

Mark Taylor noted that this issue had been addressed almost three years ago, and provided a copy of the minutes of a meeting held on December 7, 2004 between PENC/ACEC and DLR personnel to discuss quality of submittals in all three DLR programs (ESC Plans, Dam Safety, and Mining). Mr. Taylor summarized the possible solutions proposed at the meeting, and the

status of each with regards to schedule of implementation/success or failure of the measure. In summary, two of the seven possible corrective measures had been implemented to date. These were a letter submitted to PENC/ACEC member firms addressing the issue of quality in ESC Plan submittals, and the update of the ESC Manual. Mr. Nevils added that the quality of ESC Plan submittals improved slightly after implementation of the measures (with respect to a decrease in the frequency of disapprovals), but it was a short duration of improvement, and the recent audit results reflect a setback in the progress over the past six months.

Mr. Nevils admitted that there is no consistency training provided in-house within DLR, as well as a high turnover rate of plan reviewers; factors which may contribute slightly to the high percentage of disapprovals. He indicated that there was discussion within DENR to provide in-house consistency training for plan reviewers, but to date nothing had been established.

Mr. Nevils and Mr. Hauser summarized the most common issues associated with the plan disapprovals:

- ESC measures not provided or inadequate
- Pertinent text on plans difficult or impossible to read
- Firms deliberately submitting plans that are inadequate or deficient in the hope that DLR staff would provide the necessary elements and essentially write the plans for them

Mr. Barker asked if anyone knew of issues with quality of ESC Plan submittals in other states, and how these issues were addressed and corrected. Mr. Carper stated that he was aware of a state-wide certification program in Georgia for ESC Plan preparation and implementation, but was not sure how effective the program was in overall quality of ESC Plan submittals.

Some discussion was initiated on certification-incentives for ESC Plan preparers, in particular the Certified Professional in Erosion/Sediment Control certification:

- Is there anything language in existing legislation requiring this certification for ESC Inspectors? NO
- Is there potential for incentives to be created for having this certification? YES, for self-inspection of ESC measures, but not for plan certification.

The proposed legislation for self-inspection has been issued for public draft review. Mr. Hauser promised to forward a copy to ACEC/PENC for their review and comment.

Mr. Hauser briefly discussed the NC DOT's three-tiered ESC certification program and the possibility of using it as a model for DENR-sponsored certification programs.

Mr. Einsmann asked if a foundation had already been established in current legislation for collection of additional fees resulting from re-submittal of disapproved plans. Mr. Nevils and Mr. Hauser indicated that there was a mechanism established for imposition of additional review fees, but would warrant further investigation to see if it is used.

Mr. Barker suggested issuance of a survey to ACEC/PENC member firms to get feedback from them on the ESC Plan preparation and approval process- this will help identify any gaps in communication between DLR and plan preparers that may be resulting in some of the quality issues being seen.

Mr. Einsmann asked if ACEC/PENC should promote legislation to require DLR to submit notices of violation for repeat offenders of deficient ESC Plan submittals to the NC Board of Registration for Engineers/Land Surveyors.

Mr. Hauser and Mr. Einsmann stated that representatives from the Landscape Architects' professional organization and NC Board of Registration should be considered for invitation to future meetings on this issue.

Following the discussion, the following Action Items were developed:

1. Mr. Rodak and Mr. Taylor will prepare a survey of questions regarding the ESC Plan preparation and approval process for distribution to ACEC/PENC member firms. The survey will be presented to all members of the Stormwater/Land Resources subcommittee for review, then submitted to Ms. Bailey for electronic formatting and distribution to membership;
2. Ms. Rodgers and Ms. Bailey will investigate the possibility of adding a one-day ESC Plan workshop to PENC's December seminars in Raleigh. If feasible, Ms. Rodgers and DLR staff will develop the agenda for the workshop, and Ms. Bailey will assist in scheduling and promotion;
3. M. Taylor will discuss with the Sediment Control Commission the possibility of imposing increased review fees for multiple plan re-submittals- the SCC will investigate whether a mechanism is already in place for this in current legislation, and how it can be implemented ;
4. Mr. Hauser will provide ACEC/PENC with a draft of the proposed self-inspection legislation for their review;
5. Mssrs. Rodak and Taylor will investigate the DOT's three-tiered ESC certification program, and see if it can be used as a foundation for certification incentives within DLR's ESC Plan approval process

A discussion on scheduling a follow-up meeting to discuss the status of the Action Items followed. The week of October 22nd was proposed as a potential target date for meeting (with the exception of October 23rd). Mr. Nevils will solicit feedback from DLR staff on the best date for the meeting, and provide this date to Mr. Rodak for coordination with ACEC/PENC. It was suggested that representatives from the North Carolina Chapter of the ASLA and the Board of Registrations for Engineers and Landscape Architects also be invited to the next meeting.

With no further discussion, the meeting adjourned at 10:30 a.m.