

DIVISION OF WATER RESOURCES - CIVIL PENALTY ASSESSMENT

/A

Violator: Sandler Utilities at Mill Run L L C

Facility Name: Eagle Creek WWTP

Permit Number: WQ0014306

County: Currituck

Case Number: LV-2021-0351

ASSESSMENT FACTORS

- 1) The degree and extent of harm to the natural resources of the State, to the public health, or to private property resulting from the violation;**

Unknown – The Ammonia limit violations could lead to Water Quality Standard Violations. There were no documented fish kills or public health hazards stemming from the violation. However, the facility has been sending non-reclaimed water to the irrigation pond to be sprayed on the golf course. There are documented groundwater standard violations.

- 2) The duration and gravity of the violation;**

The facility has not been meeting effluent limits since the new operator took over the plant. There has been seven enforcements prior to this assessment totaling \$21,201.92 dollars. The gravity of the violations are significant!

- 3) The effect on ground or surface water quantity or quality or on air quality;**

Groundwater standards have been violated in both monitoring wells on site.

- 4) The cost of rectifying the damage;**

Unknown

- 5) The amount of money saved by noncompliance;**

Significant

- 6) Whether the violation was committed willfully or intentionally;**

The operator is not managing the system as required. The facility is under a Consent Judgement to mandate compliance for the operation of the collection system.

- 7) The prior record of the violator in complying or failing to comply with programs over which the Environmental Management Commission has regulatory authority; and**

A violation records review of the facility of the past 24 months as of 12/01/2021 revealed the following issues. Over the last 24 months the facility has received 1 NOV, and 7 CPA's that had a total value of \$21,201.92. The notices and civil penalties were issued due to a multitude of reasons. The facility is known to have chronic Fecal, Ammonia, TSS and BOD-5 limit violations. Another chronic issue is that the facility is required by permit condition III.21 to reroute effluent to the high-rate infiltration pond during Fecal limit violations or when the turbidity exceeds 10 NTU. The facility fails to do this on a consistent basis. The facility is known for consistently failing to reroute effluent during Fecal limit violations to the high-rate infiltration pond. This may potentially represent a possible public health hazard due to the Fecal rich water entering the re-use irrigation pond which is used to irrigate a nearby golf course open to the public. Another chronic issue monitoring and reporting violations present in monitoring reports submitted to the division or for the reports themselves to be late or missing.

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JUN 22 2022

8) The cost to the State of the enforcement procedures.

\$58.82

12/9/2021

Date

Robert Tankard

Robert Tankard, Assistant Regional Supervisor
Water Quality Regional Operations Section
Washington Regional Office
Division of Water Resources, NCDEQ

OFFICIAL COPY

JUN 22 2022

ROY COOPER
Governor
ELIZABETH S. BISER
Secretary
S. DANIEL SMITH
Director



Certified Mail # 7021 0950 0001 1087 3622
Return Receipt Requested

December 09, 2021

Raymond Gottlieb
Sandler Utilities at Mill Run L L C
448 Viking Dr Ste 200
Virginia Beach, VA 23452-7331

SUBJECT: Notice of Violation and Assessment of Civil Penalty
for Violations of Non-discharge Permit No. WQ0014306
Sandler Utilities at Mill Run L L C
Eagle Creek WWTP
Case No. LV-2021-0351
Currituck County

Dear Mr. Gottlieb:

This letter transmits a Notice of Violation and assessment of civil penalty in the amount of \$1,058.82 (\$1,000.00 civil penalty + \$58.82 enforcement costs) against Sandler Utilities at Mill Run L L C.

This assessment is based upon the following facts: a review has been conducted of the Ground Water Monitoring Report (GW59) submitted by Sandler Utilities at Mill Run L L C for the month of July 2020. This review has shown the subject facility to be in violation of the limitations and/or monitoring requirements found in Non-discharge Permit No. WQ0014306. The violations, which occurred in July 2020, are summarized in Attachment A to this letter.

Based upon the above facts, I conclude as a matter of law that Sandler Utilities at Mill Run L L C violated the terms, conditions or requirements of Non-discharge Permit No. WQ0014306 in the manner and extent shown in Attachment A. In accordance with the maximums established by G.S. 143-215.6A(a)(2), a civil penalty may be assessed against any person who violates the terms, conditions or requirements of a permit required by G.S. 143-215.1(a).



North Carolina Department of Environmental Quality | Division of Water Resources
Washington Regional Office | 943 Washington Square Mall | Washington, North Carolina 27859
252.946.6481

OFFICIAL COPY

June 22 2022

Based upon the above findings of fact and conclusions of law, and in accordance with authority provided by the Secretary of the Department of Environmental Quality and the Director of the Division of Water Resources, I, Robert Tankard, Assistant Regional Supervisor, Washington Regional Office hereby make the following civil penalty assessment against Sandler Utilities at Mill Run L L C:

\$1,000.00 2 of 2 violations of **Nitrogen, Ammonia Total (as N)** per the limits established in Permit No. WQ0014306

\$1,000.00 **TOTAL CIVIL PENALTY**

\$58.82 Enforcement Costs

\$1,058.82 **TOTAL AMOUNT DUE**

Pursuant to G.S. 143-215.6A(c), in determining the amount of the penalty I have taken into account the Findings of Fact and Conclusions of Law and the factors set forth at G.S. 143B-282.1(b), which are:

- (1) The degree and extent of harm to the natural resources of the State, to the public health, or to private property resulting from the violation;
- (2) The duration and gravity of the violation;
- (3) The effect on ground or surface water quantity or quality or on air quality;
- (4) The cost of rectifying the damage;
- (5) The amount of money saved by noncompliance;
- (6) Whether the violation was committed willfully or intentionally;
- (7) The prior record of the violator in complying or failing to comply with programs over which the Environmental Management Commission has regulatory authority; and
- (8) The cost to the State of the enforcement procedures.

Within **thirty (30) days** of receipt of this notice, you must do **one** of the following:

- (1) Submit payment of the penalty, **OR**
- (2) Submit a written request for remission, **OR**
- (3) Submit a written request for an administrative hearing

Option 1: Submit payment of the penalty:

Payment should be made directly to the order of the Department of Environmental Quality (*do not include waiver form*). Payment of the penalty will not foreclose further enforcement action for any continuing or new violation(s). Please submit payment to the attention of:

Wastewater Branch
Division of Water Resources
1617 Mail Service Center
Raleigh, North Carolina 27699-1617

Option 2: Submit a written request for remission or mitigation including a detailed justification for such request:

Please be aware that a request for remission is limited to consideration of the five factors listed below as they may relate to the reasonableness of the amount of the civil penalty assessed. Requesting remission is not the proper procedure for contesting whether the violation(s) occurred or the accuracy of any of the factual statements contained in the civil penalty assessment document. Because a remission request forecloses the option of an administrative hearing, such a request must be accompanied by a waiver of your right to an administrative hearing and a stipulation and agreement that no factual or legal issues are in dispute. Please prepare a detailed statement that establishes why you believe the civil penalty should be remitted, and submit it to the Division of Water Resources at the address listed below. In determining whether a remission request will be approved, the following factors shall be considered:

- (1) whether one or more of the civil penalty assessment factors in NCGS 143B-282.1(b) was wrongfully applied to the detriment of the petitioner;
- (2) whether the violator promptly abated continuing environmental damage resulting from the violation;
- (3) whether the violation was inadvertent or a result of an accident;
- (4) whether the violator had been assessed civil penalties for any previous violations; or
- (5) whether payment of the civil penalty will prevent payment for the remaining necessary remedial actions.

Please note that all evidence presented in support of your request for remission must be submitted in writing. The Director of the Division of Water Resources will review your evidence and inform you of his decision in the matter of your remission request. The response will provide details regarding the case status, directions for payment, and provision for further appeal of the penalty to the Environmental Management Commission's Committee on Civil Penalty Remissions (Committee). Please be advised that the Committee cannot consider information that was not part of the original remission request considered by the Director. Therefore, it is very important that you prepare a complete and thorough statement in support of your request for remission.

In order to request remission, you must complete and submit the enclosed "Request for Remission of Civil Penalties, Waiver of Right to an Administrative Hearing, and Stipulation of Facts" form within thirty (30) days of receipt of this notice. The Division of Water Resources also requests that you complete and submit the enclosed "Justification for Remission Request."

Both forms should be submitted to the following address:

Wastewater Branch
Division of Water Resources
1617 Mail Service Center
Raleigh, North Carolina 27699-1617

Option 3: File a petition for an administrative hearing with the Office of Administrative Hearings:

If you wish to contest any statement in the attached assessment document you must file a petition for an administrative hearing. You may obtain the petition form from the Office of Administrative Hearings. You must file the petition with the Office of Administrative Hearings within thirty (30) days of receipt of this notice. A petition is considered filed when it is received in the Office of Administrative Hearings during normal office hours. The Office of Administrative Hearings accepts filings Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m., except for official state holidays. The petition may be filed by facsimile (fax) or electronic mail by an attached file (with restrictions) - provided the signed original, one (1) copy and a filing fee (if a filing fee is required by NCGS §150B-23.2) is received in the Office of Administrative Hearings within seven (7) business days following the faxed or electronic transmission. You should contact the Office of Administrative Hearings with all questions regarding the filing fee and/or the details of the filing process.

The mailing address and telephone and fax numbers for the Office of Administrative Hearings are as follows:

6714 Mail Service Center
Raleigh, NC 27699 6714
Tel: (919) 431-3000
Fax: (919) 431-3100

One (1) copy of the petition must also be served on DEQ as follows:

Mr. William F. Lane, General Counsel
Department of Environmental Quality
1601 Mail Service Center
Raleigh, North Carolina 27699-1601

Please indicate the case number (as found on page one of this letter) on the petition.

Failure to exercise one of the options above within thirty (30) days of receipt of this letter, as evidenced by an internal date/time received stamp (not a postmark), will result in this matter being referred to the Attorney General's Office for collection of the penalty through a civil action. Please be advised that additional penalties may be assessed for violations that occur after the review period of this assessment.

If you have any questions, please contact Paul Mays with the Division of Water Resources staff of the Washington Regional Office at (252) 948-3940 or via email at paul.mays@ncdenr.gov.

Sincerely,

Robert Tankard

Robert Tankard, Assistant Regional Supervisor
Water Quality Regional Operations Section
Washington Regional Office
Division of Water Resources, NCDEQ

ATTACHMENTS

Cc: Laserfiche

JUSTIFICATION FOR REMISSION REQUEST**Case Number:** LV-2021-0351**County:** Currituck**Assessed Party:** Sandler Utilities at Mill Run L L C**Permit No.:** WQ0014306**Amount Assessed:** \$1,058.82

Please use this form when requesting remission of this civil penalty. You must also complete the "Request For Remission, Waiver of Right to an Administrative Hearing, and Stipulation of Facts" form to request remission of this civil penalty. You should attach any documents that you believe support your request and are necessary for the Director to consider in evaluating your request for remission. Please be aware that a request for remission is limited to consideration of the five factors listed below as they may relate to the reasonableness of the amount of the civil penalty assessed. Requesting remission is not the proper procedure for contesting whether the violation(s) occurred or the accuracy of any of the factual statements contained in the civil penalty assessment document. Pursuant to N.C.G.S. § 143B-282.1(c), remission of a civil penalty may be granted only when one or more of the following five factors apply. Please check each factor that you believe applies to your case and provide a detailed explanation, including copies of supporting documents, as to why the factor applies (attach additional pages as needed).

- ___ (a) one or more of the civil penalty assessment factors in N.C.G.S. 143B-282.1(b) were wrongfully applied to the detriment of the petitioner (*the assessment factors are listed in the civil penalty assessment document*);
- ___ (b) the violator promptly abated continuing environmental damage resulting from the violation (*i.e., explain the steps that you took to correct the violation and prevent future occurrences*);
- ___ (c) the violation was inadvertent or a result of an accident (*i.e., explain why the violation was unavoidable or something you could not prevent or prepare for*);
- ___ (d) the violator had not been assessed civil penalties for any previous violations;
- ___ (e) payment of the civil penalty will prevent payment for the remaining necessary remedial actions (*i.e., explain how payment of the civil penalty will prevent you from performing the activities necessary to achieve compliance*).

EXPLANATION:

STATE OF NORTH CAROLINA

DEPARTMENT OF ENVIRONMENTAL QUALITY

COUNTY OF CURRITUCK

IN THE MATTER OF ASSESSMENT
OF CIVIL PENALTIES AGAINST

Sandler Utilities at Mill Run L L C
Eagle Creek WWTP

PERMIT NO. WQ0014306

) **WAIVER OF RIGHT TO AN**
) **ADMINISTRATIVE HEARING AND**
) **STIPULATION OF FACTS**

) **CASE NO. LV-2021-0351**

Having been assessed civil penalties totaling \$1,058.82 for violation(s) as set forth in the assessment document of the Division of Water Resources dated December 09, 2021, the undersigned, desiring to seek remission of the civil penalty, does hereby waive the right to an administrative hearing in the above-stated matter and does stipulate that the facts are as alleged in the assessment document. The undersigned further understands that all evidence presented in support of remission of this civil penalty must be submitted to the Director of the Division of Water Resources within thirty (30) days of receipt of the notice of assessment. No new evidence in support of a remission request will be allowed after (30) days from the receipt of the notice of assessment.

This the _____ day of _____, 20____

SIGNATURE

ADDRESS

TELEPHONE

OFFICIAL COPY

JUN 22 2022

ATTACHMENT A

Sandler Utilities at Mill Run L L C

CASE NUMBER: LV-2021-0351

PERMIT: WQ0014306

REGION: Washington

FACILITY: Eagle Creek WWTP

COUNTY: Currituck

LIMIT VIOLATION(S)

SAMPLE LOCATION: Well# MW-1

| Violation Date | Report Month/Yr | Parameter | Frequency | Unit of Measure | Limit Value | Calculated Value | % Over Limit | Violation Type | Penalty Amount |
|----------------|-----------------|--------------------------------|-----------|-----------------|-------------|------------------|--------------|----------------|----------------|
| 7/31/2020 | 7-2020 | Nitrogen, Ammonia Total (as N) | 3 X year | mg/l | 1500 | 7,500 | 400.0 | Limit Exceeded | \$500.00 |

SAMPLE LOCATION: Well# MW-2

| Violation Date | Report Month/Yr | Parameter | Frequency | Unit of Measure | Limit Value | Calculated Value | % Over Limit | Violation Type | Penalty Amount |
|----------------|-----------------|--------------------------------|-----------|-----------------|-------------|------------------|--------------|----------------|----------------|
| 7/31/2020 | 7-2020 | Nitrogen, Ammonia Total (as N) | 3 X year | mg/l | 1500 | 9,000 | 500.0 | Limit Exceeded | \$500.00 |

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JUN 22 2022

DIVISION OF WATER RESOURCES - CIVIL PENALTY ASSESSMENT

Violator: Sandler Utilities at Mill Run L L C

Facility Name: Eagle Creek WWTP

Permit Number: WQ0014306

County: Currituck

Case Number: LV-2021-0352

ASSESSMENT FACTORS

- 1) The degree and extent of harm to the natural resources of the State, to the public health, or to private property resulting from the violation;**

Unknown – The Ammonia limit violations could lead to Water Quality Standard Violations. There were no documented fish kills or public health hazards stemming from the violation. However, the facility has been sending non-reclaimed water to the irrigation pond to be sprayed on the golf course. There are documented groundwater standard violations.

- 2) The duration and gravity of the violation;**

The facility has not been meeting effluent limits since the new operator took over the plant. There have been eight enforcements prior to this assessment totaling \$22,260.74 dollars. The gravity of the violations are significant!

- 3) The effect on ground or surface water quantity or quality or on air quality;**

Groundwater standards have been violated in both monitoring wells on site.

- 4) The cost of rectifying the damage;**

Unknown

- 5) The amount of money saved by noncompliance;**

Significant

- 6) Whether the violation was committed willfully or intentionally;**

The operator is not managing the system as required. The facility is under a Consent Judgement to mandate compliance for the operation of the collection system.

- 7) The prior record of the violator in complying or failing to comply with programs over which the Environmental Management Commission has regulatory authority; and**

A violation records review of the facility of the past 24 months as of 12/01/2021 revealed the following issues. Over the last 24 months the facility has received 1 NOV, and 8 CPA's that had a total value of \$22,260.74. The notices and civil penalties were issued due to a multitude of reasons. The facility is known to have chronic Fecal, Ammonia, TSS and BOD-5 limit violations. Another chronic issue is that the facility is required by permit condition III.21 to reroute effluent to the high-rate infiltration pond during Fecal limit violations or when the turbidity exceeds 10 NTU. The facility fails to do this on a consistent basis. The facility is known for consistently failing to reroute effluent during Fecal limit violations to the high-rate infiltration pond. This may potentially represent a possible public health hazard due to the Fecal rich water entering the re-use irrigation pond which is used to irrigate a nearby golf course open to the public. Another chronic issue monitoring and reporting violations present in monitoring reports submitted to the division or for the reports themselves to be late or missing.

8) The cost to the State of the enforcement procedures.

\$58.82

12/9/2021

Date

Robert Tankard

**Robert Tankard, Assistant Regional Supervisor
Water Quality Regional Operations Section
Washington Regional Office
Division of Water Resources, NCDEQ**

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JUN 22 2022

ROY COOPER
Governor
ELIZABETH S. BISER
Secretary
S. DANIEL SMITH
Director



Certified Mail # 7021 0950 0001 1087 3684
Return Receipt Requested

December 09, 2021

Raymond Gottlieb
Sandler Utilities at Mill Run L L C
448 Viking Dr Ste 200
Virginia Beach, VA 23452-7331

SUBJECT: Notice of Violation and Assessment of Civil Penalty
for Violations of Non-discharge Permit No. WQ0014306
Sandler Utilities at Mill Run L L C
Eagle Creek WWTP
Case No. LV-2021-0352
Currituck County

Dear Mr. Gottlieb:

This letter transmits a Notice of Violation and assessment of civil penalty in the amount of \$1,058.82 (\$1,000.00 civil penalty + \$58.82 enforcement costs) against Sandler Utilities at Mill Run L L C.

This assessment is based upon the following facts: a review has been conducted of the Ground Water Monitoring Report (GW59) submitted by Sandler Utilities at Mill Run L L C for the month of November 2020. This review has shown the subject facility to be in violation of the limitations and/or monitoring requirements found in Non-discharge Permit No. WQ0014306. The violations, which occurred in November 2020, are summarized in Attachment A to this letter.

Based upon the above facts, I conclude as a matter of law that Sandler Utilities at Mill Run L L C violated the terms, conditions or requirements of Non-discharge Permit No. WQ0014306 in the manner and extent shown in Attachment A. In accordance with the maximums established by G.S. 143-215.6A(a)(2), a civil penalty may be assessed against any person who violates the terms, conditions or requirements of a permit required by G.S. 143-215.1(a).



North Carolina Department of Environmental Quality | Division of Water Resources
Washington Regional Office | 943 Washington Square Mall | Washington, North Carolina 27889
252.946.6481

OFFICIAL COPY

JUN 22 2022

Based upon the above findings of fact and conclusions of law, and in accordance with authority provided by the Secretary of the Department of Environmental Quality and the Director of the Division of Water Resources, I, Robert Tankard, Assistant Regional Supervisor, Washington Regional Office hereby make the following civil penalty assessment against Sandler Utilities at Mill Run L L C:

\$1,000.00 2 of 2 violations of **Nitrogen, Ammonia Total (as N)** per the limits established in Permit No. WQ0014306

\$0.00 For 0 of the 1 failures to submit monitoring reports or portions of monitoring reports in violation of Permit No. WQ0014306.

\$1,000.00 **TOTAL CIVIL PENALTY**

\$58.82 Enforcement Costs

\$1,058.82 **TOTAL AMOUNT DUE**

Pursuant to G.S. 143-215.6A(c), in determining the amount of the penalty I have taken into account the Findings of Fact and Conclusions of Law and the factors set forth at G.S. 143B-282.1(b), which are:

- (1) The degree and extent of harm to the natural resources of the State, to the public health, or to private property resulting from the violation;
- (2) The duration and gravity of the violation;
- (3) The effect on ground or surface water quantity or quality or on air quality;
- (4) The cost of rectifying the damage;
- (5) The amount of money saved by noncompliance;
- (6) Whether the violation was committed willfully or intentionally;
- (7) The prior record of the violator in complying or failing to comply with programs over which the Environmental Management Commission has regulatory authority; and
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Within **thirty (30) days** of receipt of this notice, you must do **one** of the following:

- (1) Submit payment of the penalty, **OR**
- (2) Submit a written request for remission, **OR**
- (3) Submit a written request for an administrative hearing

Option 1: Submit payment of the penalty:

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Division of Water Resources
1617 Mail Service Center
Raleigh, North Carolina 27699-1617

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- (1) whether one or more of the civil penalty assessment factors in NCGS 143B-282.1(b) was wrongfully applied to the detriment of the petitioner;
- (2) whether the violator promptly abated continuing environmental damage resulting from the violation;
- (3) whether the violation was inadvertent or a result of an accident;
- (4) whether the violator had been assessed civil penalties for any previous violations; or
- (5) whether payment of the civil penalty will prevent payment for the remaining necessary remedial actions.

Please note that all evidence presented in support of your request for remission must be submitted in writing. The Director of the Division of Water Resources will review your evidence and inform you of his decision in the matter of your remission request. The response will provide details regarding the case status, directions for payment, and provision for further appeal of the penalty to the Environmental Management Commission's Committee on Civil Penalty Remissions (Committee). Please be advised that the Committee cannot consider information that was not part of the original remission request considered by the Director. Therefore, it is very important that you prepare a complete and thorough statement in support of your request for remission.

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Division of Water Resources
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Raleigh, North Carolina 27699-1617

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If you wish to contest any statement in the attached assessment document you must file a petition for an administrative hearing. You may obtain the petition form from the Office of Administrative Hearings. You must file the petition with the Office of Administrative Hearings within thirty (30) days of receipt of this notice. A petition is considered filed when it is received in the Office of Administrative Hearings during normal office hours. The Office of Administrative Hearings accepts filings Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m., except for official state holidays. The petition may be filed by facsimile (fax) or electronic mail by an attached file (with restrictions) - provided the signed original, one (1) copy and a filing fee (if a filing fee is required by NCGS §150B-23.2) is received in the Office of Administrative Hearings within seven (7) business days following the faxed or electronic transmission. You should contact the Office of Administrative Hearings with all questions regarding the filing fee and/or the details of the filing process.

The mailing address and telephone and fax numbers for the Office of Administrative Hearings are as follows:

6714 Mail Service Center
Raleigh, NC 27699 6714
Tel: (919) 431-3000
Fax: (919) 431-3100

One (1) copy of the petition must also be served on DEQ as follows:

Mr. William F. Lane, General Counsel
Department of Environmental Quality
1601 Mail Service Center
Raleigh, North Carolina 27699-1601

Please indicate the case number (as found on page one of this letter) on the petition.

Failure to exercise one of the options above within thirty (30) days of receipt of this letter, as evidenced by an internal date/time received stamp (not a postmark), will result in this matter being referred to the Attorney General's Office for collection of the penalty through a civil action. Please be advised that additional penalties may be assessed for violations that occur after the review period of this assessment.

If you have any questions, please contact Paul Mays with the Division of Water Resources staff of the Washington Regional Office at (252) 948-3940 or via email at paul.mays@ncdenr.gov.

Sincerely,

Robert Tankard

Robert Tankard, Assistant Regional Supervisor
Water Quality Regional Operations Section
Washington Regional Office
Division of Water Resources, NCDEQ

ATTACHMENTS

Cc: Laserfiche

JUSTIFICATION FOR REMISSION REQUEST**Case Number:** LV-2021-0352**County:** Currituck**Assessed Party:** Sandler Utilities at Mill Run L L C**Permit No.:** WQ0014306**Amount Assessed:** \$1,058.82

Please use this form when requesting remission of this civil penalty. You must also complete the "Request For Remission, Waiver of Right to an Administrative Hearing, and Stipulation of Facts" form to request remission of this civil penalty. You should attach any documents that you believe support your request and are necessary for the Director to consider in evaluating your request for remission. Please be aware that a request for remission is limited to consideration of the five factors listed below as they may relate to the reasonableness of the amount of the civil penalty assessed. Requesting remission is not the proper procedure for contesting whether the violation(s) occurred or the accuracy of any of the factual statements contained in the civil penalty assessment document. Pursuant to N.C.G.S. § 143B-282.1(c), remission of a civil penalty may be granted only when one or more of the following five factors apply. Please check each factor that you believe applies to your case and provide a detailed explanation, including copies of supporting documents, as to why the factor applies (attach additional pages as needed).

- ___ (a) one or more of the civil penalty assessment factors in N.C.G.S. 143B-282.1(b) were wrongfully applied to the detriment of the petitioner (*the assessment factors are listed in the civil penalty assessment document*);
- ___ (b) the violator promptly abated continuing environmental damage resulting from the violation (*i.e., explain the steps that you took to correct the violation and prevent future occurrences*);
- ___ (c) the violation was inadvertent or a result of an accident (*i.e., explain why the violation was unavoidable or something you could not prevent or prepare for*);
- ___ (d) the violator had not been assessed civil penalties for any previous violations;
- ___ (e) payment of the civil penalty will prevent payment for the remaining necessary remedial actions (*i.e., explain how payment of the civil penalty will prevent you from performing the activities necessary to achieve compliance*).

EXPLANATION:

STATE OF NORTH CAROLINA

DEPARTMENT OF ENVIRONMENTAL QUALITY

COUNTY OF CURRITUCK

IN THE MATTER OF ASSESSMENT
OF CIVIL PENALTIES AGAINST

Sandler Utilities at Mill Run L L C
Eagle Creek WWTP

PERMIT NO. WQ0014306

) **WAIVER OF RIGHT TO AN**
) **ADMINISTRATIVE HEARING AND**
) **STIPULATION OF FACTS**

) **CASE NO. LV-2021-0352**

Having been assessed civil penalties totaling \$1,058.82 for violation(s) as set forth in the assessment document of the Division of Water Resources dated December 09, 2021, the undersigned, desiring to seek remission of the civil penalty, does hereby waive the right to an administrative hearing in the above-stated matter and does stipulate that the facts are as alleged in the assessment document. The undersigned further understands that all evidence presented in support of remission of this civil penalty must be submitted to the Director of the Division of Water Resources within thirty (30) days of receipt of the notice of assessment. No new evidence in support of a remission request will be allowed after (30) days from the receipt of the notice of assessment.

This the _____ day of _____, 20____

SIGNATURE

ADDRESS

TELEPHONE

OFFICIAL COPY

JUN 22 2022

ATTACHMENT A**Sandler Utilities at Mill Run L L C****CASE NUMBER: LV-2021-0352****PERMIT: WQ0014306****REGION: Washington****FACILITY: Eagle Creek WWTP****COUNTY: Currituck****LIMIT VIOLATION(S)****SAMPLE LOCATION: Well# MW-1**

| Violation Date | Report Month/Yr | Parameter | Frequency | Unit of Measure | Limit Value | Calculated Value | % Over Limit | Violation Type | Penalty Amount |
|----------------|-----------------|--------------------------------|-----------|-----------------|-------------|------------------|--------------|----------------|----------------|
| 11/30/2020 | 11-2020 | Nitrogen, Ammonia Total (as N) | 3 X year | mg/l | 1500 | 5,400 | 260.0 | Limit Exceeded | \$500.00 |

SAMPLE LOCATION: Well# MW-2

| Violation Date | Report Month/Yr | Parameter | Frequency | Unit of Measure | Limit Value | Calculated Value | % Over Limit | Violation Type | Penalty Amount |
|----------------|-----------------|--------------------------------|-----------|-----------------|-------------|------------------|--------------|----------------|----------------|
| 11/30/2020 | 11-2020 | Nitrogen, Ammonia Total (as N) | 3 X year | mg/l | 1500 | 7,800 | 420.0 | Limit Exceeded | \$500.00 |

REPORTING VIOLATION(S)**SAMPLE LOCATION:**

| Violation Date | Report Month/Yr | Parameter | Frequency | Unit of Measure | Limit Value | Calculated Value | % Over Limit | Violation Type | Penalty Amount |
|----------------|-----------------|-----------|-----------|-----------------|-------------|------------------|--------------|--------------------|----------------|
| 1/30/2021 | 11-2020 | | | | | | | Late/Missing GW-59 | \$0.00 |

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DIVISION OF WATER RESOURCES - CIVIL PENALTY ASSESSMENT

Violator: Sandler Utilities at Mill Run L L C

Facility Name: Eagle Creek WWTP

Permit Number: WQ0014306

County: Currituck

Case Number: LV-2021-0353

ASSESSMENT FACTORS

1) The degree and extent of harm to the natural resources of the State, to the public health, or to private property resulting from the violation;

Unknown – The limit violations, reporting violations and permit condition violations could have led to Water Quality Standard Violations or Public Health Hazards. The facility however is a reclaimed system and the facility routed effluent that did not meet the permitted limits for Fecal Coliform to an irrigation pond where the water is used to irrigate a golf course that is open and utilized by the public. This represents a potential Public Health Hazard.

2) The duration and gravity of the violation;

During the month of 03/2021 the facility exceeded the daily maximum limit for Ammonia twice, the daily maximum limit for Turbidity twice and the daily maximum limit for Fecal Coliform, TSS and BOD-5 once. The facility also exceeded the monthly average limit for Ammonia, BOD-5 and TSS and the monthly geometric mean limit for Fecal Coliform. The facility also exceeded the Ammonia limit for groundwater in MW-1 and MW-2 plus the TDS groundwater limit for MW-2. Lastly, the facility failed to reroute effluent to the high-rate infiltration pond as required by permit condition III.21 for 16 days during Fecal Coliform limit violations. The facility has not been meeting effluent limits since the new operator took over the plant. There have been nine enforcements prior to this assessment totaling \$23,319.56 dollars. The gravity of the violations is significant!

3) The effect on ground or surface water quantity or quality or on air quality;

Unknown – The limit violations, reporting violations and permit condition violations could have led to Water Quality Standard Violations or Public Health Hazards. The facility however is a reclaimed system and the facility routed effluent that did not meet the permitted limits for Fecal Coliform to an irrigation pond where the water is used to irrigate a golf course that is open and utilized by the public. This represents a potential Public Health Hazard. Groundwater standards have been violated in both monitoring wells on site.

4) The cost of rectifying the damage;

Unknown

5) The amount of money saved by noncompliance;

Significant – Funds potentially saved through improper operation and maintenance of the facility.

6) Whether the violation was committed willfully or intentionally;

The operator is not managing the system as required. The facility is under a Consent Judgement to mandate compliance for the operation of the collection system.

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7) The prior record of the violator in complying or failing to comply with programs over which the Environmental Management Commission has regulatory authority; and

A violation records review of the facility of the past 24 months as of 12/01/2021 revealed the following issues. Over the last 24 months the facility has received 1 NOV, and 9 CPA's that had a total value of \$23,319.56. The notices and civil penalties were issued due to a multitude of reasons. The facility is known to have chronic Fecal, Ammonia, TSS and BOD 5 limit violations. Another chronic issue is that the facility is required by permit condition III.21 to reroute effluent to the high-rate infiltration pond during Fecal limit violations or when the turbidity exceeds 10 NTU. The facility fails to do this on a consistent basis. The facility is known for consistently failing to reroute effluent during Fecal limit violations to the high-rate infiltration pond. This may potentially represent a possible public health hazard due to the Fecal rich water entering the re-use irrigation pond which is used to irrigate a nearby golf course open to the public. Another chronic issue monitoring and reporting violations present in monitoring reports submitted to the division or for the reports themselves to be late or missing.

8) The cost to the State of the enforcement procedures.

\$58.82

12/9/2021

Date

Robert Tankard

**Robert Tankard, Assistant Regional Supervisor
Water Quality Regional Operations Section
Washington Regional Office
Division of Water Resources, NCDEQ**

ROY COOPER
Governor
ELIZABETH S. BISER
Secretary
S. DANIEL SMITH
Director



Certified Mail # 7021 0950 0001 1087 3691
Return Receipt Requested

December 09, 2021

Raymond Gottlieb
Sandler Utilities at Mill Run L L C
448 Viking Dr Ste 200
Virginia Beach, VA 23452-7331

SUBJECT: Notice of Violation and Assessment of Civil Penalty
for Violations of Non-discharge Permit No. WQ0014306
Sandler Utilities at Mill Run L L C
Eagle Creek WWTP
Case No. LV-2021-0353
Currituck County

Dear Mr. Gottlieb:

This letter transmits a Notice of Violation and assessment of civil penalty in the amount of \$7,408.82 (\$7,350.00 civil penalty + \$58.82 enforcement costs) against Sandler Utilities at Mill Run L L C.

This assessment is based upon the following facts: a review has been conducted of the Ground Water Monitoring Report (GW59) and Non-Discharge Monitoring Report (NDMR) submitted by Sandler Utilities at Mill Run L L C for the month of March 2021. This review has shown the subject facility to be in violation of the limitations and/or monitoring requirements found in Non-discharge Permit No. WQ0014306. The violations, which occurred in March 2021, are summarized in Attachment A to this letter.

Based upon the above facts, I conclude as a matter of law that Sandler Utilities at Mill Run L L C violated the terms, conditions or requirements of Non-discharge Permit No. WQ0014306 in the manner and extent shown in Attachment A. In accordance with the maximums established by G.S. 143-215.6A(a)(2), a civil penalty may be assessed against any person who violates the terms, conditions or requirements of a permit required by G.S. 143-215.1(a).



North Carolina Department of Environmental Quality | Division of Water Resources
Washington Regional Office | 943 Washington Square Mall | Washington, North Carolina 27889
252.946.6481

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Based upon the above findings of fact and conclusions of law, and in accordance with authority provided by the Secretary of the Department of Environmental Quality and the Director of the Division of Water Resources, I, Robert Tankard, Assistant Regional Supervisor, Washington Regional Office hereby make the following civil penalty assessment against Sandler Utilities at Mill Run L L C:

- | | |
|-------------------|--|
| <u>\$100.00</u> | <u>1</u> of 1 violations of the Permit Daily Maximum for <u>BOD, 5-Day (20 Deg. C)</u> per the limits established in Permit No. WQ0014306 |
| <u>\$100.00</u> | <u>1</u> of 1 violations of the Permit Daily Maximum for <u>Coliform, Fecal MF, MFC Broth, 44.5 C</u> per the limits established in Permit No. WQ0014306 |
| <u>\$200.00</u> | <u>2</u> of 2 violations of the Permit Daily Maximum for <u>Nitrogen, Ammonia Total (as N)</u> per the limits established in Permit No. WQ0014306 |
| <u>\$100.00</u> | <u>1</u> of 1 violations of the Permit Daily Maximum for <u>Solids, Total Suspended</u> per the limits established in Permit No. WQ0014306 |
| <u>\$0.00</u> | <u>0</u> of 2 violations of the Permit Daily Maximum for <u>Turbidity, HCH Turbidimeter</u> per the limits established in Permit No. WQ0014306 |
| <u>\$500.00</u> | <u>1</u> of 1 violations of the Permit Monthly Average for <u>BOD, 5-Day (20 Deg. C)</u> per the limits established in Permit No. WQ0014306 |
| <u>\$500.00</u> | <u>1</u> of 2 violations of the Permit Monthly Average for <u>Nitrogen, Ammonia Total (as N)</u> per the limits established in Permit No. WQ0014306 |
| <u>\$500.00</u> | <u>1</u> of 1 violations of the Permit Monthly Average for <u>Solids, Total Suspended</u> per the limits established in Permit No. WQ0014306 |
| <u>\$0.00</u> | <u>0</u> of 2 violations of the Permit Monthly Geometric Mean for <u>Coliform, Fecal MF, MFC Broth, 44.5 C</u> per the limits established in Permit No. WQ0014306 |
| <u>\$1,000.00</u> | <u>2</u> of 2 violations of <u>Nitrogen, Ammonia Total (as N)</u> per the limits established in Permit No. WQ0014306 |
| <u>\$0.00</u> | <u>0</u> of 1 violations of <u>Solids, Total Dissolved- 180 Deg.C</u> per the limits established in Permit No. WQ0014306 |

| | |
|-------------------|--|
| <u>\$50.00</u> | For <u>1</u> of the <u>1</u> failures to submit monitoring reports or portions of monitoring reports in violation of Permit No. WQ0014306. |
| <u>\$50.00</u> | For <u>1</u> of the <u>1</u> failures to submit monitoring reports or portions of monitoring reports in violation of Permit No. WQ0014306. |
| <u>\$50.00</u> | For <u>1</u> of the <u>1</u> failures to submit monitoring reports or portions of monitoring reports in violation of Permit No. WQ0014306. |
| <u>\$50.00</u> | For <u>1</u> of the <u>1</u> failures to submit monitoring reports or portions of monitoring reports in violation of Permit No. WQ0014306. |
| <u>\$50.00</u> | For <u>1</u> of the <u>1</u> failures to submit monitoring reports or portions of monitoring reports in violation of Permit No. WQ0014306. |
| <u>\$50.00</u> | For <u>1</u> of the <u>1</u> failures to submit monitoring reports or portions of monitoring reports in violation of Permit No. WQ0014306. |
| <u>\$50.00</u> | For <u>1</u> of the <u>1</u> failures to submit monitoring reports or portions of monitoring reports in violation of Permit No. WQ0014306. |
| <u>\$4,000.00</u> | For <u>16</u> of the <u>16</u> other violations of Permit No. WQ0014306. |
| <u>\$7,350.00</u> | TOTAL CIVIL PENALTY |
| <u>\$58.82</u> | Enforcement Costs |
| <u>\$7,408.82</u> | TOTAL AMOUNT DUE |
| <u>\$7,350.00</u> | TOTAL CIVIL PENALTY |
| <u>\$58.82</u> | Enforcement Costs |
| <u>\$7,408.82</u> | TOTAL AMOUNT DUE |

Pursuant to G.S. 143-215.6A(c), in determining the amount of the penalty I have taken into account the Findings of Fact and Conclusions of Law and the factors set forth at G.S. 143B-282.1(b), which are:

- (1) The degree and extent of harm to the natural resources of the State, to the public health, or to private property resulting from the violation;
- (2) The duration and gravity of the violation;
- (3) The effect on ground or surface water quantity or quality or on air quality;
- (4) The cost of rectifying the damage;
- (5) The amount of money saved by noncompliance;
- (6) Whether the violation was committed willfully or intentionally;
- (7) The prior record of the violator in complying or failing to comply with programs over which the Environmental Management Commission has regulatory authority; and
- (8) The cost to the State of the enforcement procedures.

Within **thirty (30) days** of receipt of this notice, you must do **one** of the following:

- (1) Submit payment of the penalty, **OR**
- (2) Submit a written request for remission, **OR**
- (3) Submit a written request for an administrative hearing

Option 1: Submit payment of the penalty:

Payment should be made directly to the order of the Department of Environmental Quality (*do not include waiver form*). Payment of the penalty will not foreclose further enforcement action for any continuing or new violation(s). Please submit payment to the attention of:

Wastewater Branch
Division of Water Resources
1617 Mail Service Center
Raleigh, North Carolina 27699-1617

Option 2: Submit a written request for remission or mitigation including a detailed justification for such request:

Please be aware that a request for remission is limited to consideration of the five factors listed below as they may relate to the reasonableness of the amount of the civil penalty assessed. Requesting remission is not the proper procedure for contesting whether the violation(s) occurred or the accuracy of any of the factual statements contained in the civil penalty assessment document. Because a remission request forecloses the option of an administrative hearing, such a request must be accompanied by a waiver of your right to an administrative hearing and a stipulation and agreement that no factual or legal issues are in dispute. Please prepare a detailed statement that establishes why you believe the civil penalty should be remitted, and submit it to the Division of Water Resources at the address listed below. In determining whether a remission request will be approved, the following factors shall be considered:

- (1) whether one or more of the civil penalty assessment factors in NCGS 143B-282.1(b) was wrongfully applied to the detriment of the petitioner;
- (2) whether the violator promptly abated continuing environmental damage resulting from the violation;
- (3) whether the violation was inadvertent or a result of an accident;
- (4) whether the violator had been assessed civil penalties for any previous violations; or
- (5) whether payment of the civil penalty will prevent payment for the remaining necessary remedial actions.

Please note that all evidence presented in support of your request for remission must be submitted in writing. The Director of the Division of Water Resources will review your evidence and inform you of his decision in the matter of your remission request. The response will provide details regarding the case status, directions for payment, and provision for further appeal of the penalty to the Environmental Management Commission's Committee on Civil Penalty Remissions (Committee). Please be advised that the Committee cannot consider information that was not part of the original remission request considered by the Director. Therefore, it is very important that you prepare a complete and thorough statement in support of your request for remission.

In order to request remission, you must complete and submit the enclosed "Request for Remission of Civil Penalties, Waiver of Right to an Administrative Hearing, and Stipulation of Facts" form within thirty (30) days of receipt of this notice. The Division of Water Resources also requests that you complete and submit the enclosed "Justification for Remission Request."

Both forms should be submitted to the following address:

Wastewater Branch
Division of Water Resources
1617 Mail Service Center
Raleigh, North Carolina 27699-1617

Option 3: File a petition for an administrative hearing with the Office of Administrative Hearings:

If you wish to contest any statement in the attached assessment document you must file a petition for an administrative hearing. You may obtain the petition form from the Office of Administrative Hearings. You must file the petition with the Office of Administrative Hearings within thirty (30) days of receipt of this notice. A petition is considered filed when it is received in the Office of Administrative Hearings during normal office hours. The Office of Administrative Hearings accepts filings Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m., except for official state holidays. The petition may be filed by facsimile (fax) or electronic mail by an attached file (with restrictions) - provided the signed original, one (1) copy and a filing fee (if a filing fee is required by NCGS §150B-23.2) is received in the Office of Administrative Hearings within seven (7) business days following the faxed or electronic transmission. You should contact the Office of Administrative Hearings with all questions regarding the filing fee and/or the details of the filing process.

The mailing address and telephone and fax numbers for the Office of Administrative Hearings are as follows:

6714 Mail Service Center
Raleigh, NC 27699 6714
Tel: (919) 431-3000
Fax: (919) 431-3100

One (1) copy of the petition must also be served on DEQ as follows:

Mr. William F. Lane, General Counsel
Department of Environmental Quality
1601 Mail Service Center
Raleigh, North Carolina 27699-1601

Please indicate the case number (as found on page one of this letter) on the petition.

Failure to exercise one of the options above within thirty (30) days of receipt of this letter, as evidenced by an internal date/time received stamp (not a postmark), will result in this matter being referred to the Attorney General's Office for collection of the penalty through a civil action. Please be advised that additional penalties may be assessed for violations that occur after the review period of this assessment. If you have any questions, please contact Paul Mays with the Division of Water Resources staff of the Washington Regional Office at (252) 948-3940 or via email at paul.mays@ncdenr.gov.

Sincerely,

Robert Tankard

Robert Tankard, Assistant Regional Supervisor
Water Quality Regional Operations Section
Washington Regional Office
Division of Water Resources, NCDEQ

ATTACHMENTS

Cc: Laserfiche

JUSTIFICATION FOR REMISSION REQUEST**Case Number:** LV-2021-0353**County:** Currituck**Assessed Party:** Sandler Utilities at Mill Run L L C**Permit No.:** WQ0014306**Amount Assessed:** \$7,408.82

Please use this form when requesting remission of this civil penalty. You must also complete the "Request For Remission, Waiver of Right to an Administrative Hearing, and Stipulation of Facts" form to request remission of this civil penalty. You should attach any documents that you believe support your request and are necessary for the Director to consider in evaluating your request for remission. Please be aware that a request for remission is limited to consideration of the five factors listed below as they may relate to the reasonableness of the amount of the civil penalty assessed. Requesting remission is not the proper procedure for contesting whether the violation(s) occurred or the accuracy of any of the factual statements contained in the civil penalty assessment document. Pursuant to N.C.G.S. § 143B-282.1(c), remission of a civil penalty may be granted only when one or more of the following five factors apply. Please check each factor that you believe applies to your case and provide a detailed explanation, including copies of supporting documents, as to why the factor applies (attach additional pages as needed).

- ___ (a) one or more of the civil penalty assessment factors in N.C.G.S. 143B-282.1(b) were wrongfully applied to the detriment of the petitioner *(the assessment factors are listed in the civil penalty assessment document)*;
- ___ (b) the violator promptly abated continuing environmental damage resulting from the violation *(i.e., explain the steps that you took to correct the violation and prevent future occurrences)*;
- ___ (c) the violation was inadvertent or a result of an accident *(i.e., explain why the violation was unavoidable or something you could not prevent or prepare for)*;
- ___ (d) the violator had not been assessed civil penalties for any previous violations;
- ___ (e) payment of the civil penalty will prevent payment for the remaining necessary remedial actions *(i.e., explain how payment of the civil penalty will prevent you from performing the activities necessary to achieve compliance)*.

EXPLANATION:

STATE OF NORTH CAROLINA

DEPARTMENT OF ENVIRONMENTAL QUALITY

COUNTY OF CURRITUCK

IN THE MATTER OF ASSESSMENT
OF CIVIL PENALTIES AGAINST

Sandler Utilities at Mill Run L L C
Eagle Creek WWTP

PERMIT NO. WQ0014306

) **WAIVER OF RIGHT TO AN**
) **ADMINISTRATIVE HEARING AND**
) **STIPULATION OF FACTS**

) **CASE NO. LV-2021-0353**

Having been assessed civil penalties totaling \$7,408.82 for violation(s) as set forth in the assessment document of the Division of Water Resources dated December 09, 2021, the undersigned, desiring to seek remission of the civil penalty, does hereby waive the right to an administrative hearing in the above-stated matter and does stipulate that the facts are as alleged in the assessment document. The undersigned further understands that all evidence presented in support of remission of this civil penalty must be submitted to the Director of the Division of Water Resources within thirty (30) days of receipt of the notice of assessment. No new evidence in support of a remission request will be allowed after (30) days from the receipt of the notice of assessment.

This the _____ day of _____, 20____

SIGNATURE

ADDRESS

TELEPHONE

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JUN 22 2022

ATTACHMENT A**Sandler Utilities at Mill Run L L C****CASE NUMBER: LV-2021-0353****PERMIT: WQ0014306****REGION: Washington****FACILITY: Eagle Creek WWTP****COUNTY: Currituck****LIMIT VIOLATION(S)****SAMPLE LOCATION:**

| Violation Date | Report Month/Yr | Parameter | Frequency | Unit of Measure | Limit Value | Calculated Value | % Over Limit | Violation Type | Penalty Amount |
|-----------------------|------------------------|---------------------------------------|------------------|------------------------|--------------------|-------------------------|---------------------|---------------------------------|-----------------------|
| 3/10/2021 | 3-2021 | BOD, 5-Day (20 Deg. C) | 2 X month | mg/l | 15 | 17 | 13.3 | Daily Maximum Exceeded | \$100.00 |
| 3/31/2021 | 3-2021 | BOD, 5-Day (20 Deg. C) | 2 X month | mg/l | 10 | 15.5 | 55.0 | Monthly Average Exceeded | \$500.00 |
| 3/10/2021 | 3-2021 | Coliform, Fecal MF, MFC Broth, 44.5 C | 2 X month | #/100ml | 25 | 272 | 988.0 | Daily Maximum Exceeded | \$100.00 |
| 3/31/2021 | 3-2021 | Coliform, Fecal MF, MFC Broth, 44.5 C | 2 X month | #/100ml | 14 | 63.87 | 356.2 | Monthly Geometric Mean Exceeded | \$0.00 |
| 3/10/2021 | 3-2021 | Nitrogen, Ammonia Total (as N) | 2 X month | mg/l | 6 | 43.9 | 631.7 | Daily Maximum Exceeded | \$100.00 |
| 3/17/2021 | 3-2021 | Nitrogen, Ammonia Total (as N) | 2 X month | mg/l | 6 | 44 | 633.3 | Daily Maximum Exceeded | \$100.00 |
| 3/31/2021 | 3-2021 | Nitrogen, Ammonia Total (as N) | 2 X month | mg/l | 4 | 43.95 | 998.8 | Monthly Average Exceeded | \$500.00 |
| 3/10/2021 | 3-2021 | Solids, Total Suspended | 2 X month | mg/l | 10 | 21.2 | 112.0 | Daily Maximum Exceeded | \$100.00 |
| 3/31/2021 | 3-2021 | Solids, Total Suspended | 2 X month | mg/l | 5 | 13.9 | 178.0 | Monthly Average Exceeded | \$500.00 |
| 3/5/2021 | 3-2021 | Turbidity, HCH Turbidimeter | Continuous | ntu | 10 | 10.13 | 1.3 | Daily Maximum Exceeded | \$0.00 |
| 3/6/2021 | 3-2021 | Turbidity, HCH Turbidimeter | Continuous | ntu | 10 | 11.47 | 14.7 | Daily Maximum Exceeded | \$0.00 |
| 3/31/2021 | 3-2021 | Coliform, Fecal MF, MFC Broth, 44.5 C | Monthly | #/100ml | 200 | 420 | 110.0 | Monthly Geometric Mean Exceeded | \$0.00 |

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| | | | | | | | | | |
|-----------|--------|-----------------------------------|---------|------|---|------|---------|--------------------------------|--------|
| 3/31/2021 | 3-2021 | Nitrogen, Ammonia Total (as N) | Monthly | mg/l | 4 | 44.4 | 1,010.0 | Monthly Average Exceeded | \$0.00 |
|-----------|--------|-----------------------------------|---------|------|---|------|---------|--------------------------------|--------|

SAMPLE LOCATION: Well# MW-1

| Violation Date | Report Month/Yr | Parameter | Frequency | Unit of Measure | Limit Value | Calculated Value | % Over Limit | Violation Type | Penalty Amount |
|-------------------|--------------------|---------------------------------------|-----------|--------------------|----------------|---------------------|-----------------|-------------------|-------------------|
| 3/31/2021 | 3-2021 | Nitrogen, Ammonia Total (as N) | 3 X year | mg/l | 1500 | 6,100 | 306.7 | Limit Exceeded | \$500.00 |
| 3/31/2021 | 3-2021 | Solids, Total Dissolved- 180 Deg.C | 3 X year | mg/l | 500 | 503 | 0.6 | Limit Exceeded | \$0.00 |

SAMPLE LOCATION: Well# MW-2

| Violation Date | Report Month/Yr | Parameter | Frequency | Unit of Measure | Limit Value | Calculated Value | % Over Limit | Violation Type | Penalty Amount |
|-------------------|--------------------|-----------------------------------|-----------|--------------------|----------------|---------------------|-----------------|-------------------|-------------------|
| 3/31/2021 | 3-2021 | Nitrogen, Ammonia Total (as N) | 3 X year | mg/l | 1500 | 6,900 | 360.0 | Limit Exceeded | \$500.00 |

REPORTING VIOLATION(S)**SAMPLE LOCATION:**

| Violation Date | Report Month/Yr | Parameter | Frequency | Unit of Measure | Limit Value | Calculated Value | % Over Limit | Violation Type | Penalty Amount |
|-------------------|--------------------|---|------------|--------------------|----------------|---------------------|-----------------|----------------------|-------------------|
| 3/31/2021 | 3-2021 | Carbon, Tot Organic (TOC) | 3 X year | mg/l | | | | Parameter Missing | \$50.00 |
| 3/31/2021 | 3-2021 | Solids, Total Dissolved | 3 X year | mg/l | | | | Parameter Missing | \$50.00 |
| 3/31/2021 | 3-2021 | BOD, 5-Day (20 Deg. C) | Monthly | mg/l | | | | Parameter Missing | \$50.00 |
| 3/31/2021 | 3-2021 | Flow, in conduit or thru treatment plant | Continuous | gpd | | | | Parameter Missing | \$50.00 |
| 3/31/2021 | 3-2021 | Nitrogen, Kjeldahl, Total (as N) | Monthly | mg/l | | | | Parameter Missing | \$50.00 |
| 3/31/2021 | 3-2021 | Nitrogen, Total (as N) | Monthly | mg/l | | | | Parameter Missing | \$50.00 |
| 3/31/2021 | 3-2021 | Solids, Total Suspended | Monthly | mg/l | | | | Parameter Missing | \$50.00 |

Other Violation(s):

| Type of Violation | Date | Violation Description | Penalty Amount |
|-----------------------------|------------|--|----------------|
| Permit conditions violation | 03/01/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III.21 of the permit. | \$250.00 |
| Permit conditions violation | 03/02/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 03/03/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 03/04/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 03/05/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 03/06/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 03/07/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 03/08/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 03/09/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 03/10/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 03/11/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 03/12/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 03/13/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 03/14/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |

| | | | |
|-----------------------------|------------|--|----------|
| Permit conditions violation | 03/15/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 03/16/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |

DIVISION OF WATER RESOURCES - CIVIL PENALTY ASSESSMENT

Violator: Sandler Utilities at Mill Run L L C

Facility Name: Eagle Creek WWTP

Permit Number: WQ0014306

County: Currituck

Case Number: LV-2021-0354

ASSESSMENT FACTORS

1) The degree and extent of harm to the natural resources of the State, to the public health, or to private property resulting from the violation;

Unknown – The limit violations, reporting violations and permit condition violations could have led to Water Quality Standard Violations or Public Health Hazards. The facility however is a reclaimed system and the facility routed effluent that did not meet the permitted limits for Fecal Coliform to an irrigation pond where the water is used to irrigate a golf course that is open and utilized by the public. This represents a potential Public Health Hazard.

2) The duration and gravity of the violation;

During the month of 04/2021 the facility exceeded the daily maximum limit for Ammonia twice, the daily maximum limit for Fecal Coliform twice and the daily maximum limit for TSS and BOD-5 once. The facility also exceeded the monthly average limit for Ammonia, BOD-5 and TSS and the monthly geometric mean limit for Fecal Coliform. Lastly, the facility failed to reroute effluent to the high-rate infiltration pond as required by permit condition III.21 for 25 days during Fecal Coliform limit violations. The facility has not been meeting effluent limits since the new operator took over the plant. There have been ten enforcements prior to this assessment totaling \$30,728.38 dollars. The gravity of the violations is significant!

3) The effect on ground or surface water quantity or quality or on air quality;

Unknown – The limit violations, reporting violations and permit condition violations could have led to Water Quality Standard Violations or Public Health Hazards. The facility however is a reclaimed system and the facility routed effluent that did not meet the permitted limits for Fecal Coliform to an irrigation pond where the water is used to irrigate a golf course that is open and utilized by the public. This represents a potential Public Health Hazard. Groundwater standards have been violated in both monitoring wells on site.

4) The cost of rectifying the damage;

Unknown

5) The amount of money saved by noncompliance;

Significant – Funds potentially saved through improper operation and maintenance of the facility.

6) Whether the violation was committed willfully or intentionally;

The operator is not managing the system as required. The facility is under a Consent Judgement to mandate compliance for the operation of the collection system.

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JUN 22 2022

7) The prior record of the violator in complying or failing to comply with programs over which the Environmental Management Commission has regulatory authority; and

A violation records review of the facility of the past 24 months as of 12/01/2021 revealed the following issues. Over the last 24 months the facility has received 1 NOV, and 10 CPA's that had a total value of \$30,728.38. The notices and civil penalties were issued due to a multitude of reasons. The facility is known to have chronic Fecal, Ammonia, TSS and BOD-5 limit violations. Another chronic issue is that the facility is required by permit condition III.21 to reroute effluent to the high-rate infiltration pond during Fecal limit violations or when the turbidity exceeds 10 NTU. The facility fails to do this on a consistent basis. The facility is known for consistently failing to reroute effluent during Fecal limit violations to the high-rate infiltration pond. This may potentially represent a possible public health hazard due to the Fecal rich water entering the re-use irrigation pond which is used to irrigate a nearby golf course open to the public. Another chronic issue monitoring and reporting violations present in monitoring reports submitted to the division or for the reports themselves to be late or missing.

8) The cost to the State of the enforcement procedures.

\$58.82

12/9/2021

Date

Robert Tankard

**Robert Tankard, Assistant Regional Supervisor
Water Quality Regional Operations Section
Washington Regional Office
Division of Water Resources, NCDEQ**

ROY COOPER
Governor
ELIZABETH S. BISER
Secretary
S. DANIEL SMITH
Director



Certified Mail # 7021 0950 0001 1087 3707
Return Receipt Requested

December 09, 2021

Raymond Gottlieb
Sandler Utilities at Mill Run L L C
448 Viking Dr Ste 200
Virginia Beach, VA 23452-7331

SUBJECT: Notice of Violation and Assessment of Civil Penalty
for Violations of Non-discharge Permit No. WQ0014306
Sandler Utilities at Mill Run L L C
Eagle Creek WWTP
Case No. LV-2021-0354
Currituck County

Dear Mr. Gottlieb:

This letter transmits a Notice of Violation and assessment of civil penalty in the amount of \$8,958.82 (\$8,900.00 civil penalty + \$58.82 enforcement costs) against Sandler Utilities at Mill Run L L C.

This assessment is based upon the following facts: a review has been conducted of the Non-Discharge Monitoring Report (NDR) submitted by Sandler Utilities at Mill Run L L C for the month of April 2021. This review has shown the subject facility to be in violation of the limitations and/or monitoring requirements found in Non-discharge Permit No. WQ0014306. The violations, which occurred in April 2021, are summarized in Attachment A to this letter.

Based upon the above facts, I conclude as a matter of law that Sandler Utilities at Mill Run L L C violated the terms, conditions or requirements of Non-discharge Permit No. WQ0014306 in the manner and extent shown in Attachment A. In accordance with the maximums established by G.S. 143-215.6A(a)(2), a civil penalty may be assessed against any person who violates the terms, conditions or requirements of a permit required by G.S. 143-215.1(a).



North Carolina Department of Environmental Quality | Division of Water Resources
Washington Regional Office | 943 Washington Square Mall | Washington, North Carolina 27889
252-946-6481

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JUN 22 2022

Based upon the above findings of fact and conclusions of law, and in accordance with authority provided by the Secretary of the Department of Environmental Quality and the Director of the Division of Water Resources, I, Robert Tankard, Assistant Regional Supervisor, Washington Regional Office hereby make the following civil penalty assessment against Sandler Utilities at Mill Run L L C:

| | |
|-------------------|---|
| <u>\$100.00</u> | <u>1</u> of <u>1</u> violations of the Permit Daily Maximum for <u>BOD, 5-Day (20 Deg. C)</u> per the limits established in Permit No. WQ0014306 |
| <u>\$200.00</u> | <u>2</u> of <u>2</u> violations of the Permit Daily Maximum for <u>Coliform, Fecal MF, MFC Broth, 44.5 C</u> per the limits established in Permit No. WQ0014306 |
| <u>\$200.00</u> | <u>2</u> of <u>2</u> violations of the Permit Daily Maximum for <u>Nitrogen, Ammonia Total (as N)</u> per the limits established in Permit No. WQ0014306 |
| <u>\$100.00</u> | <u>1</u> of <u>1</u> violations of the Permit Daily Maximum for <u>Solids, Total Suspended</u> per the limits established in Permit No. WQ0014306 |
| <u>\$500.00</u> | <u>1</u> of <u>1</u> violations of the Permit Monthly Average for <u>BOD, 5-Day (20 Deg. C)</u> per the limits established in Permit No. WQ0014306 |
| <u>\$500.00</u> | <u>1</u> of <u>2</u> violations of the Permit Monthly Average for <u>Nitrogen, Ammonia Total (as N)</u> per the limits established in Permit No. WQ0014306 |
| <u>\$500.00</u> | <u>1</u> of <u>1</u> violations of the Permit Monthly Average for <u>Solids, Total Suspended</u> per the limits established in Permit No. WQ0014306 |
| <u>\$500.00</u> | <u>1</u> of <u>1</u> violations of the Permit Monthly Geometric Mean for <u>Coliform, Fecal MF, MFC Broth, 44.5 C</u> per the limits established in Permit No. WQ0014306 |
| <u>\$50.00</u> | For <u>1</u> of the <u>1</u> failures to submit monitoring reports or portions of monitoring reports in violation of Permit No. WQ0014306. |
| <u>\$6,250.00</u> | For <u>25</u> of the <u>25</u> other violations of Permit No. WQ0014306. |
| <u>\$8,900.00</u> | TOTAL CIVIL PENALTY |
| <u>\$58.82</u> | Enforcement Costs |
| <u>\$8,958.82</u> | TOTAL AMOUNT DUE |

Pursuant to G.S. 143-215.6A(c), in determining the amount of the penalty I have taken into account the Findings of Fact and Conclusions of Law and the factors set forth at G.S. 143B-282.1(b), which are:

- (1) The degree and extent of harm to the natural resources of the State, to the public health, or to private property resulting from the violation;
- (2) The duration and gravity of the violation;
- (3) The effect on ground or surface water quantity or quality or on air quality;
- (4) The cost of rectifying the damage;
- (5) The amount of money saved by noncompliance;
- (6) Whether the violation was committed willfully or intentionally;
- (7) The prior record of the violator in complying or failing to comply with programs over which the Environmental Management Commission has regulatory authority; and
- (8) The cost to the State of the enforcement procedures.

Within **thirty (30) days** of receipt of this notice, you must do **one** of the following:

- (1) Submit payment of the penalty, **OR**
- (2) Submit a written request for remission, **OR**
- (3) Submit a written request for an administrative hearing

Option 1: Submit payment of the penalty:

Payment should be made directly to the order of the Department of Environmental Quality (*do not include waiver form*). Payment of the penalty will not foreclose further enforcement action for any continuing or new violation(s). Please submit payment to the attention of:

Wastewater Branch
Division of Water Resources
1617 Mail Service Center
Raleigh, North Carolina 27699-1617

Option 2: Submit a written request for remission or mitigation including a detailed justification for such request:

Please be aware that a request for remission is limited to consideration of the five factors listed below as they may relate to the reasonableness of the amount of the civil penalty assessed. Requesting remission is not the proper procedure for contesting whether the violation(s) occurred or the accuracy of any of the factual statements contained in the civil penalty assessment document. Because a remission request forecloses the option of an administrative hearing, such a request must be accompanied by a waiver of your right to an administrative hearing and a stipulation and agreement that no factual or legal issues are in dispute. Please prepare a detailed statement that establishes why you believe the civil penalty should be remitted, and submit it to the Division of Water Resources at the address listed below. In determining whether a remission request will be approved, the following factors shall be considered:

- (1) whether one or more of the civil penalty assessment factors in NCGS 143B-282.1(b) was wrongfully applied to the detriment of the petitioner;
- (2) whether the violator promptly abated continuing environmental damage resulting from the violation;
- (3) whether the violation was inadvertent or a result of an accident;
- (4) whether the violator had been assessed civil penalties for any previous violations; or
- (5) whether payment of the civil penalty will prevent payment for the remaining necessary remedial actions.

Please note that all evidence presented in support of your request for remission must be submitted in writing. The Director of the Division of Water Resources will review your evidence and inform you of his decision in the matter of your remission request. The response will provide details regarding the case status, directions for payment, and provision for further appeal of the penalty to the Environmental Management Commission's Committee on Civil Penalty Remissions (Committee). Please be advised that the Committee cannot consider information that was not part of the original remission request considered by the Director. Therefore, it is very important that you prepare a complete and thorough statement in support of your request for remission.

In order to request remission, you must complete and submit the enclosed "Request for Remission of Civil Penalties, Waiver of Right to an Administrative Hearing, and Stipulation of Facts" form within thirty (30) days of receipt of this notice. The Division of Water Resources also requests that you complete and submit the enclosed "Justification for Remission Request."

Both forms should be submitted to the following address:

Wastewater Branch
Division of Water Resources
1617 Mail Service Center
Raleigh, North Carolina 27699-1617

Option 3: File a petition for an administrative hearing with the Office of Administrative Hearings:

If you wish to contest any statement in the attached assessment document you must file a petition for an administrative hearing. You may obtain the petition form from the Office of Administrative Hearings. You must file the petition with the Office of Administrative Hearings within thirty (30) days of receipt of this notice. A petition is considered filed when it is received in the Office of Administrative Hearings during normal office hours. The Office of Administrative Hearings accepts filings Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m., except for official state holidays. The petition may be filed by facsimile (fax) or electronic mail by an attached file (with restrictions) - provided the signed original, one (1) copy and a filing fee (if a filing fee is required by NCGS §150B-23.2) is received in the Office of Administrative Hearings within seven (7) business days following the faxed or electronic transmission. You should contact the Office of Administrative Hearings with all questions regarding the filing fee and/or the details of the filing process.

The mailing address and telephone and fax numbers for the Office of Administrative Hearings are as follows:

6714 Mail Service Center
Raleigh, NC 27699 6714
Tel: (919) 431-3000
Fax: (919) 431-3100

One (1) copy of the petition must also be served on DEQ as follows:

Mr. William F. Lane, General Counsel
Department of Environmental Quality
1601 Mail Service Center
Raleigh, North Carolina 27699-1601

Please indicate the case number (as found on page one of this letter) on the petition.

Failure to exercise one of the options above within thirty (30) days of receipt of this letter, as evidenced by an internal date/time received stamp (not a postmark), will result in this matter being referred to the Attorney General's Office for collection of the penalty through a civil action. Please be advised that additional penalties may be assessed for violations that occur after the review period of this assessment.

If you have any questions, please contact Paul Mays with the Division of Water Resources staff of the Washington Regional Office at (252) 948-3940 or via email at paul.mays@ncdenr.gov.

Sincerely,

Robert Tankard

Robert Tankard, Assistant Regional Supervisor
Water Quality Regional Operations Section
Washington Regional Office
Division of Water Resources, NCDEQ

ATTACHMENTS

Cc: Laserfiche

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JUN 22 2022

JUSTIFICATION FOR REMISSION REQUEST**Case Number:** LV-2021-0354**County:** Currituck**Assessed Party:** Sandler Utilities at Mill Run L L C**Permit No.:** WQ0014306**Amount Assessed:** \$8,958.82

Please use this form when requesting remission of this civil penalty. You must also complete the "Request For Remission, Waiver of Right to an Administrative Hearing, and Stipulation of Facts" form to request remission of this civil penalty. You should attach any documents that you believe support your request and are necessary for the Director to consider in evaluating your request for remission. Please be aware that a request for remission is limited to consideration of the five factors listed below as they may relate to the reasonableness of the amount of the civil penalty assessed. Requesting remission is not the proper procedure for contesting whether the violation(s) occurred or the accuracy of any of the factual statements contained in the civil penalty assessment document. Pursuant to N.C.G.S. § 143B-282.1(c), remission of a civil penalty may be granted only when one or more of the following five factors apply. Please check each factor that you believe applies to your case and provide a detailed explanation, including copies of supporting documents, as to why the factor applies (attach additional pages as needed).

- ___ (a) one or more of the civil penalty assessment factors in N.C.G.S. 143B-282.1(b) were wrongfully applied to the detriment of the petitioner (*the assessment factors are listed in the civil penalty assessment document*);
- ___ (b) the violator promptly abated continuing environmental damage resulting from the violation (*i.e., explain the steps that you took to correct the violation and prevent future occurrences*);
- ___ (c) the violation was inadvertent or a result of an accident (*i.e., explain why the violation was unavoidable or something you could not prevent or prepare for*);
- ___ (d) the violator had not been assessed civil penalties for any previous violations;
- ___ (e) payment of the civil penalty will prevent payment for the remaining necessary remedial actions (*i.e., explain how payment of the civil penalty will prevent you from performing the activities necessary to achieve compliance*).

EXPLANATION:

STATE OF NORTH CAROLINA

DEPARTMENT OF ENVIRONMENTAL QUALITY

COUNTY OF CURRITUCK

IN THE MATTER OF ASSESSMENT
OF CIVIL PENALTIES AGAINST

Sandler Utilities at Mill Run L L C
Eagle Creek WWTP

PERMIT NO. WQ0014306

) **WAIVER OF RIGHT TO AN**
) **ADMINISTRATIVE HEARING AND**
) **STIPULATION OF FACTS**

) **CASE NO. LV-2021-0354**

Having been assessed civil penalties totaling \$8,958.82 for violation(s) as set forth in the assessment document of the Division of Water Resources dated December 09, 2021, the undersigned, desiring to seek remission of the civil penalty, does hereby waive the right to an administrative hearing in the above-stated matter and does stipulate that the facts are as alleged in the assessment document. The undersigned further understands that all evidence presented in support of remission of this civil penalty must be submitted to the Director of the Division of Water Resources within thirty (30) days of receipt of the notice of assessment. No new evidence in support of a remission request will be allowed after (30) days from the receipt of the notice of assessment.

This the _____ day of _____, 20____

SIGNATURE

ADDRESS

TELEPHONE

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JUN 22 2022

ATTACHMENT A**Sandler Utilities at Mill Run L L C****CASE NUMBER: LV-2021-0354****PERMIT: WQ0014306****REGION: Washington****FACILITY: Eagle Creek WWTP****COUNTY: Currituck****LIMIT VIOLATION(S)****SAMPLE LOCATION:**

| Violation Date | Report Month/Yr | Parameter | Frequency | Unit of Measure | Limit Value | Calculated Value | % Over Limit | Violation Type | Penalty Amount |
|-----------------------|------------------------|---------------------------------------|------------------|------------------------|--------------------|-------------------------|---------------------|---------------------------------|-----------------------|
| 4/22/2021 | 4-2021 | BOD, 5-Day (20 Deg. C) | 2 X month | mg/l | 15 | 22 | 46.7 | Daily Maximum Exceeded | \$100.00 |
| 4/30/2021 | 4-2021 | BOD, 5-Day (20 Deg. C) | 2 X month | mg/l | 10 | 15.5 | 55.0 | Monthly Average Exceeded | \$500.00 |
| 4/6/2021 | 4-2021 | Coliform, Fecal MF, MFC Broth, 44.5 C | 2 X month | #/100ml | 25 | 80 | 220.0 | Daily Maximum Exceeded | \$100.00 |
| 4/21/2021 | 4-2021 | Coliform, Fecal MF, MFC Broth, 44.5 C | 2 X month | #/100ml | 25 | 2,420 | 9,580.0 | Daily Maximum Exceeded | \$100.00 |
| 4/30/2021 | 4-2021 | Coliform, Fecal MF, MFC Broth, 44.5 C | 2 X month | #/100ml | 14 | 440 | 3,042.9 | Monthly Geometric Mean Exceeded | \$500.00 |
| 4/6/2021 | 4-2021 | Nitrogen, Ammonia Total (as N) | 2 X month | mg/l | 6 | 27.3 | 355.0 | Daily Maximum Exceeded | \$100.00 |
| 4/21/2021 | 4-2021 | Nitrogen, Ammonia Total (as N) | 2 X month | mg/l | 6 | 45.3 | 655.0 | Daily Maximum Exceeded | \$100.00 |
| 4/30/2021 | 4-2021 | Nitrogen, Ammonia Total (as N) | 2 X month | mg/l | 4 | 36.3 | 807.5 | Monthly Average Exceeded | \$500.00 |
| 4/21/2021 | 4-2021 | Solids, Total Suspended | 2 X month | mg/l | 10 | 18.3 | 83.0 | Daily Maximum Exceeded | \$100.00 |
| 4/30/2021 | 4-2021 | Solids, Total Suspended | 2 X month | mg/l | 5 | 12.5 | 150.0 | Monthly Average Exceeded | \$500.00 |
| 4/30/2021 | 4-2021 | Nitrogen, Ammonia Total (as N) | Monthly | mg/l | 4 | 78 | 1,850.0 | Monthly Average Exceeded | \$0.00 |

OFFICIAL COPY**June 22 2022**

REPORTING VIOLATION(S)**SAMPLE LOCATION:**

| Violation Date | Report Month/Yr | Parameter | Frequency | Unit of Measure | Limit Value | Calculated Value | % Over Limit | Violation Type | Penalty Amount |
|----------------|-----------------|--------------------------------|-----------|-----------------|-------------|------------------|--------------|-------------------|----------------|
| 4/30/2021 | 4-2021 | Nitrogen, Nitrate Total (as N) | 2 X month | mg/l | | | | Parameter Missing | \$50.00 |

Other Violation(s):

| Type of Violation | Date | Violation Description | Penalty Amount |
|-----------------------------|------------|--|----------------|
| Permit conditions violation | 04/06/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III.21 of the permit. | \$250.00 |
| Permit conditions violation | 04/07/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 04/08/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 04/09/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 04/10/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 04/11/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 04/12/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 04/13/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 04/14/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 04/15/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 04/16/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |

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JUN 22 2022

| | | | |
|-----------------------------|------------|--|----------|
| Permit conditions violation | 04/17/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 04/18/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 04/19/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 04/20/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 04/21/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 04/22/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 04/23/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 04/24/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 04/25/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |

DIVISION OF WATER RESOURCES - CIVIL PENALTY ASSESSMENT

Violator: Sandler Utilities at Mill Run L L C

Facility Name: Eagle Creek WWTP

Permit Number: WQ0014306

County: Currituck

Case Number: LV-2021-0355

ASSESSMENT FACTORS

- 1) The degree and extent of harm to the natural resources of the State, to the public health, or to private property resulting from the violation;**

Unknown – The limit violations, reporting violations and permit condition violations could have led to Water Quality Standard Violations or Public Health Hazards. The facility however is a reclaimed system and the facility routed effluent that did not meet the permitted limits for Fecal Coliform to an irrigation pond where the water is used to irrigate a golf course that is open and utilized by the public. This represents a potential Public Health Hazard.

- 2) The duration and gravity of the violation;**

During the month of 05/2021 the facility exceeded the daily maximum limit for Ammonia twice, and the daily maximum limit for Fecal and BOD-5 once. The facility also exceeded permitted monthly average limit for Ammonia, BOD-5 and TSS and the monthly geometric mean limit for Fecal Coliform. Lastly, the facility failed to reroute effluent to the high-rate infiltration pond as required by permit condition III.21 for 25 days during Fecal Coliform limit violations. There have been eleven enforcements prior to this assessment totaling \$39,687.20 dollars. The gravity of the violations is significant!

- 3) The effect on ground or surface water quantity or quality or on air quality;**

Unknown – The limit violations, reporting violations and permit condition violations could have led to Water Quality Standard Violations or Public Health Hazards. The facility however is a reclaimed system and the facility routed effluent that did not meet the permitted limits for Fecal Coliform to an irrigation pond where the water is used to irrigate a golf course that is open and utilized by the public. This represents a potential Public Health Hazard. Groundwater standards have been violated in both monitoring wells on site.

- 4) The cost of rectifying the damage;**

Unknown

- 5) The amount of money saved by noncompliance;**

Significant – Funds potentially saved through improper operation and maintenance of the facility.

- 6) Whether the violation was committed willfully or intentionally;**

The operator is not managing the system as required. The facility is under a Consent Judgement to mandate compliance for the operation of the collection system.

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JUN 22 2022

7) The prior record of the violator in complying or failing to comply with programs over which the Environmental Management Commission has regulatory authority; and

A violation records review of the facility of the past 24 months as of 12/01/2021 revealed the following issues. Over the last 24 months the facility has received 1 NOV, and 11 CPA's that had a total value of \$\$39,687.20. The notices and civil penalties were issued due to a multitude of reasons. The facility is known to have chronic Fecal, Ammonia, TSS and BOD-5 limit violations. Another chronic issue is that the facility is required by permit condition III.21 to reroute effluent to the high-rate infiltration pond during Fecal limit violations or when the turbidity exceeds 10 NTU. The facility fails to do this on a consistent basis. The facility is known for consistently failing to reroute effluent during Fecal limit violations to the high-rate infiltration pond. This may potentially represent a possible public health hazard due to the Fecal rich water entering the re-use irrigation pond which is used to irrigate a nearby gold course open to the public. Another chronic issue monitoring and reporting violations present in monitoring reports submitted to the division or for the reports themselves to be late or missing.

8) The cost to the State of the enforcement procedures.

\$58.82

12/9/2021

Date

Robert Tankard

**Robert Tankard, Assistant Regional Supervisor
Water Quality Regional Operations Section
Washington Regional Office
Division of Water Resources, NCDEQ**

ROY COOPER
Governor
ELIZABETH S. BISER
Secretary
S. DANIEL SMITH
Director



Certified Mail # 7021 0950 0001 1087 3714
Return Receipt Requested

December 09, 2021

Raymond Gottlieb
Sandler Utilities at Mill Run L L C
448 Viking Dr Ste 200
Virginia Beach, VA 23452-7331

SUBJECT: Notice of Violation and Assessment of Civil Penalty
for Violations of Non-discharge Permit No. WQ0014306
Sandler Utilities at Mill Run L L C
Eagle Creek WWTP
Case No. LV-2021-0355
Currituck County

Dear Mr. Gottlieb:

This letter transmits a Notice of Violation and assessment of civil penalty in the amount of \$9,208.82 (\$9,150.00 civil penalty + \$58.82 enforcement costs) against Sandler Utilities at Mill Run L L C.

This assessment is based upon the following facts: a review has been conducted of the Non-Discharge Monitoring Report (NDRM) submitted by Sandler Utilities at Mill Run L L C for the month of May 2021. This review has shown the subject facility to be in violation of the limitations and/or monitoring requirements found in Non-discharge Permit No. WQ0014306. The violations, which occurred in May 2021, are summarized in Attachment A to this letter.

Based upon the above facts, I conclude as a matter of law that Sandler Utilities at Mill Run L L C violated the terms, conditions or requirements of Non-discharge Permit No. WQ0014306 in the manner and extent shown in Attachment A. In accordance with the maximums established by G.S. 143-215.6A(a)(2), a civil penalty may be assessed against any person who violates the terms, conditions or requirements of a permit required by G.S. 143-215.1(a).



North Carolina Department of Environmental Quality | Division of Water Resources
Washington Regional Office | 943 Washington Square Mall | Washington, North Carolina 27889
252.946.6481

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JUN 22 2022

Based upon the above findings of fact and conclusions of law, and in accordance with authority provided by the Secretary of the Department of Environmental Quality and the Director of the Division of Water Resources, I, Robert Tankard, Assistant Regional Supervisor, Washington Regional Office hereby make the following civil penalty assessment against Sandler Utilities at Mill Run L L C:

| | |
|-------------------|--|
| <u>\$100.00</u> | <u>1</u> of 1 violations of the Permit Daily Maximum for <u>BOD, 5-Day (20 Deg. C)</u> per the limits established in Permit No. WQ0014306 |
| <u>\$100.00</u> | <u>1</u> of 1 violations of the Permit Daily Maximum for <u>Coliform, Fecal MF, MFC Broth, 44.5 C</u> per the limits established in Permit No. WQ0014306 |
| <u>\$200.00</u> | <u>2</u> of 2 violations of the Permit Daily Maximum for <u>Nitrogen, Ammonia Total (as N)</u> per the limits established in Permit No. WQ0014306 |
| <u>\$500.00</u> | <u>1</u> of 1 violations of the Permit Monthly Average for <u>BOD, 5-Day (20 Deg. C)</u> per the limits established in Permit No. WQ0014306 |
| <u>\$1,000.00</u> | <u>2</u> of 2 violations of the Permit Monthly Average for <u>Nitrogen, Ammonia Total (as N)</u> per the limits established in Permit No. WQ0014306 |
| <u>\$1,000.00</u> | <u>2</u> of 2 violations of the Permit Monthly Geometric Mean for <u>Coliform, Fecal MF, MFC Broth, 44.5 C</u> per the limits established in Permit No. WQ0014306 |
| <u>\$0.00</u> | For <u>0</u> of the <u>1</u> failures to submit monitoring reports or portions of monitoring reports in violation of Permit No. WQ0014306. |
| <u>\$6,250.00</u> | For <u>25</u> of the <u>25</u> other violations of Permit No. WQ0014306. |
| <u>\$9,150.00</u> | TOTAL CIVIL PENALTY |
| <u>\$58.82</u> | Enforcement Costs |
| <u>\$9,208.82</u> | TOTAL AMOUNT DUE |

Pursuant to G.S. 143-215.6A(c), in determining the amount of the penalty I have taken into account the Findings of Fact and Conclusions of Law and the factors set forth at G.S. 143B-282.1(b), which are:

- (1) The degree and extent of harm to the natural resources of the State, to the public health, or to private property resulting from the violation;
- (2) The duration and gravity of the violation;
- (3) The effect on ground or surface water quantity or quality or on air quality;
- (4) The cost of rectifying the damage;
- (5) The amount of money saved by noncompliance;
- (6) Whether the violation was committed willfully or intentionally;
- (7) The prior record of the violator in complying or failing to comply with programs over which the Environmental Management Commission has regulatory authority; and
- (8) The cost to the State of the enforcement procedures.

Within **thirty (30) days** of receipt of this notice, you must do **one** of the following:

- (1) Submit payment of the penalty, **OR**
- (2) Submit a written request for remission, **OR**
- (3) Submit a written request for an administrative hearing

Option 1: Submit payment of the penalty:

Payment should be made directly to the order of the Department of Environmental Quality (*do not include waiver form*). Payment of the penalty will not foreclose further enforcement action for any continuing or new violation(s). Please submit payment to the attention of:

Wastewater Branch
Division of Water Resources
1617 Mail Service Center
Raleigh, North Carolina 27699-1617

Option 2: Submit a written request for remission or mitigation including a detailed justification for such request:

Please be aware that a request for remission is limited to consideration of the five factors listed below as they may relate to the reasonableness of the amount of the civil penalty assessed. Requesting remission is not the proper procedure for contesting whether the violation(s) occurred or the accuracy of any of the factual statements contained in the civil penalty assessment document. Because a remission request forecloses the option of an administrative hearing, such a request must be accompanied by a waiver of your right to an administrative hearing and a stipulation and agreement that no factual or legal issues are in dispute. Please prepare a detailed statement that establishes why you believe the civil penalty should be remitted, and submit it to the Division of Water Resources at the address listed below. In determining whether a remission request will be approved, the following factors shall be considered:

- (1) whether one or more of the civil penalty assessment factors in NCGS 143B-282.1(b) was wrongfully applied to the detriment of the petitioner;
- (2) whether the violator promptly abated continuing environmental damage resulting from the violation;
- (3) whether the violation was inadvertent or a result of an accident;
- (4) whether the violator had been assessed civil penalties for any previous violations; or
- (5) whether payment of the civil penalty will prevent payment for the remaining necessary remedial actions.

Please note that all evidence presented in support of your request for remission must be submitted in writing. The Director of the Division of Water Resources will review your evidence and inform you of his decision in the matter of your remission request. The response will provide details regarding the case status, directions for payment, and provision for further appeal of the penalty to the Environmental Management Commission's Committee on Civil Penalty Remissions (Committee). Please be advised that the Committee cannot consider information that was not part of the original remission request considered by the Director. Therefore, it is very important that you prepare a complete and thorough statement in support of your request for remission.

In order to request remission, you must complete and submit the enclosed "Request for Remission of Civil Penalties, Waiver of Right to an Administrative Hearing, and Stipulation of Facts" form within thirty (30) days of receipt of this notice. The Division of Water Resources also requests that you complete and submit the enclosed "Justification for Remission Request."

Both forms should be submitted to the following address:

Wastewater Branch
Division of Water Resources
1617 Mail Service Center
Raleigh, North Carolina 27699-1617

Option 3: File a petition for an administrative hearing with the Office of Administrative Hearings:

If you wish to contest any statement in the attached assessment document you must file a petition for an administrative hearing. You may obtain the petition form from the Office of Administrative Hearings. You must file the petition with the Office of Administrative Hearings within thirty (30) days of receipt of this notice. A petition is considered filed when it is received in the Office of Administrative Hearings during normal office hours. The Office of Administrative Hearings accepts filings Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m., except for official state holidays. The petition may be filed by facsimile (fax) or electronic mail by an attached file (with restrictions) - provided the signed original, one (1) copy and a filing fee (if a filing fee is required by NCGS §150B-23.2) is received in the Office of Administrative Hearings within seven (7) business days following the faxed or electronic transmission. You should contact the Office of Administrative Hearings with all questions regarding the filing fee and/or the details of the filing process.

The mailing address and telephone and fax numbers for the Office of Administrative Hearings are as follows:

6714 Mail Service Center
Raleigh, NC 27699 6714
Tel: (919) 431-3000
Fax: (919) 431-3100

One (1) copy of the petition must also be served on DEQ as follows:

Mr. William F. Lane, General Counsel
Department of Environmental Quality
1601 Mail Service Center
Raleigh, North Carolina 27699-1601

Please indicate the case number (as found on page one of this letter) on the petition.

Failure to exercise one of the options above within thirty (30) days of receipt of this letter, as evidenced by an internal date/time received stamp (not a postmark), will result in this matter being referred to the Attorney General's Office for collection of the penalty through a civil action. Please be advised that additional penalties may be assessed for violations that occur after the review period of this assessment.

If you have any questions, please contact Paul Mays with the Division of Water Resources staff of the Washington Regional Office at (252) 948-3940 or via email at paul.mays@ncdenr.gov.

Sincerely,

Robert Tankard

Robert Tankard, Assistant Regional Supervisor
Water Quality Regional Operations Section
Washington Regional Office
Division of Water Resources, NCDEQ

ATTACHMENTS

Cc: Laserfiche

OFFICIAL COPY

JUN 22 2022

JUSTIFICATION FOR REMISSION REQUEST**Case Number:** LV-2021-0355**County:** Currituck**Assessed Party:** Sandler Utilities at Mill Run L L C**Permit No.:** WQ0014306**Amount Assessed:** \$9,208.82

Please use this form when requesting remission of this civil penalty. You must also complete the "Request For Remission, Waiver of Right to an Administrative Hearing, and Stipulation of Facts" form to request remission of this civil penalty. You should attach any documents that you believe support your request and are necessary for the Director to consider in evaluating your request for remission. Please be aware that a request for remission is limited to consideration of the five factors listed below as they may relate to the reasonableness of the amount of the civil penalty assessed. Requesting remission is not the proper procedure for contesting whether the violation(s) occurred or the accuracy of any of the factual statements contained in the civil penalty assessment document. Pursuant to N.C.G.S. § 143B-282.1(c), remission of a civil penalty may be granted only when one or more of the following five factors apply. Please check each factor that you believe applies to your case and provide a detailed explanation, including copies of supporting documents, as to why the factor applies (attach additional pages as needed).

- ___ (a) one or more of the civil penalty assessment factors in N.C.G.S. 143B-282.1(b) were wrongfully applied to the detriment of the petitioner (*the assessment factors are listed in the civil penalty assessment document*);
- ___ (b) the violator promptly abated continuing environmental damage resulting from the violation (*i.e., explain the steps that you took to correct the violation and prevent future occurrences*);
- ___ (c) the violation was inadvertent or a result of an accident (*i.e., explain why the violation was unavoidable or something you could not prevent or prepare for*);
- ___ (d) the violator had not been assessed civil penalties for any previous violations;
- ___ (e) payment of the civil penalty will prevent payment for the remaining necessary remedial actions (*i.e., explain how payment of the civil penalty will prevent you from performing the activities necessary to achieve compliance*).

EXPLANATION:

STATE OF NORTH CAROLINA

DEPARTMENT OF ENVIRONMENTAL QUALITY

COUNTY OF CURRITUCK

IN THE MATTER OF ASSESSMENT
OF CIVIL PENALTIES AGAINST

Sandler Utilities at Mill Run L L C
Eagle Creek WWTP

PERMIT NO. WQ0014306

) **WAIVER OF RIGHT TO AN**
) **ADMINISTRATIVE HEARING AND**
) **STIPULATION OF FACTS**

) **CASE NO. LV-2021-0355**

Having been assessed civil penalties totaling \$9,208.82 for violation(s) as set forth in the assessment document of the Division of Water Resources dated December 09, 2021, the undersigned, desiring to seek remission of the civil penalty, does hereby waive the right to an administrative hearing in the above-stated matter and does stipulate that the facts are as alleged in the assessment document. The undersigned further understands that all evidence presented in support of remission of this civil penalty must be submitted to the Director of the Division of Water Resources within thirty (30) days of receipt of the notice of assessment. No new evidence in support of a remission request will be allowed after (30) days from the receipt of the notice of assessment.

This the _____ day of _____, 20____

SIGNATURE

ADDRESS

TELEPHONE

OFFICIAL COPY

JUN 22 2022

ATTACHMENT A**Sandler Utilities at Mill Run L L C****CASE NUMBER: LV-2021-0355****PERMIT: WQ0014306****REGION: Washington****FACILITY: Eagle Creek WWTP****COUNTY: Currituck****LIMIT VIOLATION(S)****SAMPLE LOCATION:**

| Violation Date | Report Month/Yr | Parameter | Frequency | Unit of Measure | Limit Value | Calculated Value | % Over Limit | Violation Type | Penalty Amount |
|----------------|-----------------|---------------------------------------|-----------|-----------------|-------------|------------------|--------------|---------------------------------|----------------|
| 5/20/2021 | 5-2021 | BOD, 5-Day (20 Deg. C) | 2 X month | mg/l | 15 | 22 | 46.7 | Daily Maximum Exceeded | \$100.00 |
| 5/31/2021 | 5-2021 | BOD, 5-Day (20 Deg. C) | 2 X month | mg/l | 10 | 16.5 | 65.0 | Monthly Average Exceeded | \$500.00 |
| 5/20/2021 | 5-2021 | Coliform, Fecal MF, MFC Broth, 44.5 C | 2 X month | #/100ml | 25 | 2,420 | 9,580.0 | Daily Maximum Exceeded | \$100.00 |
| 5/31/2021 | 5-2021 | Coliform, Fecal MF, MFC Broth, 44.5 C | 2 X month | #/100ml | 14 | 49.19 | 251.4 | Monthly Geometric Mean Exceeded | \$500.00 |
| 5/20/2021 | 5-2021 | Nitrogen, Ammonia Total (as N) | 2 X month | mg/l | 6 | 41.2 | 586.7 | Daily Maximum Exceeded | \$100.00 |
| 5/26/2021 | 5-2021 | Nitrogen, Ammonia Total (as N) | 2 X month | mg/l | 6 | 44.7 | 645.0 | Daily Maximum Exceeded | \$100.00 |
| 5/31/2021 | 5-2021 | Nitrogen, Ammonia Total (as N) | 2 X month | mg/l | 4 | 42.95 | 973.8 | Monthly Average Exceeded | \$500.00 |
| 5/31/2021 | 5-2021 | Coliform, Fecal MF, MFC Broth, 44.5 C | Monthly | #/100ml | 200 | 2,420 | 1,110.0 | Monthly Geometric Mean Exceeded | \$500.00 |
| 5/31/2021 | 5-2021 | Nitrogen, Ammonia Total (as N) | Monthly | mg/l | 4 | 32.9 | 722.5 | Monthly Average Exceeded | \$500.00 |

REPORTING VIOLATION(S)**SAMPLE LOCATION:**

| Violation Date | Report Month/Yr | Parameter | Frequency | Unit of Measure | Limit Value | Calculated Value | % Over Limit | Violation Type | Penalty Amount |
|----------------|-----------------|--------------------------------|-----------|-----------------|-------------|------------------|--------------|-------------------|----------------|
| 5/31/2021 | 5-2021 | Nitrogen, Nitrate Total (as N) | 2 X month | mg/l | | | | Parameter Missing | \$0.00 |

OFFICIAL COPY**June 22 2022**

Other Violation(s):

| Type of Violation | Date | Violation Description | Penalty Amount |
|-----------------------------|-------------|--|-----------------------|
| Permit conditions violation | 05/01/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III.21 of the permit. | \$250.00 |
| Permit conditions violation | 05/02/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 05/03/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 05/04/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 05/05/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 05/06/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 05/07/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 05/08/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 05/09/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 05/10/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 05/11/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 05/12/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 05/13/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 05/14/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |

| | | | |
|-----------------------------|------------|--|----------|
| Permit conditions violation | 05/15/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 05/16/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 05/17/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 05/18/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 05/19/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 05/20/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 05/21/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 05/22/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 05/23/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 05/24/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 05/25/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |

DIVISION OF WATER RESOURCES - CIVIL PENALTY ASSESSMENT

Violator: Sandler Utilities at Mill Run L L C

Facility Name: Eagle Creek WWTP

Permit Number: WQ0014306

County: Currituck

Case Number: LV-2021-0356

ASSESSMENT FACTORS

1) The degree and extent of harm to the natural resources of the State, to the public health, or to private property resulting from the violation;

Unknown – The limit violations, reporting violations and permit condition violations could have led to Water Quality Standard Violations or Public Health Hazards. The facility however is a reclaimed system and the facility routed effluent that did not meet the permitted limits for Fecal Coliform to an irrigation pond where the water is used to irrigate a golf course that is open and utilized by the public. This represents a potential Public Health Hazard.

2) The duration and gravity of the violation;

During the month of 06/2021 the facility exceeded the daily maximum limit for Ammonia twice and the daily maximum limit for Fecal once. The facility also exceeded permitted monthly average limit for Ammonia and TSS and the monthly geometric mean limit for Fecal Coliform. Lastly, the facility failed to reroute effluent to the high-rate infiltration pond as required by permit condition III.21 for 23 days during Fecal Coliform limit violations. There have been twelve enforcements prior to this assessment totaling \$48,896.02 dollars. The gravity of the violations is significant

3) The effect on ground or surface water quantity or quality or on air quality;

Unknown – The limit violations and permit condition violations could have led to Water Quality Standard Violations or Public Health Hazards. The facility however is a reclaimed system and the facility routed effluent that did not meet the permitted limits for Fecal Coliform to an irrigation pond where the water is used to irrigate a golf course that is open and utilized by the public. This represents a potential Public Health Hazard. Groundwater standards have been violated in both monitoring wells on site.

4) The cost of rectifying the damage;

Unknown

5) The amount of money saved by noncompliance;

Significant – Funds potentially saved through improper operation and maintenance of the facility.

6) Whether the violation was committed willfully or intentionally;

The operator is not managing the system as required. The facility is under a Consent Judgement to mandate compliance for the operation of the collection system.

7) The prior record of the violator in complying or failing to comply with programs over which the Environmental Management Commission has regulatory authority; and

A violation records review of the facility of the past 24 months as of 12/01/2021 revealed the following issues. Over the last 24 months the facility has received 1 NOV, and 12 CPA's that had a total value of \$48,896.02. The notices and civil penalties were issued due to a multitude of reasons. The facility is known to have chronic Fecal, Ammonia, TSS and

BOD-5 limit violations. Another chronic issue is that the facility is required by permit condition III.21 to reroute effluent to the high-rate infiltration pond during Fecal limit violations or when the turbidity exceeds 10 NTU. The facility fails to do this on a consistent basis. The facility is known for consistently failing to reroute effluent during Fecal limit violations to the high-rate infiltration pond. This may potentially represent a possible public health hazard due to the Fecal rich water entering the re-use irrigation pond which is used to irrigate a nearby golf course open to the public. Another chronic issue monitoring and reporting violations present in monitoring reports submitted to the division or for the reports themselves to be late or missing.

8) The cost to the State of the enforcement procedures.

\$58.82

12/9/2021

Date

Robert Tankard

**Robert Tankard, Assistant Regional Supervisor
Water Quality Regional Operations Section
Washington Regional Office
Division of Water Resources, NCDEQ**

OFFICIAL COPY

JUN 22 2022

ROY COOPER
Governor
ELIZABETH S. BISER
Secretary
S. DANIEL SMITH
Director



Certified Mail # 7021 0950 0001 1087 3721
Return Receipt Requested

December 09, 2021

Raymond Gottlieb
Sandler Utilities at Mill Run L L C
448 Viking Dr Ste 200
Virginia Beach, VA 23452-7331

SUBJECT: Notice of Violation and Assessment of Civil Penalty
for Violations of Non-discharge Permit No. WQ0014306
Sandler Utilities at Mill Run L L C
Eagle Creek WWTP
Case No. LV-2021-0356
Currituck County

Dear Mr. Gottlieb:

This letter transmits a Notice of Violation and assessment of civil penalty in the amount of \$8,108.82 (\$8,050.00 civil penalty + \$58.82 enforcement costs) against Sandler Utilities at Mill Run L L C.

This assessment is based upon the following facts: a review has been conducted of the Non-Discharge Monitoring Report (NDR) submitted by Sandler Utilities at Mill Run L L C for the month of June 2021. This review has shown the subject facility to be in violation of the limitations and/or monitoring requirements found in Non-discharge Permit No. WQ0014306. The violations, which occurred in June 2021, are summarized in Attachment A to this letter.

Based upon the above facts, I conclude as a matter of law that Sandler Utilities at Mill Run L L C violated the terms, conditions or requirements of Non-discharge Permit No. WQ0014306 in the manner and extent shown in Attachment A. In accordance with the maximums established by G.S. 143-215.6A(a)(2), a civil penalty may be assessed against any person who violates the terms, conditions or requirements of a permit required by G.S. 143-215.1(a).



North Carolina Department of Environmental Quality | Division of Water Resources
Washington Regional Office | 943 Washington Square Mall | Washington, North Carolina 27889
252-946-6481

OFFICIAL COPY

JUN 22 2022

Based upon the above findings of fact and conclusions of law, and in accordance with authority provided by the Secretary of the Department of Environmental Quality and the Director of the Division of Water Resources, I, Robert Tankard, Assistant Regional Supervisor, Washington Regional Office hereby make the following civil penalty assessment against Sandler Utilities at Mill Run L L C:

| | |
|-------------------|--|
| <u>\$100.00</u> | <u>1</u> of 1 violations of the Permit Daily Maximum for <u>Coliform, Fecal MF, MFC Broth, 44.5 C</u> per the limits established in Permit No. WQ0014306 |
| <u>\$200.00</u> | <u>2</u> of 2 violations of the Permit Daily Maximum for <u>Nitrogen, Ammonia Total (as N)</u> per the limits established in Permit No. WQ0014306 |
| <u>\$1,000.00</u> | <u>2</u> of 2 violations of the Permit Monthly Average for <u>Nitrogen, Ammonia Total (as N)</u> per the limits established in Permit No. WQ0014306 |
| <u>\$500.00</u> | <u>1</u> of 1 violations of the Permit Monthly Average for <u>Solids, Total Suspended</u> per the limits established in Permit No. WQ0014306 |
| <u>\$500.00</u> | <u>1</u> of 1 violations of the Permit Monthly Geometric Mean for <u>Coliform, Fecal MF, MFC Broth, 44.5 C</u> per the limits established in Permit No. WQ0014306 |
| <u>\$5,750.00</u> | For <u>23</u> of the <u>23</u> other violations of Permit No. WQ0014306. |
| <u>\$8,050.00</u> | TOTAL CIVIL PENALTY |
| <u>\$58.82</u> | Enforcement Costs |
| <u>\$8,108.82</u> | TOTAL AMOUNT DUE |

Pursuant to G.S. 143-215.6A(c), in determining the amount of the penalty I have taken into account the Findings of Fact and Conclusions of Law and the factors set forth at G.S. 143B-282.1(b), which are:

- (1) The degree and extent of harm to the natural resources of the State, to the public health, or to private property resulting from the violation;
- (2) The duration and gravity of the violation;
- (3) The effect on ground or surface water quantity or quality or on air quality;
- (4) The cost of rectifying the damage;
- (5) The amount of money saved by noncompliance;
- (6) Whether the violation was committed willfully or intentionally;
- (7) The prior record of the violator in complying or failing to comply with programs over which the Environmental Management Commission has regulatory authority; and
- (8) The cost to the State of the enforcement procedures.

Within **thirty (30) days** of receipt of this notice, you must do **one** of the following:

- (1) Submit payment of the penalty, **OR**
- (2) Submit a written request for remission, **OR**
- (3) Submit a written request for an administrative hearing

Option 1: Submit payment of the penalty:

Payment should be made directly to the order of the Department of Environmental Quality (*do not include waiver form*). Payment of the penalty will not foreclose further enforcement action for any continuing or new violation(s). Please submit payment to the attention of:

Wastewater Branch
Division of Water Resources
1617 Mail Service Center
Raleigh, North Carolina 27699-1617

Option 2: Submit a written request for remission or mitigation including a detailed justification for such request:

Please be aware that a request for remission is limited to consideration of the five factors listed below as they may relate to the reasonableness of the amount of the civil penalty assessed. Requesting remission is not the proper procedure for contesting whether the violation(s) occurred or the accuracy of any of the factual statements contained in the civil penalty assessment document. Because a remission request forecloses the option of an administrative hearing, such a request must be accompanied by a waiver of your right to an administrative hearing and a stipulation and agreement that no factual or legal issues are in dispute. Please prepare a detailed statement that establishes why you believe the civil penalty should be remitted and submit it to the Division of Water Resources at the address listed below. In determining whether a remission request will be approved, the following factors shall be considered:

- (1) whether one or more of the civil penalty assessment factors in NCGS 143B-282.1(b) was wrongfully applied to the detriment of the petitioner;
- (2) whether the violator promptly abated continuing environmental damage resulting from the violation;
- (3) whether the violation was inadvertent or a result of an accident;
- (4) whether the violator had been assessed civil penalties for any previous violations; or
- (5) whether payment of the civil penalty will prevent payment for the remaining necessary remedial actions.

Please note that all evidence presented in support of your request for remission must be submitted in writing. The Director of the Division of Water Resources will review your evidence and inform you of his decision in the matter of your remission request. The response will provide details regarding the case status, directions for payment, and provision for further appeal of the penalty to the Environmental Management Commission's Committee on Civil Penalty Remissions (Committee). Please be advised that the Committee cannot consider information that was not part of the original remission request considered by the Director. Therefore, it is very important that you prepare a complete and thorough statement in support of your request for remission.

In order to request remission, you must complete and submit the enclosed "Request for Remission of Civil Penalties, Waiver of Right to an Administrative Hearing, and Stipulation of Facts" form within thirty (30) days of receipt of this notice. The Division of Water Resources also requests that you complete and submit the enclosed "Justification for Remission Request."

Both forms should be submitted to the following address:

Wastewater Branch
Division of Water Resources
1617 Mail Service Center
Raleigh, North Carolina 27699-1617

Option 3: File a petition for an administrative hearing with the Office of Administrative Hearings:

If you wish to contest any statement in the attached assessment document you must file a petition for an administrative hearing. You may obtain the petition form from the Office of Administrative Hearings. You must file the petition with the Office of Administrative Hearings within thirty (30) days of receipt of this notice. A petition is considered filed when it is received in the Office of Administrative Hearings during normal office hours. The Office of Administrative Hearings accepts filings Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m., except for official state holidays. The petition may be filed by facsimile (fax) or electronic mail by an attached file (with restrictions) - provided the signed original, one (1) copy and a filing fee (if a filing fee is required by NCGS §150B-23.2) is received in the Office of Administrative Hearings within seven (7) business days following the faxed or electronic transmission. You should contact the Office of Administrative Hearings with all questions regarding the filing fee and/or the details of the filing process.

The mailing address and telephone and fax numbers for the Office of Administrative Hearings are as follows:

6714 Mail Service Center
Raleigh, NC 27699 6714
Tel: (919) 431-3000
Fax: (919) 431-3100

One (1) copy of the petition must also be served on DEQ as follows:

Mr. William F. Lane, General Counsel
Department of Environmental Quality
1601 Mail Service Center
Raleigh, North Carolina 27699-1601

Please indicate the case number (as found on page one of this letter) on the petition.

Failure to exercise one of the options above within thirty (30) days of receipt of this letter, as evidenced by an internal date/time received stamp (not a postmark), will result in this matter being referred to the Attorney General's Office for collection of the penalty through a civil action. Please be advised that additional penalties may be assessed for violations that occur after the review period of this assessment.

If you have any questions, please contact Paul Mays with the Division of Water Resources staff of the Washington Regional Office at (252) 948-3940 or via email at paul.mays@ncdenr.gov.

Sincerely,

Robert Tankard

Robert Tankard, Assistant Regional Supervisor
Water Quality Regional Operations Section
Washington Regional Office
Division of Water Resources, NCDEQ

ATTACHMENTS

Cc: Laserfiche

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JUN 22 2022

JUSTIFICATION FOR REMISSION REQUEST

Case Number: LV-2021-0356
Assessed Party: Sandler Utilities at Mill Run L L C
Permit No.: WQ0014306

County: Currituck

Amount Assessed: \$8,108.82

Please use this form when requesting remission of this civil penalty. You must also complete the *"Request For Remission, Waiver of Right to an Administrative Hearing, and Stipulation of Facts"* form to request remission of this civil penalty. You should attach any documents that you believe support your request and are necessary for the Director to consider in evaluating your request for remission. Please be aware that a request for remission is limited to consideration of the five factors listed below as they may relate to the reasonableness of the amount of the civil penalty assessed. Requesting remission is not the proper procedure for contesting whether the violation(s) occurred or the accuracy of any of the factual statements contained in the civil penalty assessment document. Pursuant to N.C.G.S. § 143B-282.1(c), remission of a civil penalty may be granted only when one or more of the following five factors apply. Please check each factor that you believe applies to your case and provide a detailed explanation, including copies of supporting documents, as to why the factor applies (attach additional pages as needed).

- ☐ (a) one or more of the civil penalty assessment factors in N.C.G.S. 143B-282.1(b) were wrongfully applied to the detriment of the petitioner (*the assessment factors are listed in the civil penalty assessment document*);
- ☐ (b) the violator promptly abated continuing environmental damage resulting from the violation (*i.e., explain the steps that you took to correct the violation and prevent future occurrences*);
- ☐ (c) the violation was inadvertent or a result of an accident (*i.e., explain why the violation was unavoidable or something you could not prevent or prepare for*);
- ☐ (d) the violator had not been assessed civil penalties for any previous violations;
- ☐ (e) payment of the civil penalty will prevent payment for the remaining necessary remedial actions (*i.e., explain how payment of the civil penalty will prevent you from performing the activities necessary to achieve compliance*).

EXPLANATION:

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JUN 22 2022

STATE OF NORTH CAROLINA

DEPARTMENT OF ENVIRONMENTAL QUALITY

COUNTY OF CURRITUCK

IN THE MATTER OF ASSESSMENT
OF CIVIL PENALTIES AGAINST

Sandler Utilities at Mill Run L L C
Eagle Creek WWTP

PERMIT NO. WQ0014306

) **WAIVER OF RIGHT TO AN**
) **ADMINISTRATIVE HEARING AND**
) **STIPULATION OF FACTS**

) **CASE NO. LV-2021-0356**

Having been assessed civil penalties totaling \$8,108.82 for violation(s) as set forth in the assessment document of the Division of Water Resources dated December 09, 2021, the undersigned, desiring to seek remission of the civil penalty, does hereby waive the right to an administrative hearing in the above-stated matter and does stipulate that the facts are as alleged in the assessment document. The undersigned further understands that all evidence presented in support of remission of this civil penalty must be submitted to the Director of the Division of Water Resources within thirty (30) days of receipt of the notice of assessment. No new evidence in support of a remission request will be allowed after (30) days from the receipt of the notice of assessment.

This the _____ day of _____, 20____

SIGNATURE

ADDRESS

TELEPHONE

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JUN 22 2022

ATTACHMENT A**Sandler Utilities at Mill Run L L C****CASE NUMBER: LV-2021-0356****PERMIT: WQ0014306****REGION: Washington****FACILITY: Eagle Creek WWTP****COUNTY: Currituck****LIMIT VIOLATION(S)****SAMPLE LOCATION:**

| Violation Date | Report Month/Yr | Parameter | Frequency | Unit of Measure | Limit Value | Calculated Value | % Over Limit | Violation Type | Penalty Amount |
|----------------|-----------------|---------------------------------------|-----------|-----------------|-------------|------------------|--------------|---------------------------------|----------------|
| 6/16/2021 | 6-2021 | Coliform, Fecal MF, MFC Broth, 44.5 C | 2 X month | #/100ml | 25 | 2,420 | 9,580.0 | Daily Maximum Exceeded | \$100.00 |
| 6/30/2021 | 6-2021 | Coliform, Fecal MF, MFC Broth, 44.5 C | 2 X month | #/100ml | 14 | 49.19 | 251.4 | Monthly Geometric Mean Exceeded | \$500.00 |
| 6/16/2021 | 6-2021 | Nitrogen, Ammonia Total (as N) | 2 X month | mg/l | 6 | 10.3 | 71.7 | Daily Maximum Exceeded | \$100.00 |
| 6/24/2021 | 6-2021 | Nitrogen, Ammonia Total (as N) | 2 X month | mg/l | 6 | 18.7 | 211.7 | Daily Maximum Exceeded | \$100.00 |
| 6/30/2021 | 6-2021 | Nitrogen, Ammonia Total (as N) | 2 X month | mg/l | 4 | 14.5 | 262.5 | Monthly Average Exceeded | \$500.00 |
| 6/30/2021 | 6-2021 | Solids, Total Suspended | 2 X month | mg/l | 5 | 7.65 | 53.0 | Monthly Average Exceeded | \$500.00 |
| 6/30/2021 | 6-2021 | Nitrogen, Ammonia Total (as N) | Monthly | mg/l | 4 | 19.8 | 395.0 | Monthly Average Exceeded | \$500.00 |

Other Violation(s):

| Type of Violation | Date | Violation Description | Penalty Amount |
|-----------------------------|------------|--|----------------|
| Permit conditions violation | 06/01/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III.21 of the permit. | \$250.00 |
| Permit conditions violation | 06/02/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 06/03/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |

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| | | | |
|-----------------------------|------------|--|----------|
| Permit conditions violation | 06/04/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 06/05/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 06/06/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 06/07/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 06/08/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 06/09/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 06/10/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 6/11/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 06/12/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 06/13/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 06/14/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 06/15/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 06/16/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 06/17/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 06/18/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |

| | | | |
|-----------------------------|------------|--|----------|
| Permit conditions violation | 06/19/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 06/20/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 06/21/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 06/22/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |
| Permit conditions violation | 06/23/2021 | Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 21 of the permit. | \$250.00 |

DIVISION OF WATER RESOURCES - CIVIL PENALTY ASSESSMENT

Violator: Sandler Utilities at Mill Run L L C

Facility Name: Eagle Creek WWTP

Permit Number: WQ0014306

County: Currituck

Case Number: LV-2021-0358

ASSESSMENT FACTORS

- 1) The degree and extent of harm to the natural resources of the State, to the public health, or to private property resulting from the violation;**

Unknown – The limit violations and reporting violations and permit condition violations could lead to Water Quality Standard Violations. There were no documented public health hazards.

- 2) The duration and gravity of the violation;**

During the month of 07/2021 the facility the daily maximum limit for BOD-5 once. The facility also exceeded permitted monthly average limit for BOD-5. The facility also failed to report Total Organic Carbon and Total Dissolved Solids. There have been thirteen enforcements prior to this assessment totaling \$56,004.82 dollars. The gravity of the violations is significant

- 3) The effect on ground or surface water quantity or quality or on air quality;**

The limit violations and permit condition violations could have led to Water Quality Standard Violations or Public Health Hazards. The facility however is a reclaimed system and the facility routed effluent that did not meet the permitted limits for Fecal Coliform to an irrigation pond where the water is used to irrigate a golf course that is open and utilized by the public. This represents a potential Public Health Hazard. Groundwater standards have been violated in both monitoring wells on site.

- 4) The cost of rectifying the damage;**

Unknown

- 5) The amount of money saved by noncompliance;**

Significant – Funds potentially saved through improper operation and maintenance of the facility.

- 6) Whether the violation was committed willfully or intentionally;**

The operator is not managing the system as required. The facility is under a Consent Judgement to mandate compliance for the operation of the collection system.

- 7) The prior record of the violator in complying or failing to comply with programs over which the Environmental Management Commission has regulatory authority; and**

A violation records review of the facility of the past 24 months as of 12/01/2021 revealed the following issues. Over the last 24 months the facility has received 1 NOV, and 13 CPA's that had a total value of \$56,004.82. The notices and civil penalties were issued due to a multitude of reasons. The facility is known to have chronic Fecal, Ammonia, TSS and BOD-5 limit violations. Another chronic issue is that the facility is required by permit condition III.21 to reroute effluent to the high-rate infiltration pond during Fecal limit violations or when the turbidity exceeds 10 NTU. The facility fails to do

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this on a consistent basis. The facility is known for consistently failing to reroute effluent during Fecal limit violations to the high-rate infiltration pond. This may potentially represent a possible public health hazard due to the Fecal rich water entering the re-use irrigation pond which is used to irrigate a nearby gold course open to the public. Another chronic issue monitoring and reporting violations present in monitoring reports submitted to the division or for the reports themselves to be late or missing.

8) The cost to the State of the enforcement procedures.

\$58.82

12/10/2021

Date

Robert Tankard

**Robert Tankard, Assistant Regional Supervisor
Water Quality Regional Operations Section
Washington Regional Office
Division of Water Resources, NCDEQ**

ROY COOPER
Governor
ELIZABETH S. BISER
Secretary
S. DANIEL SMITH
Director



Certified Mail # 7021 0950 0001 1087 3639
Return Receipt Requested

December 09, 2021

Raymond Gottlieb
Sandler Utilities at Mill Run L L C
448 Viking Dr Ste 200
Virginia Beach, VA 23452-7331

SUBJECT: Notice of Violation and Assessment of Civil Penalty
for Violations of Non-discharge Permit No. WQ0014306
Sandler Utilities at Mill Run L L C
Eagle Creek WWTP
Case No. LV-2021-0358
Currituck County

Dear Mr. Gottlieb:

This letter transmits a Notice of Violation and assessment of civil penalty in the amount of \$758.82 (\$700.00 civil penalty + \$58.82 enforcement costs) against Sandler Utilities at Mill Run L L C.

This assessment is based upon the following facts: a review has been conducted of the Non-Discharge Monitoring Report (NDR) submitted by Sandler Utilities at Mill Run L L C for the month of July 2021. This review has shown the subject facility to be in violation of the limitations and/or monitoring requirements found in Non-discharge Permit No. WQ0014306. The violations, which occurred in July 2021, are summarized in Attachment A to this letter.

Based upon the above facts, I conclude as a matter of law that Sandler Utilities at Mill Run L L C violated the terms, conditions or requirements of Non-discharge Permit No. WQ0014306 in the manner and extent shown in Attachment A. In accordance with the maximums established by G.S. 143-215.6A(a)(2), a civil penalty may be assessed against any person who violates the terms, conditions or requirements of a permit required by G.S. 143-215.1(a).



North Carolina Department of Environmental Quality | Division of Water Resources
Washington Regional Office | 943 Washington Square Mall | Washington, North Carolina 27889
252.946.6481

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JUN 22 2022

Based upon the above findings of fact and conclusions of law, and in accordance with authority provided by the Secretary of the Department of Environmental Quality and the Director of the Division of Water Resources, I, Robert Tankard, Assistant Regional Supervisor, Washington Regional Office hereby make the following civil penalty assessment against Sandler Utilities at Mill Run L L C:

\$100.00 1 of 1 violations of the Permit Daily Maximum for **BOD, 5-Day (20 Deg. C)** per the limits established in Permit No. WQ0014306

\$500.00 1 of 1 violations of the Permit Monthly Average for **BOD, 5-Day (20 Deg. C)** per the limits established in Permit No. WQ0014306

\$50.00 For 1 of the 1 failures to submit monitoring reports or portions of monitoring reports in violation of Permit No. WQ0014306.

\$50.00 For 1 of the 1 failures to submit monitoring reports or portions of monitoring reports in violation of Permit No. WQ0014306.

\$700.00 **TOTAL CIVIL PENALTY**

\$58.82 Enforcement Costs

\$758.82 **TOTAL AMOUNT DUE**

Pursuant to G.S. 143-215.6A(c), in determining the amount of the penalty I have taken into account the Findings of Fact and Conclusions of Law and the factors set forth at G.S. 143B-282.1(b), which are:

- (1) The degree and extent of harm to the natural resources of the State, to the public health, or to private property resulting from the violation;
- (2) The duration and gravity of the violation;
- (3) The effect on ground or surface water quantity or quality or on air quality;
- (4) The cost of rectifying the damage;
- (5) The amount of money saved by noncompliance;
- (6) Whether the violation was committed willfully or intentionally;
- (7) The prior record of the violator in complying or failing to comply with programs over which the Environmental Management Commission has regulatory authority; and
- (8) The cost to the State of the enforcement procedures.

Within **thirty (30) days** of receipt of this notice, you must do **one** of the following:

- (1) Submit payment of the penalty, **OR**
- (2) Submit a written request for remission, **OR**
- (3) Submit a written request for an administrative hearing

Option 1: Submit payment of the penalty:

Payment should be made directly to the order of the Department of Environmental Quality (*do not include waiver form*). Payment of the penalty will not foreclose further enforcement action for any continuing or new violation(s). Please submit payment to the attention of:

Wastewater Branch
Division of Water Resources
1617 Mail Service Center
Raleigh, North Carolina 27699-1617

Option 2: Submit a written request for remission or mitigation including a detailed justification for such request:

Please be aware that a request for remission is limited to consideration of the five factors listed below as they may relate to the reasonableness of the amount of the civil penalty assessed. Requesting remission is not the proper procedure for contesting whether the violation(s) occurred or the accuracy of any of the factual statements contained in the civil penalty assessment document. Because a remission request forecloses the option of an administrative hearing, such a request must be accompanied by a waiver of your right to an administrative hearing and a stipulation and agreement that no factual or legal issues are in dispute. Please prepare a detailed statement that establishes why you believe the civil penalty should be remitted, and submit it to the Division of Water Resources at the address listed below. In determining whether a remission request will be approved, the following factors shall be considered:

- (1) whether one or more of the civil penalty assessment factors in NCGS 143B-282.1(b) was wrongfully applied to the detriment of the petitioner;
- (2) whether the violator promptly abated continuing environmental damage resulting from the violation;
- (3) whether the violation was inadvertent or a result of an accident;
- (4) whether the violator had been assessed civil penalties for any previous violations; or
- (5) whether payment of the civil penalty will prevent payment for the remaining necessary remedial actions.

Please note that all evidence presented in support of your request for remission must be submitted in writing. The Director of the Division of Water Resources will review your evidence and inform you of his decision in the matter of your remission request. The response will provide details regarding the case status, directions for payment, and provision for further appeal of the penalty to the Environmental Management Commission's Committee on Civil Penalty Remissions (Committee). Please be advised that the Committee cannot consider information that was not part of the original remission request considered by the Director. Therefore, it is very important that you prepare a complete and thorough statement in support of your request for remission.

In order to request remission, you must complete and submit the enclosed "Request for Remission of Civil Penalties, Waiver of Right to an Administrative Hearing, and Stipulation of Facts" form within thirty (30) days of receipt of this notice. The Division of Water Resources also requests that you complete and submit the enclosed "Justification for Remission Request."

Both forms should be submitted to the following address:

Wastewater Branch
Division of Water Resources
1617 Mail Service Center
Raleigh, North Carolina 27699-1617

Option 3: File a petition for an administrative hearing with the Office of Administrative Hearings:

If you wish to contest any statement in the attached assessment document you must file a petition for an administrative hearing. You may obtain the petition form from the Office of Administrative Hearings. You must file the petition with the Office of Administrative Hearings within thirty (30) days of receipt of this notice. A petition is considered filed when it is received in the Office of Administrative Hearings during normal office hours. The Office of Administrative Hearings accepts filings Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m., except for official state holidays. The petition may be filed by facsimile (fax) or electronic mail by an attached file (with restrictions) - provided the signed original, one (1) copy and a filing fee (if a filing fee is required by NCGS §150B-23.2) is received in the Office of Administrative Hearings within seven (7) business days following the faxed or electronic transmission. You should contact the Office of Administrative Hearings with all questions regarding the filing fee and/or the details of the filing process.

The mailing address and telephone and fax numbers for the Office of Administrative Hearings are as follows:

6714 Mail Service Center
Raleigh, NC 27699 6714
Tel: (919) 431-3000
Fax: (919) 431-3100

One (1) copy of the petition must also be served on DEQ as follows:

Mr. William F. Lane, General Counsel
Department of Environmental Quality
1601 Mail Service Center
Raleigh, North Carolina 27699-1601

Please indicate the case number (as found on page one of this letter) on the petition.

Failure to exercise one of the options above within thirty (30) days of receipt of this letter, as evidenced by an internal date/time received stamp (not a postmark), will result in this matter being referred to the Attorney General's Office for collection of the penalty through a civil action. Please be advised that additional penalties may be assessed for violations that occur after the review period of this assessment.

If you have any questions, please contact Paul Mays with the Division of Water Resources staff of the Washington Regional Office at (252) 948-3940 or via email at paul.mays@ncdenr.gov.

Sincerely,

Robert Tankard

Robert Tankard, Assistant Regional Supervisor
Water Quality Regional Operations Section
Washington Regional Office
Division of Water Resources, NCDEQ

ATTACHMENTS

Cc: Laserfiche

JUSTIFICATION FOR REMISSION REQUEST**Case Number:** LV-2021-0358**County:** Currituck**Assessed Party:** Sandler Utilities at Mill Run L L C**Permit No.:** WQ0014306**Amount Assessed:** \$758.82

Please use this form when requesting remission of this civil penalty. You must also complete the "Request For Remission, Waiver of Right to an Administrative Hearing, and Stipulation of Facts" form to request remission of this civil penalty. You should attach any documents that you believe support your request and are necessary for the Director to consider in evaluating your request for remission. Please be aware that a request for remission is limited to consideration of the five factors listed below as they may relate to the reasonableness of the amount of the civil penalty assessed. Requesting remission is not the proper procedure for contesting whether the violation(s) occurred or the accuracy of any of the factual statements contained in the civil penalty assessment document. Pursuant to N.C.G.S. § 143B-282.1(c), remission of a civil penalty may be granted only when one or more of the following five factors apply. Please check each factor that you believe applies to your case and provide a detailed explanation, including copies of supporting documents, as to why the factor applies (attach additional pages as needed).

- ___ (a) one or more of the civil penalty assessment factors in N.C.G.S. 143B-282.1(b) were wrongfully applied to the detriment of the petitioner (*the assessment factors are listed in the civil penalty assessment document*);
- ___ (b) the violator promptly abated continuing environmental damage resulting from the violation (*i.e., explain the steps that you took to correct the violation and prevent future occurrences*);
- ___ (c) the violation was inadvertent or a result of an accident (*i.e., explain why the violation was unavoidable or something you could not prevent or prepare for*);
- ___ (d) the violator had not been assessed civil penalties for any previous violations;
- ___ (e) payment of the civil penalty will prevent payment for the remaining necessary remedial actions (*i.e., explain how payment of the civil penalty will prevent you from performing the activities necessary to achieve compliance*).

EXPLANATION:

STATE OF NORTH CAROLINA

DEPARTMENT OF ENVIRONMENTAL QUALITY

COUNTY OF CURRITUCK

IN THE MATTER OF ASSESSMENT
OF CIVIL PENALTIES AGAINST

Sandler Utilities at Mill Run L L C
Eagle Creek WWTP

PERMIT NO. WQ0014306

) **WAIVER OF RIGHT TO AN**
) **ADMINISTRATIVE HEARING AND**
) **STIPULATION OF FACTS**

) **CASE NO. LV-2021-0358**

Having been assessed civil penalties totaling \$758.82 for violation(s) as set forth in the assessment document of the Division of Water Resources dated December 09, 2021, the undersigned, desiring to seek remission of the civil penalty, does hereby waive the right to an administrative hearing in the above-stated matter and does stipulate that the facts are as alleged in the assessment document. The undersigned further understands that all evidence presented in support of remission of this civil penalty must be submitted to the Director of the Division of Water Resources within thirty (30) days of receipt of the notice of assessment. No new evidence in support of a remission request will be allowed after (30) days from the receipt of the notice of assessment.

This the _____ day of _____, 20____

SIGNATURE

ADDRESS

TELEPHONE

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JUN 22 2022

ATTACHMENT A

Sandler Utilities at Mill Run L L C

CASE NUMBER: LV-2021-0358

PERMIT: WQ0014306

REGION: Washington

FACILITY: Eagle Creek WWTP

COUNTY: Currituck

LIMIT VIOLATION(S)

SAMPLE LOCATION:

| Violation Date | Report Month/Yr | Parameter | Frequency | Unit of Measure | Limit Value | Calculated Value | % Over Limit | Violation Type | Penalty Amount |
|----------------|-----------------|------------------------|-----------|-----------------|-------------|------------------|--------------|--------------------------|----------------|
| 7/29/2021 | 7-2021 | BOD, 5-Day (20 Deg. C) | 2 X month | mg/l | 15 | 19 | 26.7 | Daily Maximum Exceeded | \$100.00 |
| 7/31/2021 | 7-2021 | BOD, 5-Day (20 Deg. C) | 2 X month | mg/l | 10 | 10.5 | 5.0 | Monthly Average Exceeded | \$500.00 |

REPORTING VIOLATION(S)

SAMPLE LOCATION:

| Violation Date | Report Month/Yr | Parameter | Frequency | Unit of Measure | Limit Value | Calculated Value | % Over Limit | Violation Type | Penalty Amount |
|----------------|-----------------|---------------------------|-----------|-----------------|-------------|------------------|--------------|-------------------|----------------|
| 7/31/2021 | 7-2021 | Carbon, Tot Organic (TOC) | 3 X year | mg/l | | | | Parameter Missing | \$50.00 |
| 7/31/2021 | 7-2021 | Solids, Total Dissolved | 3 X year | mg/l | | | | Parameter Missing | \$50.00 |

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JUN 22 2022