

ROY COOPER
Governor
MICHAEL S. REGAN
Secretary
S. DANIEL SMITH
Director



RECEIVED MAR 11 2020

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Return Receipt Requested

March 05, 2020

Shannon V Becker, President
Aqua North Carolina Inc
202 Mackenan Ct
Cary, NC 27511

SUBJECT: Notice of Violation and Assessment of Civil Penalty
for Violations of North Carolina General Statute (G.S.) 143-215.1(a)(6)
and Collection System Permit No. WQCSD0267
Aqua North Carolina Inc
Chapel Ridge WWTP
Case No. DV-2020-0039
Chatham County

Dear Mr. Becker:

This letter transmits a Notice of Violation and assessment of civil penalty in the amount of \$2,035.01 (\$2,000.00 civil penalty + \$35.01 enforcement costs) against Aqua North Carolina Inc.

This assessment is based upon the following facts: a review has been conducted of the Sanitary Sewer Overflow (SSO) 5-Day Report submitted by Aqua North Carolina Inc. This review has shown the subject facility to be in violation of the requirements found in Collection System Permit No. WQCSD0267 and G.S. 143-215.1(a)(1). The violation(s) that occurred are summarized in Attachment A to this letter.

Based upon the above facts, I conclude as a matter of law that Aqua North Carolina Inc violated the terms, conditions or requirements of Collection System Permit No. WQCSD0267 and G.S. 143-215.1(a)(1) 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
Raleigh Regional Office | 5850 Barrett Drive | Raleigh, North Carolina 27608
919-791-4200

OFFICIAL COPY
Jul 16 2020

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, Scott Vinson, Regional Supervisor, Raleigh Regional Office hereby make the following civil penalty assessment against Aqua North Carolina Inc:

\$2,000.00 For 1 of the 1 violations of Collection System Permit No. WQCSD0267 and G.S. 143-215.1(a)(1) for Sanitary Sewer Overflow(s) resulting in a discharge without a valid permit.

\$2,000.00 **TOTAL CIVIL PENALTY**

\$35.01 Enforcement Costs

\$2,035.01 **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:

Attn: PERCS 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:

Attn: PERCS Branch
Division of Water Resources
1617 Mail Service Center
Raleigh, North Carolina 27699-1617

AND

Scott Vinson, Regional Supervisor
Water Quality Regional Operations Section
Raleigh Regional Office
Division of Water Resources, NCDEQ
1628 Mail Service Center, Raleigh
Raleigh, NC 27699-1628

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:

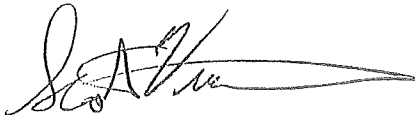
Mr. William F. Lane, General Counsel
Department of Environmental Quality
1601 Mail Service Center
Raleigh, North Carolina 27699-1601

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 Mitchell Hayes with the Division of Water Resources staff of the Raleigh Regional Office at (919) 791-4200 or via email at mitch.hayes@ncdenr.gov.

Sincerely,



Scott Vinson, Regional Supervisor
Water Quality Regional Operations Section
Raleigh Regional Office
Division of Water Resources, NCDEQ

ATTACHMENTS

Cc: WQS Raleigh Regional Office - Enforcement File
PERCS Compliance/Enforcement Unit - Enforcement File
Laserfiche

JUSTIFICATION FOR REMISSION REQUEST

Case Number: DV-2020-0039

County: Chatham

Assessed Party: Aqua North Carolina Inc

Permit No.: WQCS0267

Amount Assessed: \$2,035.01

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:

See attached document

STATE OF NORTH CAROLINA

DEPARTMENT OF ENVIRONMENTAL QUALITY

COUNTY OF CHATHAM

IN THE MATTER OF ASSESSMENT
OF CIVIL PENALTIES AGAINST

Aqua North Carolina Inc
Chapel Ridge WWTP

PERMIT NO. WQCSD0267

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

)
)
)
) CASE NO. DV-2020-0039

Having been assessed civil penalties totaling \$2,035.01 for violation(s) as set forth in the assessment document of the Division of Water Resources dated March 05, 2020, 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 25th day of March, 2020


SIGNATURE

ADDRESS

202 Mackenon Ct
Cary NC 27511

TELEPHONE

919-467-8712 ext 56982

ATTACHMENT A

Aqua North Carolina Inc

CASE NUMBER: DV-2020-0039

PERMIT NO: WQCSD0267

REGION: Raleigh

FACILITY: Chapel Ridge WWTP

COUNTY: Chatham

Other Violations

INCIDENT NUMBER	VIOLATION DATE	VIOLATION TYPE	VIOLATION DESCRIPTION	TOTAL VOLUME (GALLONS)	PENALTY AMOUNT
201901928	12/11/2019	CSO/SSO(Sewer Overflow)	Discharge without valid permit	103,000	\$2,000.00

Incident Number	Start Date	Duration (Mins)	Location	Cause	Total Vol (Gals)	Total Vol Surface Water (Gals)	DWR Action
201901928	12/11/2019	8,584	Manhole at 744 Chapel Ridge Drive	Pump station equipment failure	103,000	101,000	Notice of Violation Notice of Intent