

ROY COOPER
Governor
DIONNE DELLI-GATTI
Secretary
S. DANIEL SMITH
Director



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JUN 22 2022

Certified Mail # 7020 1810 0001 5981 1990
Return Receipt Requested

April 12, 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-2021-0099
Currituck County

Dear Mr. Gottlieb,

This letter transmits a Notice of Violation and assessment of civil penalty in the amount of \$757.82 (\$700.00 civil penalty + \$57.82 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 (NDMR) 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 27889
252.946.6481

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 **Coliform, Fecal MF, MFC Broth, 44.5 C** per the limits established in Permit No. WQ0014306

- \$100.00 1 of 1 violations of the Permit Daily Maximum for **Nitrogen, Ammonia Total (as N)** per the limits established in Permit No. WQ0014306

- \$500.00 1 of 1 violations of the Permit Monthly Average for **Nitrogen, Ammonia Total (as N)** per the limits established in Permit No. WQ0014306

- \$0.00 For 0 of the 6 other violations of Permit No. WQ0014306.

- \$700.00 **TOTAL CIVIL PENALTY**
- \$57.82 Enforcement Costs
- \$757.82 **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-2021-0099
Assessed Party: Sandler Utilities at Mill Run L L C
Permit No.: WQ0014306

County: Currituck

Amount Assessed: \$757.82

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

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

**Sandler Utilities at Mill Run L L C
Eagle Creek WWTP**

PERMIT NO. WQ0014306

CASE NO. LV-2021-0099

Having been assessed civil penalties totaling \$757.82 for violation(s) as set forth in the assessment document of the Division of Water Resources dated April 12, 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-2021-0099

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
7/15/2020	7-2020	Coliform, Fecal MF, MFC Broth, 44.5 C	2 X month	#/100ml	25	49	96.0	Daily Maximum Exceeded	\$100.00
7/15/2020	7-2020	Nitrogen, Ammonia Total (as N)	2 X month	mg/l	6	10.9	81.7	Daily Maximum Exceeded	\$100.00
7/31/2020	7-2020	Nitrogen, Ammonia Total (as N)	2 X month	mg/l	4	5.45	36.3	Monthly Average Exceeded	\$500.00

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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: LM-2021-0024

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, monitoring violations, reporting violations and permit condition violations could have led to Water Quality Standard Violations. There were no documented fish kills. The facility is a reclaimed system and the facility was sending wastewater that did not meet permit limits to an irrigation pond where the water will be sprayed on a golf course where human interaction will occur. There were no know incidents.

2) The duration and gravity of the violation;

During October 2020 the facility exceeded the daily maximum limit for Fecal Coliform and Total Suspended Solids on 10/29/2020 and exceeded the monthly average limit for Fecal Coliform and Total Suspended Solids. The facility did report turbidity as required by the permit on 10/31/2021 and Total Nitrate was not reported entirely. The facility did not reroute the effluent to the high-rate infiltration pond as required by the permit on 10/31/2020 after a fecal violation occurred on 10/29/2021. The facility should have received results within a day and did not reroute as required by permit condition III.19. The facility did not redirect the wastewater away from the irrigation water that would be going to the golf course.

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

Unknown – The limit violations, monitoring violations, reporting violations and permit condition violations could have led to Water Quality Standard Violations. There were no documented fish kills or health risk. There are documented violations of groundwater at the facility.

4) The cost of rectifying the damage;

Unknown

5) The amount of money saved by noncompliance;

Unknown – funds potentially saved on improper operation and maintenance

6) Whether the violation was committed willfully or intentionally;

Unknown

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 record review of the past 24 months as of 07/23/2021 found the following issues. The facility has a history of late/missing NDMR and 4 NOVs and 1 NOI were issued for violations of this nature for the 11/2020, 05/2020, 10/2019, 09/2019 and 08/2019 reports. The facility also has a history of extensive Fecal, TSS and Ammonia Limit violations and over the last 24 months 6 NOI were issued for violations of this nature. Another common issue is the facility is required by permit condition III.19 to route effluent to the high-rate infiltration pond during fecal limit violations or when turbidity exceeds 10 NTU.

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

\$58.82

7/30/2021

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 # 7020 1810 0001 5981 1655
Return Receipt Requested

July 30, 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. LM-2021-0024
Currituck County

Dear Mr. Gottlieb:

This letter transmits a Notice of Violation and assessment of civil penalty in the amount of \$1,108.82 (\$1,050.00 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 (NDMR) and Non-Discharge Analysis Report (NDAR1) submitted by Sandler Utilities at Mill Run L L C for the month of October 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 October 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

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JUL 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, 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 **Coliform, Fecal MF, MFC Broth, 44.5 C** per the limits established in Permit No. WQ0014306
- \$100.00 1 of 1 violations of the Permit Daily Maximum for **Solids, Total Suspended** per the limits established in Permit No. WQ0014306
- \$250.00 1 of 1 violations of the Permit Monthly Average for **Solids, Total Suspended** per the limits established in Permit No. WQ0014306
- \$250.00 1 of 1 violations of the Permit Monthly Geometric Mean for **Coliform, Fecal MF, MFC Broth, 44.5 C** per the limits established in Permit No. WQ0014306
- \$50.00 for 1 of the 1 failures to properly monitor **Turbidity, HCH Turbidimeter** in violation of 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.
- \$50.00 For 1 of the 1 failures to submit monitoring reports or portions of monitoring reports in violation of Permit No. WQ0014306.
- \$250.00 For 1 of the 2 other violations of Permit No. WQ0014306.

- \$1,050.00 **TOTAL CIVIL PENALTY**
- \$58.82 Enforcement Costs
- \$1,108.82 **TOTAL AMOUNT DUE**

- \$1,050.00 **TOTAL CIVIL PENALTY**
- \$58.82 Enforcement Costs
- \$1,108.82 **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

OFFICIAL COPY

JUN 22 2022

JUSTIFICATION FOR REMISSION REQUEST

Case Number: LM-2021-0024
Assessed Party: Sandler Utilities at Mill Run L L C
Permit No.: WQ0014306

County: Currituck

Amount Assessed: \$1,108.82

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:

STATE OF NORTH CAROLINA

DEPARTMENT OF ENVIRONMENTAL QUALITY

COUNTY OF CURRITUCK

IN THE MATTER OF ASSESSMENT
OF CIVIL PENALTIES AGAINST

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

**Sandler Utilities at Mill Run L L C
Eagle Creek WWTP**

PERMIT NO. WQ0014306

CASE NO. LM-2021-0024

Having been assessed civil penalties totaling \$1,108.82 for violation(s) as set forth in the assessment document of the Division of Water Resources dated July 30, 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: LM-2021-0024

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
10/29/2020	10-2020	Coliform, Fecal MF, MFC Broth, 44.5 C	2 X month	#/100ml	25	300	1,100.0	Daily Maximum Exceeded	\$100.00
10/31/2020	10-2020	Coliform, Fecal MF, MFC Broth, 44.5 C	2 X month	#/100ml	14	30	114.3	Monthly Geometric Mean Exceeded	\$250.00
10/29/2020	10-2020	Solids, Total Suspended	2 X month	mg/l	10	14.6	46.0	Daily Maximum Exceeded	\$100.00
10/31/2020	10-2020	Solids, Total Suspended	2 X month	mg/l	5	7.3	46.0	Monthly Average Exceeded	\$250.00

MONITORING VIOLATION(S)

SAMPLE LOCATION:

Violation Date	Report Month/Yr	Parameter	Frequency	Unit of Measure	Limit Value	Calculated Value	% Over Limit	Violation Type	Penalty Amount
10/31/2020	10-2020	Turbidity, HCH Turbidimeter	Continuous	ntu				Frequency Violation	\$50.00

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
10/31/2020	10-2020	Nitrogen, Nitrate Total (as N)	2 X month	mg/l				Parameter Missing	\$0.00

SAMPLE LOCATION:

Violation	Report	Unit of	Limit	Calculated	% Over	Violation	Penalty
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JUN 22 2022

Date	Month/Yr	Parameter	Frequency	Measure	Value	Value	Limit	Type	Amount
1/30/2021	10-2020							Field-Site Missing	\$50.00

Other Violation(s):

Type of Violation	Date	Violation Description	Penalty	Amount
Permit conditions violation	10/30/2020	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III.19 of the permit.		\$0.00
Permit conditions violation	10/31/2020	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.		\$250.00

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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: LM-2021-0025

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, monitoring violations, reporting violations and permit condition violations could have led to Water Quality Standard Violations. There were no documented fish kills. The facility is a reclaimed system and the facility was sending wastewater that did not meet permit limits to an irrigation pond where the water will be sprayed on a golf course where human interaction will occur. There were no know incidents.

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

During December 2020 the facility exceeded the daily maximum limit Fecal Coliform and exceeded the monthly average limit for Fecal Coliform and Total Suspended Solids. The facility did not report pH as required by Non-Discharge permit #WQ0014306 for the first, second or third week of the month. The facility also did not report BOD-5, Fecal Coliform, Total Ammonia, Total Kjeldahl Nitrogen, Total Nitrate, Total Phosphorous or Total Suspended twice a month as required by Non-Discharge permit #WQ0014306 and only reported each parameter once. The facility did not reroute effluent to the high-rate infiltration pond as required by permit condition III.19 on 12/17/2021 after a fecal limit violation on 12/15/2021. The facility should have received results for fecal from 12/15/2021 on 12/17/2021 due to the test for fecal being a 24-hour test.

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

Unknown – The limit violations, monitoring violations, reporting violations and permit condition violations could have led to Water Quality Standard Violations. There were no documented fish kills or health risk. There are documented violations of groundwater at the facility.

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

Unknown

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

Unknown – funds potentially saved by improper operation and maintenance.

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

Unknown

- 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 record review of the past 24 months as of 07/23/2021 found the following issues. The facility has a history of late/missing NDMR and 4 NOVs and 1 NOI were issued for violations of this nature for the 11/2020, 05/2020, 10/2019, 09/2019 and 08/2019 reports. The facility also has a history of extensive Fecal, TSS and Ammonia Limit violations and over the last 24 months 6 NOI were issued for violations of this nature. Another common issue is the

facility is required by permit condition III.19 to route effluent to the high-rate infiltration pond during fecal limit violations or when turbidity exceeds 10 NTU.

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

\$58.82

8/2/2021

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 # 7020 1810 0001 5981 1679
Return Receipt Requested

August 2, 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. LM-2021-0025
Currituck County

Dear Mr. Gottlieb:

This letter transmits a Notice of Violation and assessment of civil penalty in the amount of \$4,808.82 (\$4,750.00 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) and the Non-Discharge Analysis Report (NDAR1) submitted by Sandler Utilities at Mill Run L L C for the month of December 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 December 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

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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>Coliform, Fecal MF, MFC Broth, 44.5 C</u> per the limits established in Permit No. WQ0014306
<u>\$250.00</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>\$250.00</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 properly monitor <u>BOD, 5-Day (20 Deg. C)</u> in violation of Permit No. WQ0014306.
<u>\$50.00</u>	for <u>1</u> of the <u>1</u> failures to properly monitor <u>Coliform, Fecal MF, MFC Broth, 44.5 C</u> in violation of Permit No. WQ0014306.
<u>\$50.00</u>	for <u>1</u> of the <u>1</u> failures to properly monitor <u>Nitrogen, Ammonia Total (as N)</u> in violation of Permit No. WQ0014306.
<u>\$50.00</u>	for <u>1</u> of the <u>1</u> failures to properly monitor <u>Nitrogen, Kjeldahl, Total (as N)</u> in violation of Permit No. WQ0014306.
<u>\$50.00</u>	for <u>1</u> of the <u>1</u> failures to properly monitor <u>Nitrogen, Nitrate Total (as N)</u> in violation of Permit No. WQ0014306.
<u>\$50.00</u>	for <u>1</u> of the <u>1</u> failures to properly monitor <u>Nitrogen, Total (as N)</u> in violation of Permit No. WQ0014306.
<u>\$0.00</u>	for <u>0</u> of the <u>3</u> failures to properly monitor <u>pH</u> in violation of Permit No. WQ0014306.
<u>\$50.00</u>	for <u>1</u> of the <u>1</u> failures to properly monitor <u>Phosphorus, Total (as P)</u> in violation of Permit No. WQ0014306.
<u>\$50.00</u>	for <u>1</u> of the <u>1</u> failures to properly monitor <u>Solids, Total Suspended</u> in violation of 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>\$3,750.00</u>	For <u>15</u> of the <u>16</u> other violations of Permit No. WQ0014306.
<u>\$4,750.00</u>	TOTAL CIVIL PENALTY
<u>\$58.82</u>	Enforcement Costs
<u>\$4,808.82</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: LM-2021-0025
Assessed Party: Sandler Utilities at Mill Run L L C
Permit No.: WQ0014306

County: Currituck

Amount Assessed: \$4,808.82

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. LM-2021-0025**

Having been assessed civil penalties totaling \$4,808.82 for violation(s) as set forth in the assessment document of the Division of Water Resources dated August 2, 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: LM-2021-0025

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
12/15/2020	12-2020	Coliform, Fecal MF, MFC Broth, 44.5 C	2 X month	#/100ml	25	2,420	9,580.0	Daily Maximum Exceeded	\$100.00
12/31/2020	12-2020	Coliform, Fecal MF, MFC Broth, 44.5 C	2 X month	#/100ml	14	2,420	17,185.7	Monthly Geometric Mean Exceeded	\$250.00
12/31/2020	12-2020	Solids, Total Suspended	2 X month	mg/l	5	8.9	78.0	Monthly Average Exceeded	\$250.00

MONITORING VIOLATION(S)

SAMPLE LOCATION:

Violation Date	Report Month/Yr	Parameter	Frequency	Unit of Measure	Limit Value	Calculated Value	% Over Limit	Violation Type	Penalty Amount
12/31/2020	12-2020	BOD, 5-Day (20 Deg. C)	2 X month	mg/l				Frequency Violation	\$50.00
12/31/2020	12-2020	Coliform, Fecal MF, MFC Broth, 44.5 C	2 X month	#/100ml				Frequency Violation	\$50.00
12/31/2020	12-2020	Nitrogen, Ammonia Total (as N)	2 X month	mg/l				Frequency Violation	\$50.00
12/31/2020	12-2020	Nitrogen, Kjeldahl, Total (as N)	2 X month	mg/l				Frequency Violation	\$50.00
12/31/2020	12-2020	Nitrogen, Nitrate Total (as N)	2 X month	mg/l				Frequency Violation	\$50.00
12/31/2020	12-2020	Nitrogen, Total (as N)	2 X month	mg/l				Frequency Violation	\$50.00
12/5/2020	12-2020	pH	5 X week	su				Frequency Violation	\$0.00
12/19/2020	12-2020	pH	5 X week	su				Frequency Violation	\$0.00
12/26/2020	12-2020	pH	5 X week	su				Frequency	\$0.00

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					Violation	
12/31/2020	12-2020	Phosphorus, Total (as P)	2 X month	mg/l	Frequency Violation	\$50.00
12/31/2020	12-2020	Solids, Total Suspended	2 X month	mg/l	Frequency Violation	\$50.00

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
4/1/2021	12-2020							Field-Site Missing	\$0.00

Other Violation(s):

Type of Violation	Date	Violation Description	Penalty	Amount
Permit conditions violation	12/16/2020	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III.19 of the permit.		\$0.00
Permit conditions violation	12/17/2020	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.		\$250.00
Permit conditions violation	12/18/2020	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.		\$250.00
Permit conditions violation	12/19/2020	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.		\$250.00
Permit conditions violation	12/20/2020	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.		\$250.00
Permit conditions violation	12/21/2020	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.		\$250.00
Permit conditions violation	12/22/2020	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.		\$250.00
Permit conditions violation	12/23/2020	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.		\$250.00
Permit conditions violation	12/24/2020	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.		\$250.00

Permit conditions violation	12/25/2020	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$250.00
Permit conditions violation	12/26/2020	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$250.00
Permit conditions violation	12/27/2020	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$250.00
Permit conditions violation	12/28/2020	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$250.00
Permit conditions violation	12/29/2020	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$250.00
Permit conditions violation	12/30/2020	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$250.00
Permit conditions violation	12/31/2020	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 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: LM-2021-0027

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, monitoring violations, reporting violations and permit condition violations could have led to Water Quality Standard Violations. There were no documented fish kills. The facility is a reclaimed system and the facility was sending wastewater that did not meet permit limits to an irrigation pond where the water will be sprayed on a golf course where human interaction will occur. There were no know incidents.

2) The duration and gravity of the violation;

During the month of January 2021, the facility exceeded the daily maximum limit for BOD-5, TSS and exceeded the daily maximum limit for Total Ammonia and Fecal Coliform twice. During this timeframe the facility also exceeded the monthly average limits for BOD-5, TSS, Total Ammonia and Fecal Coliform. The facility also did not report pH at the proper frequency for the first and second week of the month. The facility continued to have fecal limit violations during January 2021 and failed to reroute the effluent to the high-rate infiltration pond as required by permit conditions III.19 the entire month.

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

Unknown – The limit violations, monitoring violations, reporting violations and permit condition violations could have led to Water Quality Standard Violations. There were no documented fish kills or health risk. There are documented violations of groundwater at the facility.

4) The cost of rectifying the damage;

Unknown

5) The amount of money saved by noncompliance;

Unknown – Funds potentially saved through improper operation and maintenance.

6) Whether the violation was committed willfully or intentionally;

Unknown

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 record review of the past 24 months as of 07/23/2021 found the following issues. The facility has a history of late/missing NDMR and 4 NOVs and 1 NOI were issued for violations of this nature for the 11/2020, 05/2020, 10/2019, 09/2019 and 08/2019 reports. The facility also has a history of extensive Fecal, TSS and Ammonia Limit violations and over the last 24 months 6 NOI were issued for violations of this nature. Another common issue is the facility is required by permit condition III.19 to route effluent to the high-rate infiltration pond during fecal limit violations or when turbidity exceeds 10 NTU.

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

\$58.82

8/2/2021

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 # 7020 1810 0001 5981 1693
Return Receipt Requested

August 02, 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. LM-2021-0027
Currituck County

Dear Mr. Gottlieb:

This letter transmits a Notice of Violation and assessment of civil penalty in the amount of \$6,658.82 (\$6,600.00 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 January 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 January 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

- \$200.00 2 of 2 violations of the Permit Daily Maximum for **Coliform, Fecal MF, MFC Broth, 44.5 C** per the limits established in Permit No. WQ0014306

- \$200.00 2 of 2 violations of the Permit Daily Maximum for **Nitrogen, Ammonia Total (as N)** per the limits established in Permit No. WQ0014306

- \$100.00 1 of 1 violations of the Permit Daily Maximum for **Solids, Total Suspended** per the limits established in Permit No. WQ0014306

- \$250.00 1 of 1 violations of the Permit Monthly Average for **BOD, 5-Day (20 Deg. C)** per the limits established in Permit No. WQ0014306

- \$250.00 1 of 1 violations of the Permit Monthly Average for **Nitrogen, Ammonia Total (as N)** per the limits established in Permit No. WQ0014306

- \$250.00 1 of 1 violations of the Permit Monthly Average for **Solids, Total Suspended** per the limits established in Permit No. WQ0014306

- \$250.00 1 of 1 violations of the Permit Monthly Geometric Mean for **Coliform, Fecal MF, MFC Broth, 44.5 C** per the limits established in Permit No. WQ0014306

- \$58.82 for 0 of the 2 failures to properly monitor **pH** in violation of Permit No. WQ0014306.

- \$5,000.00 For 31 of the 31 other violations of Permit No. WQ0014306.

- \$6,600.00 **TOTAL CIVIL PENALTY**
- \$0.00 Enforcement Costs
- \$6,658.82 **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

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JUN 22 2022

JUSTIFICATION FOR REMISSION REQUEST

Case Number: LM-2021-0027
Assessed Party: Sandler Utilities at Mill Run L L C
Permit No.: WQ0014306

County: Currituck

Amount Assessed: \$6,658.82

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. LM-2021-0027**

Having been assessed civil penalties totaling \$6,658.82 for violation(s) as set forth in the assessment document of the Division of Water Resources dated August 02, 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: LM-2021-0027

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
1/21/2021	1-2021	BOD, 5-Day (20 Deg. C)	2 X month	mg/l	15	30	100.0	Daily Maximum Exceeded	\$100.00
1/31/2021	1-2021	BOD, 5-Day (20 Deg. C)	2 X month	mg/l	10	19	90.0	Monthly Average Exceeded	\$250.00
1/21/2021	1-2021	Coliform, Fecal MF, MFC Broth, 44.5 C	2 X month	#/100ml	25	2,420	9,580.0	Daily Maximum Exceeded	\$100.00
1/28/2021	1-2021	Coliform, Fecal MF, MFC Broth, 44.5 C	2 X month	#/100ml	25	2,420	9,580.0	Daily Maximum Exceeded	\$100.00
1/31/2021	1-2021	Coliform, Fecal MF, MFC Broth, 44.5 C	2 X month	#/100ml	14	2,420	17,185.7	Monthly Geometric Mean Exceeded	\$250.00
1/21/2021	1-2021	Nitrogen, Ammonia Total (as N)	2 X month	mg/l	6	17.5	191.7	Daily Maximum Exceeded	\$100.00
1/28/2021	1-2021	Nitrogen, Ammonia Total (as N)	2 X month	mg/l	6	14.8	146.7	Daily Maximum Exceeded	\$100.00
1/31/2021	1-2021	Nitrogen, Ammonia Total (as N)	2 X month	mg/l	4	16.15	303.7	Monthly Average Exceeded	\$250.00
1/21/2021	1-2021	Solids, Total Suspended	2 X month	mg/l	10	12	20.0	Daily Maximum Exceeded	\$100.00
1/31/2021	1-2021	Solids, Total Suspended	2 X month	mg/l	5	8	60.0	Monthly Average Exceeded	\$250.00

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JUN 22 2022

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

Violation Date	Report Month/Yr	Parameter	Frequency	Unit of Measure	Limit Value	Calculated Value	% Over Limit	Violation Type	Penalty Amount
1/9/2021	1-2021	pH	5 X week	su				Frequency Violation	\$0.00
1/16/2021	1-2021	pH	5 X week	su				Frequency Violation	\$0.00

Other Violation(s):

Type of Violation	Date	Violation Description	Penalty Amount
Permit conditions violation	01/01/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III.19 of the permit.	\$161.29
Permit conditions violation	01/02/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$161.29
Permit conditions violation	01/03/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$161.29
Permit conditions violation	01/04/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$161.29
Permit conditions violation	01/05/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$161.29
Permit conditions violation	01/06/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$161.29
Permit conditions violation	01/07/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$161.29
Permit conditions violation	01/08/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$161.29
Permit conditions violation	01/09/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$161.29
Permit conditions violation	01/10/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$161.29
Permit conditions violation	01/11/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$161.29

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JUN 22 2022

Permit conditions violation	01/12/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$161.29
Permit conditions violation	01/13/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$161.29
Permit conditions violation	01/14/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$161.29
Permit conditions violation	01/15/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$161.29
Permit conditions violation	01/16/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$161.29
Permit conditions violation	01/17/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$161.29
Permit conditions violation	01/18/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$161.29
Permit conditions violation	01/19/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$161.29
Permit conditions violation	01/20/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$161.29
Permit conditions violation	01/21/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$161.29
Permit conditions violation	01/22/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$161.29
Permit conditions violation	01/23/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$161.29
Permit conditions violation	01/24/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$161.29
Permit conditions violation	01/25/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$161.29

Permit conditions violation	01/26/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$161.29
Permit conditions violation	01/27/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$161.29
Permit conditions violation	01/28/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$161.29
Permit conditions violation	01/29/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$161.29
Permit conditions violation	01/30/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$161.29
Permit conditions violation	01/31/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$161.30

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



Certified Mail # 7020 1810 0001 5981 1686
Return Receipt Requested

August 10, 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 LLC
Eagle Creek WWTP
Case No. LV-2021-0211
Currituck County**

Dear Mr. Gottlieb:

This letter transmits a Notice of Violation and assessment of civil penalty in the amount of \$6,308.82 (\$6,250.00 civil penalty + \$58.82 enforcement costs) against Sandler Utilities at Mill Run LLC.

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 LLC for the month of February 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 February 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 LLC 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 LLC:

<u>\$200.00</u>	<u>2</u> of 2 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>\$250.00</u>	<u>1</u> of 1 violations of the Permit Monthly Average for <u>Nitrogen, Ammonia Total (as N)</u> per the limits established in Permit No. WQ0014306
<u>\$250.00</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>\$250.00</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>\$5,000.00</u>	For <u>28</u> of the <u>28</u> other violations of Permit No. WQ0014306.
<u>\$6,250.00</u>	TOTAL CIVIL PENALTY
<u>\$58.82</u>	Enforcement Costs
<u>\$6,308.82</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-2021-0211
Assessed Party: Sandler Utilities at Mill Run L L C
Permit No.: WQ0014306

County: Currituck

Amount Assessed: \$6,308.81

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-2021-0211**

Having been assessed civil penalties totaling \$6,308.81 for violation(s) as set forth in the assessment document of the Division of Water Resources dated August 10, 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-2021-0211

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
2/8/2021	2-2021	Coliform, Fecal MF, MFC Broth, 44.5 C	2 X month	#/100ml	25	2,420	9,580.0	Daily Maximum Exceeded	\$100.00
2/26/2021	2-2021	Coliform, Fecal MF, MFC Broth, 44.5 C	2 X month	#/100ml	25	1,550	6,100.0	Daily Maximum Exceeded	\$100.00
2/28/2021	2-2021	Coliform, Fecal MF, MFC Broth, 44.5 C	2 X month	#/100ml	14	1,936.75	13,733.9	Monthly Geometric Mean Exceeded	\$250.00
2/8/2021	2-2021	Nitrogen, Ammonia Total (as N)	2 X month	mg/l	6	13.4	123.3	Daily Maximum Exceeded	\$100.00
2/26/2021	2-2021	Nitrogen, Ammonia Total (as N)	2 X month	mg/l	6	27.9	365.0	Daily Maximum Exceeded	\$100.00
2/28/2021	2-2021	Nitrogen, Ammonia Total (as N)	2 X month	mg/l	4	20.65	416.3	Monthly Average Exceeded	\$250.00
2/8/2021	2-2021	Solids, Total Suspended	2 X month	mg/l	10	11	10.0	Daily Maximum Exceeded	\$100.00
2/28/2021	2-2021	Solids, Total Suspended	2 X month	mg/l	5	5.5	10.0	Monthly Average Exceeded	\$250.00

Other Violation(s):

Type of Violation	Date	Violation Description	Penalty Amount
Permit conditions violation	02/01/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III.19 of the permit.	\$178.57
Permit conditions violation	02/02/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$178.57

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JUN 22 2022

Permit conditions violation	02/03/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$178.57
Permit conditions violation	02/04/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$178.57
Permit conditions violation	02/05/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$178.57
Permit conditions violation	02/06/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$178.57
Permit conditions violation	02/07/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$178.57
Permit conditions violation	02/08/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$178.57
Permit conditions violation	02/09/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$178.57
Permit conditions violation	02/10/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$178.57
Permit conditions violation	02/11/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$178.57
Permit conditions violation	02/12/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$178.57
Permit conditions violation	02/13/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$178.57
Permit conditions violation	02/14/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$178.57
Permit conditions violation	02/15/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$178.57
Permit conditions violation	02/16/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$178.57
Permit conditions violation	02/17/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$178.57

Permit conditions violation	02/18/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$178.57
Permit conditions violation	02/19/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$178.57
Permit conditions violation	02/20/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$178.57
Permit conditions violation	02/21/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$178.57
Permit conditions violation	02/22/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$178.57
Permit conditions violation	02/23/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$178.57
Permit conditions violation	02/24/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$178.57
Permit conditions violation	02/25/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$178.57
Permit conditions violation	02/26/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$178.57
Permit conditions violation	02/27/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$178.57
Permit conditions violation	02/28/2021	Facility did not meet fecal limits and did not transfer effluent to high-rate pond as required in condition III. 19 of the permit.	\$178.64

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: PC-2021-0036

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 – Data withheld from the late/missing monitoring reports could have withheld data of violations that may have led to Water Quality Standard Violations. There were no documented fish kills or health risk.

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

The facility has a history of late/missing NDMR and 4 NOVs were issued for violations of this nature for the 05/2020, 10/2019, 09/2019 and 08/2019 reports. This enforcement was written for an NOI sent out for an additional late/missing NDMR report and NDAR1 report for the month of 11/2020.

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

Unknown – Data withheld from the late/missing monitoring reports could have withheld data of violations that may have led to Water Quality Standard Violations. There were no documented fish kills or health risk.

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

Unknown

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

Unknown

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

Unknown

- 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 record review of the past 24 months as of 07/23/2021 found the following issues. The facility has a history of late/missing NDMR and 4 NOVs and 1 NOI were issued for violations of this nature for the 11/2020, 05/2020, 10/2019, 09/2019 and 08/2019 reports. The facility also has a history of extensive Fecal, TSS and Ammonia Limit violations and over the last 24 months 6 NOI were issued for violations of this nature. Another common issue is the facility is required by permit condition III.19 to route effluent to the high-rate infiltration pond during fecal limit violations or when turbidity exceeds 10 NTU.

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

\$58.82

7/30/2021

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



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JUL 22 2022

Certified Mail # 7020 1810 0001 5981 1662
Return Receipt Requested

July 30, 2021

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

SUBJECT: Assessment of Civil Penalty
for Violations of the Reporting Requirements
Case No. PC-2021-0036
Eagle Creek WWTP
Non-discharge Permit No. WQ0014306
Currituck County

Dear Mr. Gottlieb:

This letter transmits a notice of a civil penalty assessed against Sandler Utilities at Mill Run L L C in the amount of \$558.82 (includes \$58.82 in enforcement costs).

This assessment is based upon the following facts: the November 2020 Non Discharge Monitoring Report (NDRM) and Non Discharge Analysis Report (NDAR1) was not filed with the Division of Water Resources within the thirty (30) calendar days after the end of the reporting period for which the report is made [per 15A NCAC 02B .0506].

<u>Report Period</u>	<u>Due Date</u>	<u>Received Date</u>	<u>Days Late</u>
November 2020 NDMR	12/30/2020	Missing	Still Missing
November 2020 NDAR1	12/30/2020	Missing	Still Missing

A Notice of Violation NOV-2021-PC-0237 was sent to you for failure to submit the November 2020 Non-Discharge Monitoring Report (NDRM) and Non-Discharge Analysis Report (NDAR1) no later than the thirtieth (30th) day following the reporting period. This notice was received by you on 05/03/2021.



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

The State's enforcement costs in this matter may be assessed against Sandler Utilities at Mill Run L L C pursuant to NCGS. 143-215.3(a)(9) and NCGS 143B-282.1(b)(8).

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 and G.S. 143-215.65 in the manner and extent shown above. 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).

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>\$500.00</u>	For violation of NCGS 143-215.65 and Non-Discharge Permit WQ0014306, for failing to submit the 11/2020 Non-Discharge Monitoring Report as required by Non-Discharge permit WQ0014306 for Eagle Creek WWTP.
<u>\$0.00</u>	For violation of NCGS 143-215.65 and Non-Discharge Permit WQ0014306, for failing to submit the 11/2020 Non-Discharge Analysis Monitoring Report as required by Non-Discharge permit #WQ0014306 for Eagle Creek WWTP.
<u>\$58.82</u>	Enforcement Costs
<u>\$558.82</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:

Water Quality Permitting Section
NC DEQ/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:

Water Quality Permitting Section
NC DEQ/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:

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: PC-2021-0036

County: Currituck

Assessed Party: Sandler Utilities at Mill Run L L C

Permit No.: WQ0014306

Amount Assessed: \$558.82

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)

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

Sandler Utilities at Mill Run L L C)
Eagle Creek WWTP)

PERMIT NO. WQ0014306)

CASE NO. PC-2021-0036

Having been assessed civil penalties totaling \$558.82 for violation(s) as set forth in the assessment document of the Division of Water Resources dated July 30, 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

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-2021-0350

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 six enforcements prior to this assessment totaling \$20,143.10 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 5 CPA's that had a total value of \$20,143.10. 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 3608
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-2021-0350
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 March 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 March 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

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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:

\$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, 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-2021-0350
Assessed Party: Sandler Utilities at Mill Run L L C
Permit No.: WQ0014306

County: Currituck

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

)
)
)
)
)
)
)

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

**Sandler Utilities at Mill Run L L C
Eagle Creek WWTP**

PERMIT NO. WQ0014306

CASE NO. LV-2021-0350

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-2021-0350

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
3/31/2020	3-2020	Nitrogen, Ammonia Total (as N)	3 X year	mg/l	1500	7,080	372.0	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
3/31/2020	3-2020	Nitrogen, Ammonia Total (as N)	3 X year	mg/l	1500	9,310	520.7	Limit Exceeded	\$500.00

OFFICIAL COPY

JUN 22 2022