



NORTH CAROLINA
Environmental Quality

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ROY COOPER
Governor

MICHAEL S. REGAN
Secretary

S. DANIEL SMITH
Director

Certified Mail # 7017268000022368969

Return Receipt Requested

March 16, 2020

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

SUBJECT: Notice of Violation and Assessment of Civil Penalty
for Violations of North Carolina General Statute (G.S.) 143-215.1(a)(6)
and NPDES WW Permit No. NC0056413
Aqua North Carolina Inc
Chatham Water Reclamation Facility
Case No. LV-2020-0110
Chatham County

Dear Permittee:

This letter transmits a Notice of Violation and assessment of civil penalty in the amount of \$1,041.69 (\$1,000.00 civil penalty + \$41.69 enforcement costs) against Aqua North Carolina Inc.

This assessment is based upon the following facts: a review has been conducted of the Discharge Monitoring Report (DMR) submitted by Aqua North Carolina Inc for the month of October 2019. This review has shown the subject facility to be in violation of the discharge limitations and/or monitoring requirements found in NPDES WW Permit No. NC0056413. The violations, which occurred in October 2019, are summarized in Attachment A to this letter.

Based upon the above facts, I conclude as a matter of law that Aqua North Carolina Inc violated the terms, conditions or requirements of NPDES WW Permit No. NC0056413 and G.S. 143-215.1(a)(6) in the manner and extent shown in Attachment A. In accordance with the maximums established by G.S. 143-215.6A(a)(2), a civil penalty may be assessed against any person who violates the terms, conditions or requirements of a permit required by G.S. 143-215.1(a).



North Carolina Department of Environmental Quality | Division of Water Resources
Raleigh Regional Office | 3800 Barrett Drive | Raleigh, North Carolina 27609
819-781-4200

OFFICIAL COPY

Jul 16 2020

Based upon the above findings of fact and conclusions of law, and in accordance with authority provided by the Secretary of the Department of Environmental Quality and the Director of the Division of Water Resources, I, Scott Vinson, Regional Supervisor, Raleigh Regional Office hereby make the following civil penalty assessment against Aqua North Carolina Inc:

\$250.00 1 of 1 violations of G.S. 143-215.1(a)(6) and Permit No. NC0056413, by discharging waste water into the waters of the State in violation of the Permit Daily Maximum for **BOD, 5-Day (20 Deg. C) - Concentration**

\$750.00 1 of 1 violations of G.S. 143-215.1(a)(6) and Permit No. NC0056413, by discharging waste water into the waters of the State in violation of the Permit Monthly Average for **BOD, 5-Day (20 Deg. C) - Concentration**

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

\$41.69 Enforcement Costs

\$1,041.69 **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 Cheng Zhang with the Division of Water Resources staff of the Raleigh Regional Office at (919) 791-4200 or via email at cheng.zhang@ncdenr.gov.

Sincerely,



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

ATTACHMENTS

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

ATTACHMENT A

Aqua North Carolina Inc

CASE NUMBER: LV-2020-0110

PERMIT: NC0056413

REGION: Raleigh

FACILITY: Chatham Water Reclamation Facility

COUNTY: Chatham

LIMIT VIOLATION(S)

SAMPLE LOCATION: Outfall 001 - Effluent

Violation Date	Report Month/Yr	Parameter	Frequency	Unit of Measure	Limit Value	Calculated Value	% Over Limit	Violation Type	Penalty Amount
10/22/2019	10-2019	BOD, 5-Day (20 Deg. C) - Concentration	Weekly	mg/l	7.50	40	433.3	Daily Maximum Exceeded	\$250.00
10/31/2019	10-2019	BOD, 5-Day (20 Deg. C) - Concentration	Weekly	mg/l	5	8	60.0	Monthly Average Exceeded	\$750.00