

**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-2021-0351

**ASSESSMENT FACTORS**

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

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

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

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

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

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

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

Unknown

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

Significant

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

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

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

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

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**Date**

*Robert Tankard*

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**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 3622**  
**Return Receipt Requested**

December 09, 2021

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

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

Dear Mr. Gottlieb:

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

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

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



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

OFFICIAL COPY

Mar 02 2022

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

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

\$1,000.00    **TOTAL CIVIL PENALTY**

\$58.82    Enforcement Costs

\$1,058.82    **TOTAL AMOUNT DUE**

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

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

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

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

**Option 1: Submit payment of the penalty:**

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

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

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

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

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

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

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

Both forms should be submitted to the following address:

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

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

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

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

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

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

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

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

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

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

Sincerely,

*Robert Tankard*

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

ATTACHMENTS

Cc: Laserfiche

**JUSTIFICATION FOR REMISSION REQUEST**

**Case Number:** LV-2021-0351  
**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

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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-2021-0351**

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

This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
SIGNATURE

ADDRESS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

TELEPHONE

\_\_\_\_\_

OFFICIAL COPY

Mar 02 2022



**ATTACHMENT A**

**Sandler Utilities at Mill Run L L C**

**CASE NUMBER: LV-2021-0351**

**PERMIT: WQ0014306**

**REGION: Washington**

**FACILITY: Eagle Creek WWTP**

**COUNTY: Currituck**

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**LIMIT VIOLATION(S)**

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**SAMPLE LOCATION: Well# MW-1**

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

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**SAMPLE LOCATION: Well# MW-2**

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

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**OFFICIAL COPY**

**Mar 02 2022**

**DIVISION OF WATER RESOURCES - CIVIL PENALTY ASSESSMENT**

**Violator:** Sandler Utilities at Mill Run L L C

**Facility Name:** Eagle Creek WWTP

**Permit Number:** WQ0014306

**County:** Currituck

**Case Number:** LV-2021-0352

**ASSESSMENT FACTORS**

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

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

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

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

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

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

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

Unknown

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

Significant

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

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

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

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

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**Date**

*Robert Tankard*

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**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 3684**  
**Return Receipt Requested**

December 09, 2021

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

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

Dear Mr. Gottlieb:

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

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

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



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

OFFICIAL COPY

Mar 02 2022

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

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

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

\$1,000.00    **TOTAL CIVIL PENALTY**

\$58.82    Enforcement Costs

\$1,058.82    **TOTAL AMOUNT DUE**

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

- (1) The degree and extent of harm to the natural resources of the State, to the public health, or to private property resulting from the violation;
- (2) The duration and gravity of the violation;
- (3) The effect on ground or surface water quantity or quality or on air quality;
- (4) The cost of rectifying the damage;
- (5) The amount of money saved by noncompliance;
- (6) Whether the violation was committed willfully or intentionally;
- (7) The prior record of the violator in complying or failing to comply with programs over which the Environmental Management Commission has regulatory authority; and
- (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-2021-0352  
**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

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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-2021-0352**

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

This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
SIGNATURE

ADDRESS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

TELEPHONE

\_\_\_\_\_

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Mar 02 2022

**ATTACHMENT A**

**Sandler Utilities at Mill Run L L C**

**CASE NUMBER: LV-2021-0352**

**PERMIT: WQ0014306**

**REGION: Washington**

**FACILITY: Eagle Creek WWTP**

**COUNTY: Currituck**

**LIMIT VIOLATION(S)**

**SAMPLE LOCATION: Well# MW-1**

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

**SAMPLE LOCATION: Well# MW-2**

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

**REPORTING VIOLATION(S)**

**SAMPLE LOCATION:**

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

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**DIVISION OF WATER RESOURCES - CIVIL PENALTY ASSESSMENT**

**Violator:** Sandler Utilities at Mill Run L L C

**Facility Name:** Eagle Creek WWTP

**Permit Number:** WQ0014306

**County:** Currituck

**Case Number:** LV-2021-0353

**ASSESSMENT FACTORS**

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

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

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

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

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

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

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

Unknown

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

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

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

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

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

A violation records review of the facility of the past 24 months as of 12/01/2021 revealed the following issues. Over the last 24 months the facility has received 1 NOV, and 9 CPA's that had a total value of \$23,319.56. The notices and civil penalties were issued due to a multitude of reasons. The facility is known to have chronic Fecal, Ammonia, TSS and BOD 5 limit violations. Another chronic issue is that the facility is required by permit condition III.21 to reroute effluent to the high-rate infiltration pond during Fecal limit violations or when the turbidity exceeds 10 NTU. The facility fails to do this on a consistent basis. The facility is known for consistently failing to reroute effluent during Fecal limit violations to the high-rate infiltration pond. This may potentially represent a possible public health hazard due to the Fecal rich water entering the re-use irrigation pond which is used to irrigate a nearby 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 3691**  
**Return Receipt Requested**

December 09, 2021

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

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

Dear Mr. Gottlieb:

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

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

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



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

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Mar 02 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
- \$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
- \$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
- \$0.00        0 of 2 violations of the Permit Daily Maximum for **Turbidity, HCH Turbidimeter** per the limits established in Permit No. WQ0014306
- \$500.00    1 of 1 violations of the Permit Monthly Average for **BOD, 5-Day (20 Deg. C)** per the limits established in Permit No. WQ0014306
- \$500.00    1 of 2 violations of the Permit Monthly Average 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 **Solids, Total Suspended** per the limits established in Permit No. WQ0014306
- \$0.00        0 of 2 violations of the Permit Monthly Geometric Mean for **Coliform, Fecal MF, MFC Broth, 44.5 C** per the limits established in Permit No. WQ0014306
- \$1,000.00    2 of 2 violations of **Nitrogen, Ammonia Total (as N)** per the limits established in Permit No. WQ0014306
- \$0.00        0 of 1 violations of **Solids, Total Dissolved- 180 Deg.C** per the limits established in Permit No. WQ0014306

<u>\$50.00</u>	For <u>1</u> of the <u>1</u> failures to submit monitoring reports or portions of monitoring reports in violation of Permit No. WQ0014306.
<u>\$50.00</u>	For <u>1</u> of the <u>1</u> failures to submit monitoring reports or portions of monitoring reports in violation of Permit No. WQ0014306.
<u>\$50.00</u>	For <u>1</u> of the <u>1</u> failures to submit monitoring reports or portions of monitoring reports in violation of Permit No. WQ0014306.
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<u>\$50.00</u>	For <u>1</u> of the <u>1</u> failures to submit monitoring reports or portions of monitoring reports in violation of Permit No. WQ0014306.
<u>\$4,000.00</u>	For <u>16</u> of the <u>16</u> other violations of Permit No. WQ0014306.

\$7,350.00    **TOTAL CIVIL PENALTY**

\$58.82    Enforcement Costs

\$7,408.82    **TOTAL AMOUNT DUE**

\$7,350.00    **TOTAL CIVIL PENALTY**

\$58.82    Enforcement Costs

\$7,408.82    **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-2021-0353  
**Assessed Party:** Sandler Utilities at Mill Run L L C  
**Permit No.:** WQ0014306

**County:** Currituck

**Amount Assessed:** \$7,408.82

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

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

**EXPLANATION:**

STATE OF NORTH CAROLINA

DEPARTMENT OF ENVIRONMENTAL QUALITY

COUNTY OF CURRITUCK

IN THE MATTER OF ASSESSMENT  
OF CIVIL PENALTIES AGAINST

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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-2021-0353**

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

This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
SIGNATURE

ADDRESS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
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TELEPHONE

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Mar 02 2022

**ATTACHMENT A**

**Sandler Utilities at Mill Run L L C**

**CASE NUMBER: LV-2021-0353**

**PERMIT: WQ0014306**

**REGION: Washington**

**FACILITY: Eagle Creek WWTP**

**COUNTY: Currituck**

**LIMIT VIOLATION(S)**

**SAMPLE LOCATION:**

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

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3/31/2021	3-2021	Nitrogen, Ammonia Total (as N)	Monthly	mg/l	4	44.4	1,010.0	Monthly Average Exceeded	\$0.00
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**SAMPLE LOCATION: Well# MW-1**

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

**SAMPLE LOCATION: Well# MW-2**

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

**REPORTING VIOLATION(S)**

**SAMPLE LOCATION:**

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

**Other Violation(s):**

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

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

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**DIVISION OF WATER RESOURCES - CIVIL PENALTY ASSESSMENT**

**Violator:** Sandler Utilities at Mill Run L L C

**Facility Name:** Eagle Creek WWTP

**Permit Number:** WQ0014306

**County:** Currituck

**Case Number:** LV-2021-0354

**ASSESSMENT FACTORS**

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

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

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

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

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

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

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

Unknown

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

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

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

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



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

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

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

\$58.82

12/9/2021  
\_\_\_\_\_  
**Date**

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

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



**Certified Mail # 7021 0950 0001 1087 3707**  
**Return Receipt Requested**

December 09, 2021

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

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

Dear Mr. Gottlieb:

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

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

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



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

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Mar 02 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 <b><u>BOD, 5-Day (20 Deg. C)</u></b> per the limits established in Permit No. WQ0014306
<u>\$200.00</u>	<u>2</u> of <u>2</u> violations of the Permit Daily Maximum for <b><u>Coliform, Fecal MF, MFC Broth, 44.5 C</u></b> per the limits established in Permit No. WQ0014306
<u>\$200.00</u>	<u>2</u> of <u>2</u> violations of the Permit Daily Maximum for <b><u>Nitrogen, Ammonia Total (as N)</u></b> per the limits established in Permit No. WQ0014306
<u>\$100.00</u>	<u>1</u> of <u>1</u> violations of the Permit Daily Maximum for <b><u>Solids, Total Suspended</u></b> per the limits established in Permit No. WQ0014306
<u>\$500.00</u>	<u>1</u> of <u>1</u> violations of the Permit Monthly Average for <b><u>BOD, 5-Day (20 Deg. C)</u></b> per the limits established in Permit No. WQ0014306
<u>\$500.00</u>	<u>1</u> of <u>2</u> violations of the Permit Monthly Average for <b><u>Nitrogen, Ammonia Total (as N)</u></b> per the limits established in Permit No. WQ0014306
<u>\$500.00</u>	<u>1</u> of <u>1</u> violations of the Permit Monthly Average for <b><u>Solids, Total Suspended</u></b> per the limits established in Permit No. WQ0014306
<u>\$500.00</u>	<u>1</u> of <u>1</u> violations of the Permit Monthly Geometric Mean for <b><u>Coliform, Fecal MF, MFC Broth, 44.5 C</u></b> per the limits established in Permit No. WQ0014306
<u>\$50.00</u>	For <u>1</u> of the <u>1</u> failures to submit monitoring reports or portions of monitoring reports in violation of Permit No. WQ0014306.
<u>\$6,250.00</u>	For <u>25</u> of the <u>25</u> other violations of Permit No. WQ0014306.
<u>\$8,900.00</u>	<b>TOTAL CIVIL PENALTY</b>
<u>\$58.82</u>	Enforcement Costs
<u>\$8,958.82</u>	<b>TOTAL AMOUNT DUE</b>

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-2021-0354  
**Assessed Party:** Sandler Utilities at Mill Run L L C  
**Permit No.:** WQ0014306

**County:** Currituck

**Amount Assessed:** \$8,958.82

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

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

**EXPLANATION:**

STATE OF NORTH CAROLINA

DEPARTMENT OF ENVIRONMENTAL QUALITY

COUNTY OF CURRITUCK

IN THE MATTER OF ASSESSMENT  
OF CIVIL PENALTIES AGAINST

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

PERMIT NO. WQ0014306

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

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

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

This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
SIGNATURE

ADDRESS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

TELEPHONE

\_\_\_\_\_

OFFICIAL COPY

Mar 02 2022

**ATTACHMENT A**

**Sandler Utilities at Mill Run L L C**

**CASE NUMBER: LV-2021-0354**

**PERMIT: WQ0014306**

**REGION: Washington**

**FACILITY: Eagle Creek WWTP**

**COUNTY: Currituck**

**LIMIT VIOLATION(S)**

**SAMPLE LOCATION:**

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

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Mar 02 2022



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

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

**Other Violation(s):**

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

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

**DIVISION OF WATER RESOURCES - CIVIL PENALTY ASSESSMENT**

**Violator:** Sandler Utilities at Mill Run L L C

**Facility Name:** Eagle Creek WWTP

**Permit Number:** WQ0014306

**County:** Currituck

**Case Number:** LV-2021-0355

**ASSESSMENT FACTORS**

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

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

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

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

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

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

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

Unknown

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

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

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

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

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

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

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

\$58.82

12/9/2021

\_\_\_\_\_  
Date

*Robert Tankard*

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

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



**Certified Mail # 7021 0950 0001 1087 3714**  
**Return Receipt Requested**

December 09, 2021

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

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

Dear Mr. Gottlieb:

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

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

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



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

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Mar 02 2022

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

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

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-2021-0355  
**Assessed Party:** Sandler Utilities at Mill Run L L C  
**Permit No.:** WQ0014306

**County:** Currituck

**Amount Assessed:** \$9,208.82

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

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

**EXPLANATION:**

STATE OF NORTH CAROLINA

DEPARTMENT OF ENVIRONMENTAL QUALITY

COUNTY OF CURRITUCK

IN THE MATTER OF ASSESSMENT  
OF CIVIL PENALTIES AGAINST

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

PERMIT NO. WQ0014306

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

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

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

This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
SIGNATURE

ADDRESS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

TELEPHONE

\_\_\_\_\_

OFFICIAL COPY

Mar 02 2022

**ATTACHMENT A**

**Sandler Utilities at Mill Run L L C**

**CASE NUMBER: LV-2021-0355**

**REGION: Washington**

**PERMIT: WQ0014306**

**FACILITY: Eagle Creek WWTP**

**COUNTY: Currituck**

**LIMIT VIOLATION(S)**

**SAMPLE LOCATION:**

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

**REPORTING VIOLATION(S)**

**SAMPLE LOCATION:**

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

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Mar 02 2022

**Other Violation(s):**

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

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

**DIVISION OF WATER RESOURCES - CIVIL PENALTY ASSESSMENT**

**Violator:** Sandler Utilities at Mill Run L L C

**Facility Name:** Eagle Creek WWTP

**Permit Number:** WQ0014306

**County:** Currituck

**Case Number:** LV-2021-0356

**ASSESSMENT FACTORS**

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

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

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

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

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

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

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

Unknown

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

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

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

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

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

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

BOD-5 limit violations. Another chronic issue is that the facility is required by permit condition III.21 to reroute effluent to the high-rate infiltration pond during Fecal limit violations or when the turbidity exceeds 10 NTU. The facility fails to do this on a consistent basis. The facility is known for consistently failing to reroute effluent during Fecal limit violations to the high-rate infiltration pond. This may potentially represent a possible public health hazard due to the Fecal rich water entering the re-use irrigation pond which is used to irrigate a nearby 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 3721**  
**Return Receipt Requested**

December 09, 2021

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

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

Dear Mr. Gottlieb:

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

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

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



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

OFFICIAL COPY

Mar 02 2022

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

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

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

**County:** Currituck

**Amount Assessed:** \$8,108.82

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

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

**EXPLANATION:**

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-2021-0356**

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

This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
SIGNATURE

ADDRESS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

TELEPHONE

\_\_\_\_\_

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Mar 02 2022

**ATTACHMENT A**

**Sandler Utilities at Mill Run L L C**

**CASE NUMBER: LV-2021-0356**

**PERMIT: WQ0014306**

**REGION: Washington**

**FACILITY: Eagle Creek WWTP**

**COUNTY: Currituck**

**LIMIT VIOLATION(S)**

**SAMPLE LOCATION:**

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

**Other Violation(s):**

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

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

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

**DIVISION OF WATER RESOURCES - CIVIL PENALTY ASSESSMENT**

**Violator:** Sandler Utilities at Mill Run L L C

**Facility Name:** Eagle Creek WWTP

**Permit Number:** WQ0014306

**County:** Currituck

**Case Number:** LV-2021-0358

**ASSESSMENT FACTORS**

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

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

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

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

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

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

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

Unknown

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

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

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

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

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

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

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

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

\$58.82

12/10/2021

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**Date**

*Robert Tankard*

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

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



**Certified Mail # 7021 0950 0001 1087 3639**  
**Return Receipt Requested**

December 09, 2021

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

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

Dear Mr. Gottlieb:

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

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

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



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

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Mar 02 2022

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

<u>\$100.00</u>	<u>1</u> of 1 violations of the Permit Daily Maximum for <b><u>BOD, 5-Day (20 Deg. C)</u></b> per the limits established in Permit No. WQ0014306
<u>\$500.00</u>	<u>1</u> of 1 violations of the Permit Monthly Average for <b><u>BOD, 5-Day (20 Deg. C)</u></b> per the limits established in Permit No. WQ0014306
<u>\$50.00</u>	For <u>1</u> of the <u>1</u> failures to submit monitoring reports or portions of monitoring reports in violation of Permit No. WQ0014306.
<u>\$50.00</u>	For <u>1</u> of the <u>1</u> failures to submit monitoring reports or portions of monitoring reports in violation of Permit No. WQ0014306.
<u>\$700.00</u>	<b>TOTAL CIVIL PENALTY</b>
<u>\$58.82</u>	Enforcement Costs
<u>\$758.82</u>	<b>TOTAL AMOUNT DUE</b>

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

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

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

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

**Option 1: Submit payment of the penalty:**

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

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

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

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

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

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

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

Both forms should be submitted to the following address:

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

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

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

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

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

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

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

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

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

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

Sincerely,

*Robert Tankard*

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

ATTACHMENTS

Cc: Laserfiche



**JUSTIFICATION FOR REMISSION REQUEST**

**Case Number:** LV-2021-0358  
**Assessed Party:** Sandler Utilities at Mill Run L L C  
**Permit No.:** WQ0014306

**County:** Currituck

**Amount Assessed:** \$758.82

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

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

**EXPLANATION:**

STATE OF NORTH CAROLINA

DEPARTMENT OF ENVIRONMENTAL QUALITY

COUNTY OF CURRITUCK

IN THE MATTER OF ASSESSMENT  
OF CIVIL PENALTIES AGAINST

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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-2021-0358**

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

This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
SIGNATURE

ADDRESS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

TELEPHONE

\_\_\_\_\_

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Mar 02 2022

**ATTACHMENT A**

**Sandler Utilities at Mill Run L L C**

**CASE NUMBER: LV-2021-0358**

**PERMIT: WQ0014306**

**REGION: Washington**

**FACILITY: Eagle Creek WWTP**

**COUNTY: Currituck**

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**LIMIT VIOLATION(S)**

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**SAMPLE LOCATION:**

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

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**REPORTING VIOLATION(S)**

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**SAMPLE LOCATION:**

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

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**Mar 02 2022**