

North Carolina Department of Environmental Quality

Pat McCrory
Governor

Donald R. van der Vaart
Secretary

Certified Mail # 7015 0640 0007 2358 9663
Return Receipt Requested

September 21, 2015

James D Harper
Town of Maysville
PO Box 265
Maysville, NC 28555

SUBJECT: Notice of Violation and Assessment of Civil Penalty
for Violations of North Carolina General Statute (G.S.) 143-215.1(a)(6)
and NPDES Permit No. NC0021482
Town of Maysville
Maysville WWTP
Case No. LM-2015-0020
Jones County

Dear Mr. Harper:

This letter transmits a Notice of Violation and assessment of civil penalty in the amount of \$4,000.00 (\$3,900.00 civil penalty + \$100.00 enforcement costs) against Town of Maysville.

This assessment is based upon the following facts: a review has been conducted of the discharge monitoring reports (DMRs) submitted by Town of Maysville for the months of October, November, and December, 2014 and January and February 2015. This review has shown the subject facility to be in violation of the discharge limitations and/or monitoring requirements found in NPDES Permit No. NC0021482. The violations, which occurred are summarized in Attachment A to this letter.

Based upon the above facts, I conclude as a matter of law that Town of Maysville violated the terms, conditions or requirements of NPDES Permit No. NC0021482 and G.S. 143-215.1(a)(6) in the manner and extent shown in Attachment A. In accordance with the maximums established by G.S. 143-215.6A(a)(2), a civil penalty may be assessed against any person who violates the terms, conditions or requirements of a permit required by G.S. 143-215.1(a).

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 Town of Maysville:

| | |
|-------------------|---|
| <u>\$1500.00</u> | <u>2</u> of the <u>3</u> violations of 143-215.1(a)(6) and NPDES Permit No.NC0021482, by discharging waste water into the waters of the State in violation of the Permit Monthly Average for <u>FLOW</u> . |
| <u>\$750.00</u> | <u>1</u> of the <u>2</u> violations of 143-215.1(a)(6) and NPDES Permit No.NC0021482, by discharging waste water into the waters of the State in violation of the Permit Monthly Geometric Mean for <u>FEC COLI</u> . |
| <u>\$1250.00</u> | <u>5</u> of the <u>9</u> violations of 143-215.1(a)(6) and NPDES Permit No.NC0021482, by discharging waste water into the waters of the State in violation of the Permit Weekly Geometric Mean for <u>FEC COLI</u> . |
| <u>\$100.00</u> | for <u>2</u> of the <u>2</u> failures to properly monitor <u>MERCURY - Conc</u> in violation of NPDES Permit No. NC0021482. |
| <u>\$300.00</u> | for <u>6</u> of the <u>11</u> failures to properly monitor <u>PH</u> in violation of NPDES Permit No. NC0021482. |
| <u>\$3,900.00</u> | TOTAL CIVIL PENALTY |
| <u>\$100.00</u> | Enforcement Costs |
| <u>\$4,000.00</u> | TOTAL AMOUNT DUE |

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

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

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

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

Option 1: Submit payment of the penalty:

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

NPDES Compliance/Enforcement Unit
 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:

NPDES Compliance/Enforcement Unit
Division of Water Resources
1617 Mail Service Center
Raleigh, North Carolina 27699-1617

If you have any questions, please contact Robert Tankard with the Division of Water Resources staff of the Washington Regional Office at (252) 948-3921 or via email at robert.tankard@ncdenr.gov.

Sincerely,



for S. Jay Zimmerman, P.G.
Director, Division of Water Resources, NCDEQ

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

ATTACHMENTS

Cc: ✓ WQS Washington Regional Office - Enforcement File (w/attachments)
NPDES Compliance/Enforcement Unit - Enforcement File (w/attachments)
Central Files, Water Quality Section (w/attachments)