



NORTH CAROLINA  
Environmental Quality

ROY COOPER  
Governor

ELIZABETH S. BISER  
Secretary

RICHARD E. ROGERS, JR.  
Director

February 6, 2023

**CERTIFIED MAIL 7020 3160 0002 0860 9307**  
**RETURN RECEIPT REQUESTED**

Thomas Baur, President & CEO  
Alberdingk Boley Inc.  
6008 W Gate City Blvd  
Greensboro, NC 27407

SUBJECT: Assessment of Civil Penalties for Violations of N.C.G.S. § 143-215.1(a)  
Alberdingk Boley Inc.  
Enforcement Case DV-2023-0005  
Guilford County, North Carolina

Dear Mr. Baur:

This letter transmits notice of a civil penalty assessed against Alberdingk Boley Inc. in the amount of **\$5,000.00**, including **\$682.45** in enforcement costs.

Attached is a copy of the assessment document explaining this penalty. This action was taken under the authority vested in me pursuant to delegation provided by the Secretary of the Department of Environmental Quality. Any continuing violation(s) may be the subject of a new enforcement action, including an additional penalty.

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

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:

NC DEQ / DWR / NPDES  
1617 Mail Service Center  
Raleigh, NC 27699-1617

**or**



North Carolina Department of Environmental Quality | Division of Water Resources  
Winston-Salem Regional Office | 450 W. Hanes Mill Rd, Suite 300 | Winston-Salem, North Carolina 27105  
336.776.9800

2. **Submit a written request for remission 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 at the address listed below. In determining whether a remission request will be approved, the following factors shall be considered:

- (a.) whether one or more of the civil penalty assessment factors in NCGS 143-215 were wrongfully applied to the detriment of the violator;
- (b.) whether the violator promptly abated continuing environmental damage resulting from the violation;
- (c.) whether the violation was inadvertent or a result of an accident;
- (d.) whether the violator has been assessed civil penalties for any previous violations; or
- (e.) 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 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 also requests that you complete and submit the enclosed "*Justification for Remission Request.*" Both forms should be submitted to the following address:

NC DEQ / DWR / NPDES  
1617 Mail Service Center  
Raleigh, NC 27699-1617

**or**

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 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 original and one (1) copy of the petition must be filed with the Office of Administrative Hearings. The petition may be faxed - provided the original and one copy of the document is received in the Office of Administrative Hearings within five (5) business days following the faxed transmission. The mailing address for the Office of Administrative Hearings is:

NC Office of Administrative Hearings  
1711 New Hope Church Road  
Raleigh, NC 27609  
Telephone: 984-236-1850  
Facsimile: 984-236-1871

**AND**

Mail or hand-deliver a copy of the petition to:

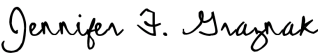
Mr. William F. Lane  
NC Department of Environmental Quality  
Office of General Council  
1601 Mail Service Center  
Raleigh, NC 27699-1601

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 me at [jenny.graznak@ncdenr.gov](mailto:jenny.graznak@ncdenr.gov) or 336-776-9695.

Sincerely,

DocuSigned by:  
  
0D2D3CE3F1B7456...

Jennifer F. Graznak, Assistant Regional Supervisor  
Winston Salem Regional Office  
Water Quality Regional Operations  
Division of Water Resources, NCDEQ



**JUSTIFICATION FOR REMISSION REQUEST**

**Case Number:** DV-2023-0005  
**Assessed Party:** Alberdingk Boley Inc.

**County:** Guilford  
**Amount Assessed:** \$5,682.45

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:**



IN THE MATTER OF ASSESSMENT )  
OF CIVIL PENALTIES AGAINST )  
 )  
**ALBERDINGK BOLEY INC.** )  
 )  
 ) **WAIVER OF RIGHT TO AN**  
 ) **ADMINISTRATIVE HEARING**  
 ) **STIPULATION OF FACTS**  
 ) **CASE NO. DV-2023-0005**

Having been assessed civil penalties totaling **\$5,682.45** for violation(s) as set forth in the assessment document of the Division of Water Resources dated **February 6, 2023**, 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 \_\_\_\_\_ 2023

\_\_\_\_\_  
SIGNATURE

ADDRESS  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
TELEPHONE

\_\_\_\_\_  
EMAIL



STATE OF NORTH CAROLINA  
COUNTY OF GUILFORD

NORTH CAROLINA DEPARTMENT  
OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	)	CASE NO. DV-2023-0005
ALBERDINGK BOLEY INC.	)	FINDINGS AND DECISION
	)	AND ASSESSMENT OF
FOR VIOLATIONS OF	)	CIVIL PENALTIES
NORTH CAROLINA	)	
GENERAL STATUTE	)	
§ 143-215.1(a)	)	

Acting pursuant to delegation provided by the Secretary of the Department of Environmental Quality, Jennifer F. Graznak, Assistant Regional Supervisor for the Winston Salem Regional Water Quality Regional Operations Section of the Division of Water Resources (hereby known as DWR), make the following:

I. FINDINGS OF FACT

- A. Alberdingk Boley Inc is an incorporated company organized in North Carolina and existing under the laws of the State of North Carolina located at 6008 W Gate City Blvd, Greensboro, North Carolina.
- B. On October 27, 2022, the Winston-Salem Regional Office (WSRO) of the Division of Water Resources (DWR) was notified of an illicit discharge to waters of the State at the property owned by Alberdingk Boley Inc. located at the abovementioned address in Greensboro, NC.
- C. On October 28th, 2022, DWR staff arrived onsite and observed and photographed an illicit discharge of process wastewater to an unnamed tributary to Bull Run Creek (WS-IV), via a stormwater outfall on the property in question.
- D. During discussions between DWR staff and onsite personnel and observations by DWR staff, it was determined that raw industrial wastewater (described by personnel as a “water-based resin” prior to pretreatment) had filled an onsite truck scale pit to capacity, overflowed and discharged to the stormwater drain in question.
- E. DWR staff observed and photographed the stormwater drain and surrounding area. The stormwater drain showed evidence of raw industrial wastewater seeping through the brick walls of stormwater drain. Additionally, pooling of wastewater was observed by DWR staff on the ground between the truck scale pit and stormwater drain. Soil and grass around the stormwater drain was saturated with wastewater.
- F. DWR staff observed and photographed the UT to Bull Run Creek. Approximately 750ft downstream, three (3) in-stream earthen dams were constructed by industry personnel to contain spill, however the dams were ineffective, and wastewater continued to travel downstream bypassing the dams.



- G. During the afternoon of October 28, 2022, DWR staff were notified by a citizen that a “milky colored substance” had entered a nearby neighborhood retention pond approximately 1,750 feet downstream located on Watercourse Court in Greensboro, NC. Observations of the retention pond revealed complete inundation by the raw industrial wastewater.
- H. A Notice of Violation & Recommendation for Enforcement (NOV-2022-DV-0323) dated November 9, 2022, was issued, and sent via certified mail to Thomas Baur (CEO/President) of Alberdingk Boley Inc. located in Greensboro, NC. The facility received NOV-2022-DV-0323 on November 18, 2022.
- I. A response to Notice of Violation dated November 28th, 2022, from Alberdingk Boley’s Director of Manufacturing, Kay Jacobs, was received by DWR via email. The response identified actions taken to detect and contain the leak. Additionally, the response outlined the remediation efforts (both present and future) and a preventative action plan.
- J. G.S. 143- 215.1(a) states no person shall do any of the following things or carry out any of the following activities unless that person has received a permit from the Commission and has complied with all conditions set forth in the permit: G.S. 143-215.1(a)(1) – Make any outlets into the waters of the State.
- K. The impacted stream is an unnamed tributary to Bull Run Creek [Stream Index 17-5-(1)]. Bull Run Creek is a WS-IV surface water. Waters in Class WS-IV are used as sources of drinking, culinary, or food processing purposes. These waters are also protected for Class C uses. Class WS-IV waters are generally in moderately to highly developed watersheds or Protected Areas.
- L. The cost to the State of the enforcement procedures in this matter totaled \$682.45.

Based upon the above Findings of Fact, I make the following:

## II. CONCLUSIONS OF LAW

- A. Alberdingk Boley Inc. is a “person” within the meaning of G.S. 143-215.6A pursuant to G.S. 143-212 (4).
- B. The Unnamed Tributary to Bull Run constitutes waters of the State within the meaning of the site constitutes waters of the State within the meaning of G.S. 143-212 (6).
- C. Alberdingk Boley Inc. violated G.S. 143-215.1(a) by discharging untreated (raw) production wastewater via stormwater outfall into the waters of the State.
- D. Alberdingk Boley Inc. may be assessed civil penalties pursuant to G.S. 143-215.6A (a) (1), which provides that a civil penalty of not more than twenty-five thousand dollars (\$25,000) per violation per day may be assessed against a person who



violates any classification, standard, limitation, or management practice established pursuant to G.S. 143-214.1, 143-214.2, or 143-215.

- E. ASSESSED ENTITY/ FINANCIALLY RESPONSIBLE PARTY may be assessed civil penalties in this matter pursuant to G.S. 143-215.6A (a)(2), which provides that a civil penalty of not more than twenty-five thousand dollars (\$25,000) per violation per day may be assessed against a person who is required but fails to apply for or to secure a permit required by G.S. 143-215.1, or who violates or fails to act in accordance with the terms, conditions, or requirements of such permit or any other permit or certification issued pursuant to authority conferred by this Part.
- F. The State's enforcement cost in this matter may be assessed to Alberdingk Boley Inc. pursuant to G.S. 143-215.3 (a) (9) and G.S. 143B-282.1 (b) (8).
- G. Jennifer F. Graznak of the Division of Water Resources, pursuant to delegation provided by the Secretary of the Department of Environmental Quality and the Director of the Division of Water Resources, has the authority to assess civil penalties in this matter.

Based upon the above Findings of Fact and Conclusions of Law, I make the following:

### III. DECISION

Accordingly, Alberdingk Boley, Inc. is hereby assessed a civil penalty of:

\$ 5,000.00 for violation of G.S. 143-215.1(a), by discharging untreated (raw) production wastewater into the waters of the State.

\$ 5,000.00 TOTAL CIVIL PENALTY, authorized by G.S. 143-215.83

\$ 682.45 Enforcement Cost

**\$ 5,682.45 TOTAL AMOUNT DUE**

As required by G.S. 143-215.6A(c), in determining the amount of penalty, I considered the factors set out in 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 violations;
- (2) The duration and gravity of the violations;
- (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 violations were 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

2/6/2023

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Date

DocuSigned by:  
*Jennifer F. Graznak*  
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Jennifer F. Graznak  
Assistant Regional Supervisor  
Winston Salem Regional Office  
Water Quality Regional Operations  
Division of Water Resources, NCDEQ

