

DIVISION OF WATER RESOURCES - CIVIL PENALTY ASSESSMENT

Violator: City of High Point

Facility Name: East Side WWTP

Permit Number: NC0024210

County: Guilford

Case Number: LV-2024-0121

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;

Effluent from Outfall 002 of this facility discharges to the Deep River, which is classified Class WS-IV, Critical Area*. Class WS-IV waters are waters used as sources of water supply for drinking, culinary, or food processing purposes where a WS-I, II or III classification is not feasible. These waters are also protected for Class C uses. WS-IV waters are generally in moderately to highly developed watersheds or Protected Areas. Critical Area (CA) is the area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than risk associated with pollution from the remaining portion of the watershed. The * symbol identifies waters that are within a designated Critical Supply Watershed and are subject to a special management strategy specified in 15A NCAC 2B .0248.

2) The duration and gravity of the violation;

Over the reporting period, the monthly average Total Phosphorus concentration limit of 0.5 mg/l was exceeded on December 31st by 98.4%, and the monthly average Total Phosphorus mass loading limit was exceeded on December 31st by 13.3%.

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

Wastewater with a high Total Phosphorus concentrations has the potential to adversely impact the classified uses of surface water, as listed above.

4) The cost of rectifying the damage;

The cost of rectifying the damage would be equal to the cost of restoring any downstream impact.

5) The amount of money saved by noncompliance;

It is not believed that any money was saved by these violations. Any money saved by noncompliance is de minimis.

6) Whether the violation was committed willfully or intentionally;

DWR has no evidence that the violations were willful or intentional.

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

The permittee experienced six other similar violations in the 12 months preceding these violations.

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

\$135.52

4/30/2024

Date

DocuSigned by:

Lon T. Snider

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**Lon T. Snider, Regional Supervisor
Water Quality Regional Operations Section
Winston-Salem Regional Office
Division of Water Resources, NCDEQ**

ROY COOPER
Governor

ELIZABETH S. BISER
Secretary

RICHARD E. ROGERS, JR.
Director



Certified Mail # 7022 2410 0003 1826 9883
Return Receipt Requested

April 30, 2024

Robby Stone, Director
City of High Point
PO Box 230
High Point, NC 27261-0230

SUBJECT: Notice of Violation and Assessment of Civil Penalty
for Violations of North Carolina General Statute (G.S.) 143-215.1(a)(6)
and NPDES WW Permit No. NC0024210
City of High Point
East Side WWTP
Case No. LV-2024-0121
Guilford County

Dear Mr. Stone:

This letter transmits a Notice of Violation and assessment of civil penalty in the amount of \$1,965.52 (\$1,830.00 civil penalty + \$135.52 enforcement costs) against City of High Point.

This assessment is based upon the following facts: a review has been conducted of the Discharge Monitoring Report (DMR) submitted by City of High Point for the month of December 2023. This review has shown the subject facility to be in violation of the discharge limitations and/or monitoring requirements found in NPDES WW Permit No. NC0024210. The violations, which occurred in December 2023, are summarized in Attachment A to this letter.

Based upon the above facts, I conclude as a matter of law that City of High Point violated the terms, conditions or requirements of NPDES WW Permit No. NC0024210 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, Lon T. Snider, Regional Supervisor, Winston-Salem Regional Office hereby make the following civil penalty assessment against City of High Point:

<u>\$1,830.00</u>	<u>1</u> of 1 violations of G.S. 143-215.1(a)(6) and Permit No. NC0024210, by discharging waste water into the waters of the State in violation of the Permit Monthly Average for <u>Phosphorus, Total (as P) - Concentration</u>
<u>\$0.00</u>	<u>0</u> of 1 violations of G.S. 143-215.1(a)(6) and Permit No. NC0024210, by discharging waste water into the waters of the State in violation of the Permit Monthly Average for <u>Phosphorus, Total (as P) - Quantity Daily</u>

\$1,830.00 **TOTAL CIVIL PENALTY**
\$135.52 Enforcement Costs
\$1,965.52 **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 Ron Boone with the Division of Water Resources staff of the Winston-Salem Regional Office at (336) 776-9690 or via email at ron.boone@deq.nc.gov.

Sincerely,

DocuSigned by:

Lon T. Snider

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Lon T. Snider, Regional Supervisor
Water Quality Regional Operations Section
Winston-Salem Regional Office
Division of Water Resources, NCDEQ

Attachments:

1. Justification for Remission Request
2. Waiver of Right to an Administrative Hearing and Stipulation of Facts
3. Attachment A

JUSTIFICATION FOR REMISSION REQUEST

Case Number: LV-2024-0121
Assessed Party: City of High Point
Permit No.: NC0024210

County: Guilford

Amount Assessed: \$1,965.52

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 GUILFORD

IN THE MATTER OF ASSESSMENT
OF CIVIL PENALTIES AGAINST

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

**City of High Point
East Side WWTP**

PERMIT NO. NC0024210

CASE NO. LV-2024-0121

Having been assessed civil penalties totaling \$1,965.52 for violation(s) as set forth in the assessment document of the Division of Water Resources dated April 26, 2024, 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

ATTACHMENT A

City of High Point

CASE NUMBER: LV-2024-0121

PERMIT: NC0024210

REGION: Winston-Salem

FACILITY: East Side WWTP

COUNTY: Guilford

LIMIT VIOLATION(S)

SAMPLE LOCATION: Outfall 002 - Effluent

Violation Date	Report Month/Yr	Parameter	Frequency	Unit of Measure	Limit Value	Calculated Value	% Over Limit	Violation Type	Penalty Amount
12/31/2023	12-2023	Phosphorus, Total (as P) - Concentration	Weekly	mg/l	0.50	0.99	98.4	Monthly Average Exceeded	\$1,830.00
12/31/2023	12-2023	Phosphorus, Total (as P) - Quantity Daily	Weekly	lbs/day	108	122.37	13.3	Monthly Average Exceeded	\$0.00
