



Wake County Sediment and Erosion Control Section, Water Quality Division
336 Fayetteville Street - PO Box 550 - Raleigh, NC 27602
Phone: 919-856-7400; Fax: 919-856-2747

October 27, 2020

Julie Coco, PE, CPESC
State Sedimentation Program Engineer
North Carolina Department of Environmental Quality
Division of Energy, Mineral & Land Resources
512 N. Salisbury Street
Raleigh, NC 27604

RE: Request for Remission of Civil Penalty Summary Sheet and Timeline
Violator: Jeffrey Caruso, Caruso Land, LLC
Case No. S005180
Wake County

Dear Julie Coco,

Wake County Watershed Management staff, along with the Director of Water Quality, have decided to leave the civil penalty as is at \$5000 for the referenced above case. Below and attached are the required information and attachments per the North Carolina Sediment Control Commission Remission Guidelines for Local Government Erosion and Sediment Control Programs.

- a) Case background and assessment.
 - i) Date submitted plan approved: 12/16/2016
 - ii) Inspection dates: 7/12/2019 & 7/30/2019
 - iii) Violations found:
 - A) Failure to have an approved plan
 - B) Failure to protect against off-site sedimentation:
 - (1) 10-40-3 to fail to protect against off-site sedimentation damage when conducting any land-disturbing activity.
 - (I) Findings: Sediment loss into a riparian buffer and an unclassified intermittent stream that feeds Swift Creek. Sediment in buffer is in two areas. One area is 1/4" - 4" deep that leads to and into stream. The other area is 1/4"-1" deep that leads up to the stream. Sediment in the stream is 2"-6" deep, 4'x20'.
 - C) Failure to maintain erosion control measures
 - iv) NOV date, and when NOV delivered per proof of service
 - A) NOV date: 7/22/2019
 - B) NOV delivered via email on 7/25/2019
 - C) NOV received confirmation email from Jerry Radman on 7/25/2019
 - v) Violator response to NOV- items listed in NOV were corrected by their due dates (see attachment

“Violator response emails”)

- A) 7/12/2019- Inspection
- B) 7/12/2019- Phone discussion between Andrew Lake (Wake County) and Joshua Nance (Caruso Homes). Joshua Nance was informed of the violations over the phone. He stated that he would begin work that same day.
- C) 7/12/2019- Draft inspection report emailed to Caruso Homes
- D) 7/15/2019 (7:42am)- Received photos via email of some items corrected (see attachment “Violator response emails”)
- E) 7/18/2019 (10:03am)- Received email stating that remaining items were corrected on 7/17/2019. Pictures were sent showing items corrected (no picture was sent of stream clean up).
- F) 7/25/2019- NOV sent to Caruso Homes via email
- G) 7/30/2019- Wake County performed a follow up inspection. All field items verified corrected.
- vi) CPA date- 7/22/2019, delivered with NOV via email on 7/25/2019
- vii) CPA details- Penalty amount: \$5,000
 - A) Violations:
 - (1) Failure to have an approved plan
 - (2) Failure to protect against off-site sedimentation
 - (3) Failure to maintain erosion control measures
- b) Remission request timeline details
 - i) 8/23/2019- Waiver of Rights received by DEMLR
 - ii) 9/3/2019- Justification for Remission Request received by DEMLR
 - iii) 9/20/2019- Documentation for the Justification for Remission Request received by DEMLR
- c) The violator has not requested an oral presentation.
- d) Violator past CPA- NOV/CPA of \$1,500 issued on 5/28/2019

Should you have any questions, please feel free to contact me at (919) 594-0895 or Andrew.Lake@wakegov.com.

Sincerely,



Andrew Lake
Environmental Consultant
Wake County Water Quality Division

cc:

Joseph Threadcraft, Ph.D., P. E., Director, Wake County Department of Environmental Services
Michael Orbon, P. E., Director, Water Quality Division
Melinda Clark, CFM, CZO, Watershed Manager, Water Quality Division

Jeevan Neupane, P.E., Environmental Consultant, Wake County, Water Quality Division
Julie Coco, P.E., CPESC, State Sediment Engineer, NCDEQ – Division of Energy, Mineral, and Land Resources

Attachments:

“Inspection Report 7-12-19”

“Inspection Report 7-30-19”

“Pictures taken and considered in assessment of the penalty”

“S005180.RemissionPks.2019” – Remission request documentation

“Remission Decision Letter Olde Mill Trace” – Local government’s recommendation letter

“Remission recommendation letter delivery confirmation”

“NOV CPA received confirmation”



WAKE COUNTY SEDIMENT AND EROSION CONTROL INSPECTION REPORT

Wake County Sediment and Erosion Control Section, Water Quality Division
336 Fayetteville Street - PO Box 550 - Raleigh, NC 27602
Phone: 919-856-7400; Fax: 919-856-2747

FRP CONTACT: Jerry Radman

FRP CONTACT EMAIL: jradman@carusohomes.com

CONTRACTOR CONTACT: Joshua Nance

CONTRACTOR EMAIL: jonance@carusohomes.com

PROJECT NAME: Buffalo Lake Wheeler AKA Olde Mill Trace

PERMIT NUMBER: S-5180

PERMIT ISSUE DATE: 1/27/2017

PERMIT EXPIRATION DATE: 1/28/2020

INSPECTION DETAILS

INSPECTION DATE: Friday, July 12, 2019

WEATHER, SITE CONDITIONS, ETC. 80s, wet soil

INSPECTION STATUS: In Violation, NOV issued

PREVIOUS INSPECTION STATUS: Not in Compliance with Wake County UDO

VIOLATIONS \ NONCOMPLIANCE:

Check all that apply

- X A. Failure to have an approved plan (WC UDO, 10-40-1)
X B. Failure to protect against off-site sedimentation (WC UDO, 10-40-3 & 10-40-4)
C. Failure to provide adequate groundcover (WC UDO, 10-20-5 (A)(2) & 10-20-5(B)(5))
X D. Failure to maintain erosion control measures (WC UDO, 10-23-1, 10-23-2, 10-23-3, 10-23-4)
X E. Failure to follow approved plan (WC UDO, 10-40-2)
F. Failure to renew permit (WC UDO, 10-30-9)
X G. Potential NPDES Violation
H. Failure to self inspect (G.S. 113A-54.1(e) & NCAC 4B.0131)

HAS SEDIMENT DAMAGE OCCURRED? YES

If YES, Check all that apply:

- X Lake/Stream/Buffer Onsite
Lake/Stream/Buffer Offsite
Other Property

Degree of Sediment damage? Moderate

OBSERVATIONS/CORRECTIVE ACTIONS:

- 1. Remove sediment by hand in riparian buffer and stream along Miller Rd immediately. Stabilize area in riparian buffer and apply a native riparian buffer seed mix. Repair silt fence and outlets. Slope on Miller Rd needs to have erosion repaired and be stabilized and tacked down or an erosion control matting applied.
2. Behind lots 88-90: repair silt fence immediately. This drains directly to a stream. Stabilize area behind lots and install inlet protection at two yard inlets.
3. Refresh stone at silt fence outlet left of lot 90.
4. Lot 16 needs 57 stone at silt fence outlet.
5. Provide self-inspection reports for the months of June/July.
6. Apply for a land disturbance permit for the lots or submit a revised site plan including the lots and lot detail (due 8/25/19).

COMMENTS:

Reminder: Per 15A NCAC 04B .0131 SELF-INSPECTIONS, Section (2); Any documentation of inspections that occur on a copy of the approved erosion and sedimentation control plan shall occur on a single copy of the plan and that plan shall be made available on the site. Any inspection reports shall also be made available on the site.

CORRECTIVE ACTION DEADLINE: Thursday, August 1, 2019

ENVIRONMENTAL CONSULTANT: Andrew Lake
919-594-0895
Andrew.Lake@wakegov.com



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CONTRACTOR CONTACT: <u>Joshua Nance</u>	CONTRACTOR EMAIL: <u>jonance@carusohomes.com</u>
PROJECT NAME: <u>Buffaloe Lake Wheeler AKA Olde Mill Trace</u>	PERMIT NUMBER: <u>S-5180</u>
PERMIT ISSUE DATE: <u>1/27/2017</u>	PERMIT EXPIRATION DATE: <u>1/28/2020</u>

INSPECTION DETAILS

INSPECTION DATE: <u>7/12/2019</u>	WEATHER, SITE CONDITIONS, ETC. <u>80s, wet soil</u>
INSPECTION STATUS: <u>In Violation, NOV issued</u>	PREVIOUS INSPECTION STATUS: <u>Not in Compliance with Wake County UDO</u>



Comment: lot 16, silt fence outlet needs 57 stone



Comment: behind lot 88



Comment: inlet protection needed behind lots 88-90



Comment: behind lots 88-90



Comment: refresh stone at silt fence outlet left of lot 90



Comment:

Environmental
Consultant:

Andrew Lake
919-594-0895
Andrew.Lake@wakegov.com



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Comment: Miller stone



Comment: Miller stone



Comment: Miller stone - sediment in riparian buffer



Comment: Miller stone - sediment in riparian buffer



Comment: Miller stone - sediment in stream



Comment: Miller stone - sediment in stream

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Comment: Miller stone



Comment: Miller stone



Comment: Miller stone - sediment in riparian buffer



Comment: Miller stone



Comment: Miller stone - sediment in riparian buffer

Comment:

Environmental
Consultant:

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FRP CONTACT: Jerry Radman

FRP CONTACT EMAIL: jradman@carusohomes.com

CONTRACTOR CONTACT: Joshua Nance

CONTRACTOR EMAIL: jonance@carusohomes.com

PROJECT NAME: Buffalo Lake Wheeler AKA Olde Mill Trace

PERMIT NUMBER: S-5180

PERMIT ISSUE DATE: 1/27/2017

PERMIT EXPIRATION DATE: 1/28/2020

INSPECTION DETAILS

INSPECTION DATE: Tuesday, July 30, 2019

WEATHER, SITE CONDITIONS, ETC. 80s, workable soil

INSPECTION STATUS: In Compliance with Wake County UDO

PREVIOUS INSPECTION STATUS: Not in Compliance with Wake County UDO

VIOLATIONS \ NONCOMPLIANCE:

Check all that apply

- A. Failure to have an approved plan (WC UDO, 10-40-1)
B. Failure to protect against off-site sedimentation (WC UDO, 10-40-3 & 10-40-4)
C. Failure to provide adequate groundcover (WC UDO, 10-20-5 (A)(2) & 10-20-5(B)(5))
D. Failure to maintain erosion control measures (WC UDO, 10-23-1, 10-23-2, 10-23-3, 10-23-4)
E. Failure to follow approved plan (WC UDO, 10-40-2)
F. Failure to renew permit (WC UDO, 10-30-9)
G. Potential NPDES Violation
H. Failure to self inspect (G.S. 113A-54.1(e) & NCAC 4B.0131)

HAS SEDIMENT DAMAGE OCCURRED? NO

If YES, Check all that apply:

- Lake/Stream/Buffer Onsite
Lake/Stream/Buffer Offsite
Other Property

Degree of Sediment damage?

OBSERVATIONS/CORRECTIVE ACTIONS:

Items from the Notice of Violations issued on 7/22/19 & 5/28/19 have been corrected. A Land Disturbance permit for the lots has already been applied for. The civil penalty is still due for the NOV from 7/22/19.

COMMENTS:

Reminder: Per 15A NCAC 04B .0131 SELF-INSPECTIONS, Section (2); Any documentation of inspections that occur on a copy of the approved erosion and sedimentation control plan shall occur on a single copy of the plan and that plan shall be made available on the site. Any inspection reports shall also be made available on the site.

CORRECTIVE ACTION DEADLINE:

ENVIRONMENTAL CONSULTANT:

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919-594-0895
Andrew.Lake@wakegov.com



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CONTRACTOR CONTACT: <u>Joshua Nance</u>	CONTRACTOR EMAIL: <u>jonance@carusohomes.com</u>
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PERMIT ISSUE DATE: <u>1/27/2017</u>	PERMIT EXPIRATION DATE: <u>1/28/2020</u>

INSPECTION DETAILS

INSPECTION DATE: <u>7/30/2019</u>	WEATHER, SITE CONDITIONS, ETC. <u>80s, workable soil</u>
INSPECTION STATUS: <u>In Compliance with Wake County UDO</u>	PREVIOUS INSPECTION STATUS: <u>Not in Compliance with Wake County UDO</u>



Comment: Slope stabilized



Comment: sediment removed from riparian buffer and area stabilized



Comment: inlet protection installed



Comment: area stabilized

Comment:

Comment:

Environmental
Consultant:

Andrew Lake
919-594-0895
Andrew.Lake@wakegov.com

Pictures taken and considered in assessment of the penalty

Notice of Violation issued 7/22/2020. Buffalo Lake Wheeler Subdivision. Case # S005180. See inspection report for additional photos.



Comment: Miller Stone Rd.- sediment in stream



Comment: Miller Stone Rd. - sediment in stream



Comment: Miller Stone Rd. - sediment in riparian buffer



Comment: Miller Stone Rd. - sediment in riparian buffer



Comment: Miller Stone Rd.





RECEIVED
SEP 20 2019
LAND QUALITY
MINING PROGRAM

September 19, 2019

Ms. Julie Coco, P.E.
State Sediment Engineer
DEMLR
1612 Mail Service Center
Raleigh, NC 27699-1612

RE: Project # S005180
Notice of Violation, Remission Documentation

Ms. Coco:

On July 25, 2019 Caruso Land Development, LLC was in receipt of a Notice of Violation and Civil Penalty Assessment Letter. A Justification for Remission Request and The Waiver of Rights Form were previously sent to your office.

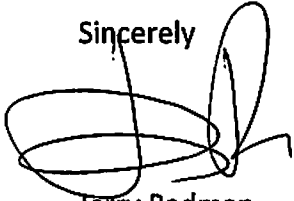
Attached is the documentation for the Justification for Remission Request (b) Whether the petitioner promptly abated continued environmental damage resulting from the violation:

1. Inspection Report and Email from Andrew Lake, Wake County, dated Friday July 12, 2019. Josh Nance with Caruso Homes accompanied Andrew Lake on the site visit. Email states that Nance is "getting sediment cleaned up today"
2. Email from Josh Nance on Monday July 15th to Andrew Lake stating all work in process if not already completed.
3. Email from Josh Nance on Thursday July 18 to Andrew Lake stating that all work had been completed on Tuesday with pictures.
4. Email from Josh Nance on Thursday July 25 stating all on-site issues addressed, requesting reinspection. Self-reporting reports being forwarded. NOTE THAT ITEM #7 OF THE NOV WAS NOT ACTUAL OFF-SITE SEDIMENTATION, BUT SEDIMENTATION THAT HAD GONE BEYOND THE SILT FENCE. NO SEDIMENT LEFT THE PROJECT SITE.
5. Email from Andrew Lake on Thursday July 25 stating that attached was a copy of the Notice of Violation dated July 22 (The NOV was acknowledged as received on July 25.)

6. Inspection Report dated Tuesday July 30 from Andrew Lake stating that the Project Site was in Compliance with Wake County UDO.

Appreciate your consideration of our request for remission of the assessed civil penalty.

Sincerely

A handwritten signature in black ink, appearing to read "Jerry Radman". The signature is stylized with several loops and a long horizontal stroke at the bottom.

Jerry Radman
Caruso Homes
Land Manager – NC
206 High House Road
Cary, NC 27513

1

Joshua Nance

From: Andrew Lake <Andrew.Lake@wakegov.com>
Sent: Friday, July 12, 2019 12:29 PM
To: Jerry Radman; Joshua Nance
Subject: Olde Mill Trace Inspection Report 7/12/19
Attachments: S5180 Inspection Report 7-12-19.pdf

Dear Gentlemen,

Please see attachment for the draft Sediment and Erosion Control Inspection Report. There has been sediment loss into the riparian buffer and stream. A notice of violation and possible civil penalties are forthcoming. I have contacted Josh and informed him. He is working on getting the sediment cleaned up today. Feel free to contact me if you have any questions or concerns.

Sincerely,

Andrew Lake

Environmental Consultant
Wake County Government
Environmental Services / Water Quality
919.594.0895 mobile | 919.856.7407 fax
336 Fayetteville St. / P.O. Box 550, Raleigh, NC 27602
wakegov.com

*Wake County Environmental Services would like your feedback.
In order to participate please [CLICK HERE!](#)*

E-mail correspondence sent to and received from this address may be subject to disclosure under the North Carolina Public Records Act unless made confidential under applicable law.



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FRP CONTACT: Jerry Radman
FRP CONTACT EMAIL: jradman@carushomes.com
CONTRACTOR CONTACT: Joshua Nance
CONTRACTOR EMAIL: jonance@carushomes.com
PROJECT NAME: Buffalo Lake Wheeler AKA Olde Mill Trace
PERMIT NUMBER: S-5180
PERMIT ISSUE DATE: 1/27/2017
PERMIT EXPIRATION DATE: 1/28/2020

INSPECTION DETAILS

INSPECTION DATE: Friday, July 12, 2019
WEATHER, SITE CONDITIONS, ETC. 80s, wet soil
INSPECTION STATUS: In Violation, NOV Issued
PREVIOUS INSPECTION STATUS: Not in Compliance with Wake County UDO

VIOLATIONS / NONCOMPLIANCE:

Check all that apply

- A. Failure to have an approved plan (WC UDO, 10-40-1)
X B. Failure to protect against off-site sedimentation (WC UDO, 10-40-3 & 10-40-4)
C. Failure to provide adequate groundcover (WC UDO, 10-20-5 (A)(2) & 10-20-5(B)(5))
X D. Failure to maintain erosion control measures (WC UDO, 10-23-1, 10-23-2, 10-23-3, 10-23-4)
X E. Failure to follow approved plan (WC UDO, 10-40-2)
F. Failure to renew permit (WC UDO, 10-30-9)
X G. Potential NPDES Violation
H. Failure to self inspect (G.S. 113A-54 1(e) & NCAC 4B 0131)

HAS SEDIMENT DAMAGE OCCURRED?

YES

If YES, Check all that apply

- X Lake/Stream/Buffer Onsite
Lake/Stream/Buffer Offsite
Other Property

Degree of Sediment damage?

Moderate

OBSERVATIONS/CORRECTIVE ACTIONS:

- 1. Remove sediment by hand in riparian buffer and stream along Miller Rd immediately. Stabilize area in riparian buffer and apply a native riparian buffer seed mix. Repair silt fence and outlets. Slope on Miller Rd needs to have erosion repaired and be stabilized and tacked down or an erosion control matting applied.
2. Behind lots 88-90: repair silt fence immediately. This drains directly to a stream. Stabilize area behind lots and install inlet protection at two yard inlets.
3. Refresh stone at silt fence outlet left of lot 90.
4. Lot 16 needs 57 stone at silt fence outlet.
5. Provide self-inspection reports for the months of June/July.

COMMENTS:

Reminder: Per 15A NCAC 04B.0131 SELF-INSPECTIONS, Section (2). Any documentation of inspections that occur on a copy of the approved erosion and sedimentation control plan shall occur on a single copy of the plan and that plan shall be made available on the site. Any inspection reports shall also be made available on the site.

CORRECTIVE ACTION DEADLINE:

ENVIRONMENTAL CONSULTANT:

Andrew Lake
919-594-0895
Andrew.Lake@wakegov.com



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CONTRACTOR CONTACT: <u>Joshua Nance</u>	CONTRACTOR EMAIL: <u>jonance@carushomes.com</u>
PROJECT NAME: <u>Buffalo Lake Wheeler AKA Olde Mid Trace</u>	PERMIT NUMBER: <u>S-5180</u>
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INSPECTION DETAILS

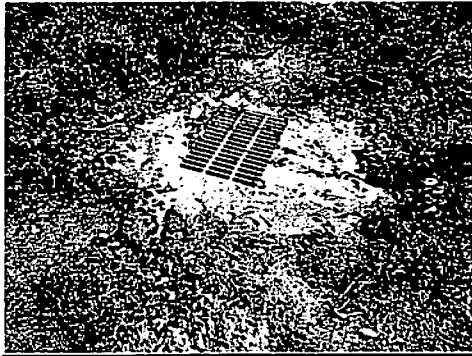
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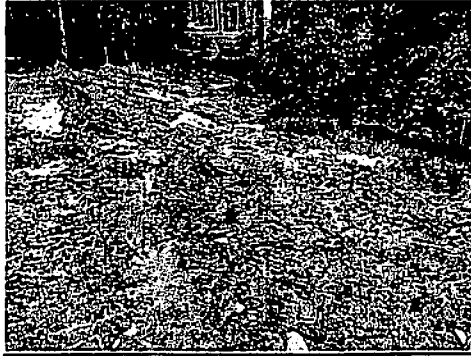
Comment: lot 16, silt fence outlet needs 57 stone



Comment: behind lot 88



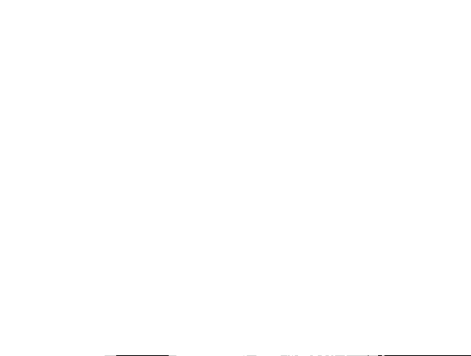
Comment: inlet protection needed behind lots 88-90



Comment: behind lots 88-90



Comment: refresh stone at silt fence outlet left of lot 80



Comment

Environmental
Consultant:

Andrew Lake
919-554-0695
Andrew.Lake@wakegov.com



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Comment: Miller stone



Comment: Miller stone



Comment: Miller stone - sediment in riparian buffer



Comment: Miller stone - sediment in riparian buffer



Comment: Miller stone - sediment in stream



Comment: Miller stone - sediment in stream

Environmental
Consultant:

Andrew Lake
919-594-0895
Andrew.Lake@wakegov.com



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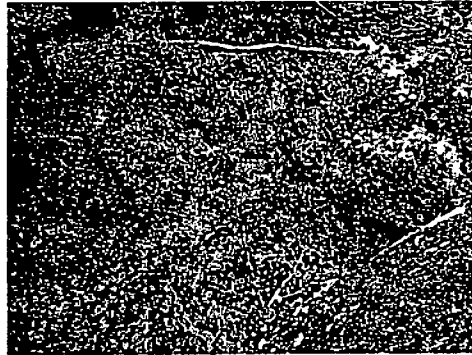
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Comment: Miller stone



Comment: Miller stone



Comment: Miller stone - sediment in riparian buffer



Comment: Miller stone



Comment: Miller stone - sediment in riparian buffer

Comment

Environmental
Consultant:

Andrew Lake
919-594-0895
Andrew.Lake@wakegov.com

Joshua Nance

From: Andrew Lake <Andrew.Lake@wakegov.com>
Sent: Thursday, August 1, 2019 2:12 PM
To: Jerry Radman; Joshua Nance
Subject: Olde Mill Trace Inspection Report 7/30/19
Attachments: S5180 Inspection Report 7-30-19.pdf

Dear Gentlemen,

Please see attachment for the Sediment and Erosion Control Inspection Report. Feel free to contact me if you have any questions or concerns.

Sincerely,

Andrew Lake

Environmental Consultant
Wake County Government
Environmental Services / Water Quality
919.594.0895 mobile | 919.856.7407 fax
336 Fayetteville St. / P.O. Box 550, Raleigh, NC 27602
wakegov.com

*Wake County Environmental Services would like your feedback.
In order to participate please [CLICK HERE!](#)*

E-mail correspondence sent to and received from this address may be subject to disclosure under the North Carolina Public Records Act unless made confidential under applicable law.

Joshua Nance

From: Joshua Nance
Sent: Monday, July 15, 2019 7:42 AM
To: Andrew Lake
Cc: Jerry Radman
Subject: Re: Olde Mill Trace Inspection Report 7/12/19

Andrew,

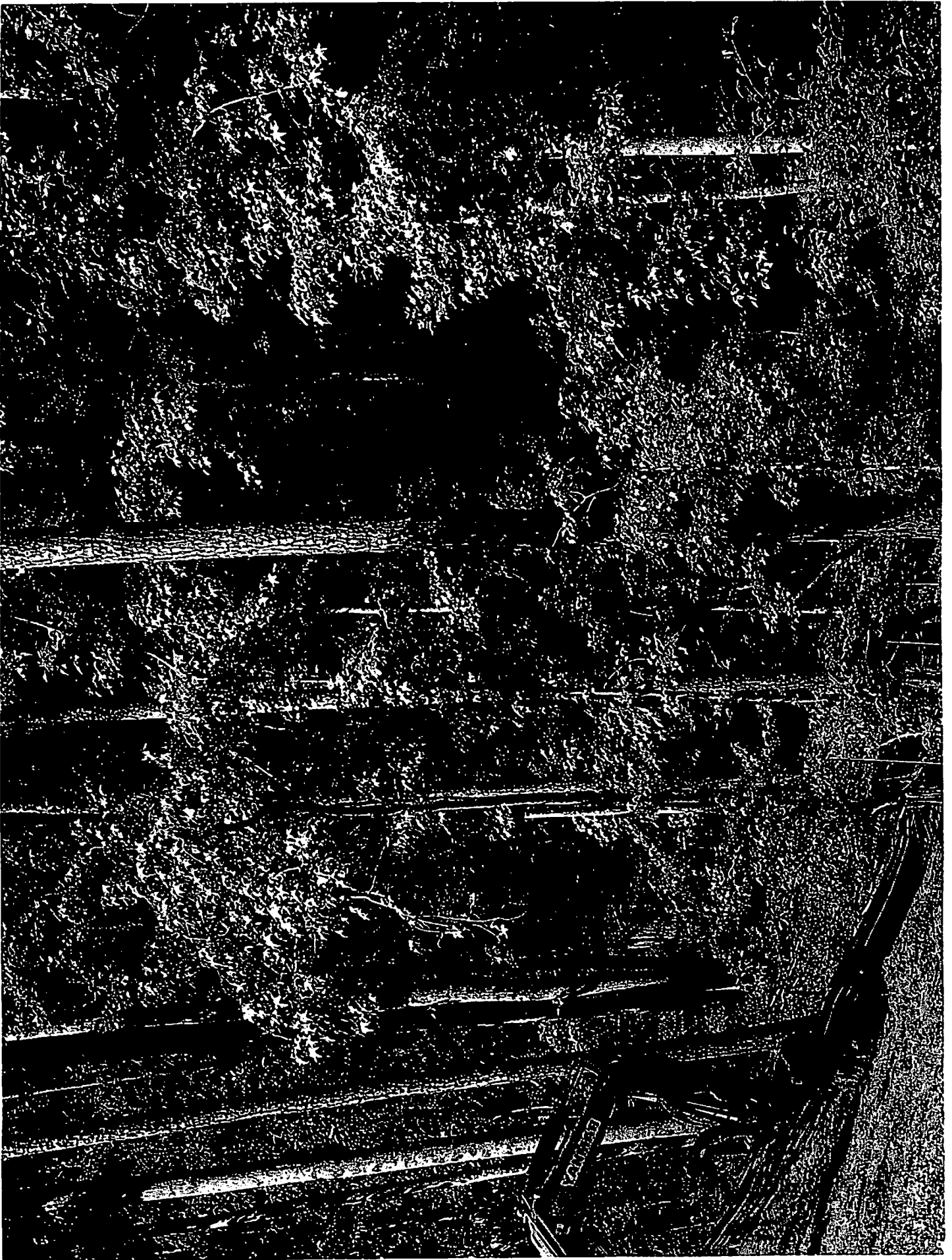
Attached are a few pictures of the progress and crew working on correcting the issues from Friday afternoon. All silt fence was repaired/replaced as needed, outlets were refreshed with new stone, and they added 3-4 additional outlets to help prevent these issues again going forward.

When I left the site, they were finishing up the silt fence repairs and working on removing sediment in the buffer area & stream. They will be back today to address the slope with a combination of seed/straw & matting, as well as the area behind Lot 88-90. I will send pictures of those areas to you end of day today.

Please give me a call with any questions.







Thanks,
Josh Nance
Land Development Project Manager, NC
Caruso Homes
206 High House Road, suite 205
Cary, NC 27513
jonance@Carusohomes.com
Cell (919) 818-8189

On Jul 12, 2019, at 12:30 PM, Andrew Lake <Andrew.Lake@wakegov.com> wrote:

Dear Gentlemen,

Please see attachment for the draft Sediment and Erosion Control Inspection Report. There has been sediment loss into the riparian buffer and stream. A notice of violation and possible civil penalties are forthcoming. I have contacted Josh and informed him. He is working on getting the sediment cleaned up today. Feel free to contact me if you have any questions or concerns.

Sincerely,

Andrew Lake

Environmental Consultant
Wake County Government
Environmental Services / Water Quality
919.594.0895 mobile | 919.856.7407 fax
336 Fayetteville St. / P.O. Box 550, Raleigh, NC 27602
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<S5180 Inspection Report 7-12-19.pdf>

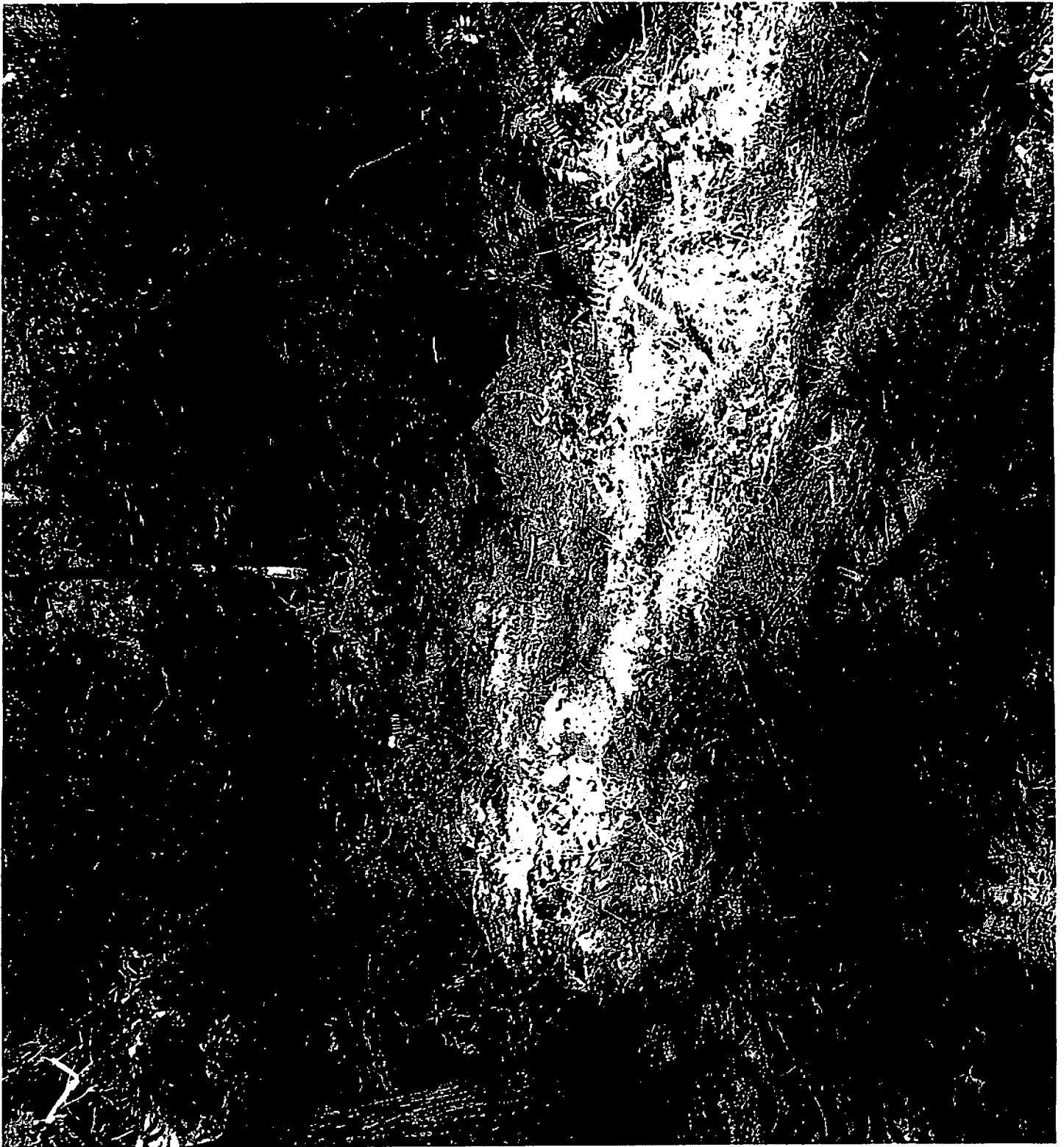
3

Joshua Nance

From: Joshua Nance <jonance@carusohomes.com>
Sent: Thursday, July 18, 2019 10:03 AM
To: Andrew Lake
Subject: Re: Olde Mill Trace

Hi Andrew,

Everything was completed on Tuesday morning. Pictures below...





^ Sediment removed

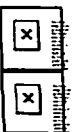




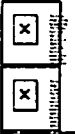
^ Re-graded to get of ruts/channels along slope, and added matting to help prevent runoff



^ Refreshed silt fence outlet to the left of Lot 90, and added seed & straw to that area



^ Installed inlet protection around both yard inlets behind Lots 88-90



^ Repaired silt fence and installed 3 outlets at low points behind Lots 88-90



^ Added seed & straw to all denuded areas behind/beside Lots 88-90

I forgot to check to see if they changed out the stone at Lot 16 outlet, and I didn't take a picture of the stream where sediment had been removed, so I'll get by there later this afternoon to do both of those.

Please give me a call with any questions or concerns.

Thanks,

Josh Nance

Land Development Project Manager, NC

Caruso Homes

206 High House Road, suite 205

Cary, NC 27513

jonance@Carusohomes.com

Cell (919) 818-8189

On Jul 18, 2019, at 9:50 AM, Andrew Lake <Andrew.Lake@wakegov.com> wrote:

Good Morning Josh,

I'm just checking in to see how the repairs are progressing along.

Thanks,

Andrew Lake

Environmental Consultant

Wake County Government

Environmental Services / Water Quality

919.594.0895 mobile | 919.856.7407 fax

336 Fayetteville St. / P.O. Box 550, Raleigh, NC 27602

wakegov.com

Wake County Environmental Services would like your feedback.

In order to participate please [CLICK HERE!](#)

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4

Joshua Nance

From: Joshua Nance
Sent: Thursday, July 25, 2019 12:04 PM
To: 'Andrew Lake'; Jerry Radman
Subject: RE: Olde Mill Trace Notice of Violation and Civil Penalty

Andrew,

As noted in my email last Thursday, all of the on-site issues (Items #1-4 in the NOV) have been corrected. We are ready for a re-inspection. I am out tomorrow, but I can be available any time Monday-Wednesday next week. Please let me know what works with your schedule.

I will send you the self-inspection reports (Item #5 in the NOV) for June/July separately – with so many attachments, it will be several emails.

Regarding the land disturbance permit (Item #6 in the NOV), can you confirm which lots this is for? We are in the process of getting the permit for Phase 2. Permit #SEC-020104-2019, application started on 6/11/19, permit fee paid on 7/22/19, and we expect it will be granted any day.

I will talk with EcoTurf this afternoon about self-reporting the off-site sedimentation to NCDEQ (Item #7 in the NOV).

If you have any questions or need additional info, please let me know.

Thanks,
Josh

From: Andrew Lake [mailto:Andrew.Lake@wakegov.com]
Sent: Thursday, July 25, 2019 9:24 AM
To: Jerry Radman <jradman@carusohomes.com>; Joshua Nance <jonance@carusohomes.com>
Subject: Olde Mill Trace Notice of Violation and Civil Penalty

Good Morning Gentlemen,

Please see attachments for the Notice of Violation and associated documents. I believe most items have been addressed. Josh, could you please review the inspection report and inform me when all the items have been corrected so that I can re-inspect? The deadline is seven days from receipt of this NOV.

Jerry, can you respond to this email with confirmation that you have received the NOV?

Feel free to contact me if you have any questions or concerns.

Sincerely,

Andrew Lake

Environmental Consultant
Wake County Government
Environmental Services / Water Quality
919.594.0895 mobile | 919.856.7407 fax
336 Fayetteville St. / P.O. Box 550, Raleigh, NC 27602
wakegov.com

Jerry Radman

From: Andrew Lake <Andrew.Lake@wakegov.com>
Sent: Thursday, July 25, 2019 9:24 AM
To: Jerry Radman; Joshua Nance
Subject: Olde Mill Trace Notice of Violation and Civil Penalty
Attachments: S5180 Inspection Report 7-12-19.pdf; Olde Mill Trace NOV 7-22-19.pdf; AppealProcessCivilPenalty.pdf; Justification for Remission Request.pdf; Resources for Technical Assistance_2016.pdf; Waiver of Right to Hearing.pdf

Good Morning Gentlemen,

Please see attachments for the Notice of Violation and associated documents. I believe most items have been addressed. Josh, could you please review the inspection report and inform me when all the items have been corrected so that I can re-inspect? The deadline is seven days from receipt of this NOV.

Jerry, can you respond to this email with confirmation that you have received the NOV?

Feel free to contact me if you have any questions or concerns.

Sincerely,

Andrew Lake

Environmental Consultant
Wake County Government
Environmental Services / Water Quality
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6



WAKE COUNTY SEDIMENT AND EROSION CONTROL
INSPECTION REPORT

Wake County Sediment and Erosion Control Section, Water Quality Division
336 Fayetteville Street - PO Box 550 - Raleigh, NC 27602
Phone: 919-856-7400; Fax: 919-856-2747

FRP CONTACT: <u>Jerry Radman</u>	FRP CONTACT EMAIL: <u>iradman@carusohomes.com</u>
CONTRACTOR CONTACT: <u>Joshua Nance</u>	CONTRACTOR EMAIL: <u>jonance@caruschomes.com</u>
PROJECT NAME: <u>Buffaloe Lake Wheeler AKA Olde Mill Trace</u>	PERMIT NUMBER: <u>S-5180</u>
PERMIT ISSUE DATE: <u>1/27/2017</u>	PERMIT EXPIRATION DATE: <u>1/28/2020</u>

INSPECTION DETAILS

INSPECTION DATE: <u>Tuesday, July 30, 2019</u>	WEATHER, SITE CONDITIONS, ETC. <u>80s, workable soil</u>
INSPECTION STATUS: <u>In Compliance with Wake County UDO</u>	PREVIOUS INSPECTION STATUS: <u>Not in Compliance with Wake County UDO</u>

VIOLATIONS \ NONCOMPLIANCE:

Check all that apply

- A. Failure to have an approved plan (WC UDO, 10-40-1)
- B. Failure to protect against off-site sedimentation (WC UDO, 10-40-3 & 10-40-4)
- C. Failure to provide adequate groundcover (WC UDO, 10-20-5 (A)(2) & 10-20-5(B)(5))
- D. Failure to maintain erosion control measures (WC UDO, 10-23-1, 10-23-2, 10-23-3, 10-23-4)
- E. Failure to follow approved plan (WC UDO, 10-40-2)
- F. Failure to renew permit (WC UDO, 10-30-9)
- G. Potential NPDES Violation
- H. Failure to self inspect (G S 113A-54 1(e) & NCAC 4B 0131)

HAS SEDIMENT DAMAGE OCCURRED? NO

If YES, Check all that apply

- Lake/Stream/Buffer Onsite
- Lake/Stream/Buffer Offsite
- Other Property

Degree of Sediment damage? _____

OBSERVATIONS/CORRECTIVE ACTIONS:

Items from the Notice of Violations issued on 7/22/19 & 5/28/19 have been corrected. A Land Disturbance permit for the lots has already been applied for. The civil penalty is still due for the NOV from 7/22/19.

COMMENTS:

Reminder: Per 15A NCAC 04B .0131 SELF-INSPECTIONS, Section (2): Any documentation of inspections that occur on a copy of the approved erosion and sedimentation control plan shall occur on a single copy of the plan and that plan shall be made available on the site. Any inspection reports shall also be made available on the site.

CORRECTIVE ACTION DEADLINE: _____

ENVIRONMENTAL CONSULTANT: Andrew Lake
919-594-0895
Andrew.Lake@wakegov.com



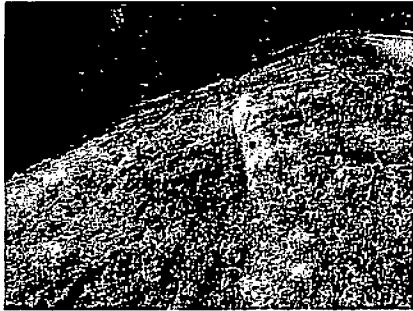
WAKE COUNTY SEDIMENT AND EROSION CONTROL
INSPECTION REPORT

Wake County Sediment and Erosion Control Section, Water Quality Division
336 Fayetteville Street - PO Box 550 - Raleigh, NC 27602
Phone: 919-856-7400; Fax: 919-856-2747

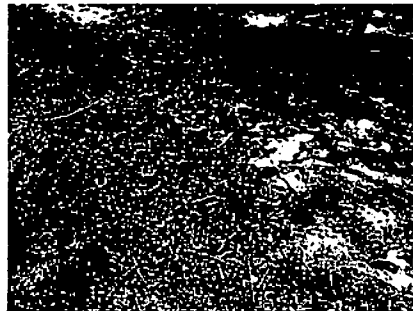
FRP CONTACT: <u>Jerry Radman</u>	FRP CONTACT EMAIL: <u>radman@carusohomes.com</u>
CONTRACTOR CONTACT: <u>Joshua Nance</u>	CONTRACTOR EMAIL: <u>jnance@carusohomes.com</u>
PROJECT NAME: <u>Buffalo Lake Wheeler AKA Olde Mill Trace</u>	PERMIT NUMBER: <u>S-5180</u>
PERMIT ISSUE DATE: <u>1/27/2017</u>	PERMIT EXPIRATION DATE: <u>1/28/2020</u>

INSPECTION DETAILS

INSPECTION DATE: <u>7/30/2019</u>	WEATHER, SITE CONDITIONS, ETC. <u>80s workable soil</u>
INSPECTION STATUS: <u>In Compliance with Wake County UDO</u>	PREVIOUS INSPECTION STATUS: <u>Not in Compliance with Wake County UDO</u>



Comment: Slope stabilized



Comment: sediment removed from riparian buffer and area stabilized



Comment: inlet protection installed



Comment: area stabilized

Comment:

Comment:

Environmental
Consultant:

Andrew Lake
919-594-0895
Andrew.Lake@wakegov.com



August 28, 2019

Ms. Julie Coco, P.E.
State Sediment Engineer
DEMLR
1612 Mail Service Center
Raleigh, NC 27699-1612

RE: Project # S005180
Notice of Violation, Remission Request

Ms. Coco:

On July 25, 2019 Caruso Land Development, LLC was in receipt of a Notice of Violation and Civil Penalty Assessment Letter.

The Waiver of Rights Form was previously sent to your office on August 23, 2019. Please find attached a Justification for Remission Request. Evidence to support the remission shall be forth coming within the 60-day time period.

Sincerely

A handwritten signature in black ink, appearing to read "Jerry Radman", is written over a printed name label.

Jerry Radman

Caruso Homes
Land Manager – NC
206 High House Road
Cary, NC 27513

RECEIVED
SEP 03 2019
**LAND QUALITY
MINING PROGRAM**

JUSTIFICATION FOR REMISSION REQUEST

Project or Property Identification: Olde Mill Trace (aka Buffalo Lake Wheeler)
subdivision **County: Wake**

Assessed Party: Caruso Land, LLC

Project No. (If applicable): S005180

Amount Assessed: \$5000

Please use this form when requesting remission of this civil penalty. You must also complete the "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 Commission to consider in evaluating your request for remission. Please be aware that a request for remission is limited to consideration of the factors listed below. 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. § 113A-64.2(b), the following factors shall be considered in determining whether a civil penalty remission request will be approved. 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) Whether one or more of the civil penalty assessment factors in N.C.G.S. 113A-64(a)(3) were wrongfully applied to the detriment of the petitioner (please refer to the "Assessment Factors" summary attached);
- (b) Whether the petitioner 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) Whether 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) Whether the petitioner had not been assessed civil penalties for any previous violations;
- (e) Whether payment of the civil penalty will prevent payment for the remaining necessary remedial actions or would otherwise create a significant financial hardship (i.e., explain how payment of the civil penalty will prevent you from performing the activities necessary to achieve compliance);
- (f) the assessed property tax valuation of the petitioner's property upon which the violation occurred, excluding the value of any structures located on the property.

Please note that you have the burden of providing information concerning the financial impact of a civil penalty and the burden of showing any financial hardship.

EXPLANATION (attach additional pages as necessary):



Mr. Joseph Threadcraft, PhD, PE
Wake County Environmental Services, Director
336 Fayetteville St.
Raleigh, NC 27602

/Ms. Julie Coco, P.E.
State Sediment Engineer
DEMLR
512 N. Salisbury Street
Raleigh, NC 27604

RECEIVED

AUG 23 2019

LAND QUALITY SECTION

RE: Project # S005180
Notice of Violation, Remission Request

On July 25, 2019 Caruso Land Development, LLC was in receipt of a Notice of Violation and Civil Penalty Assessment Letter.

Please find attached an executed Waiver of Rights seeking remission of the civil penalty. Evidence to support the remission shall be forth coming within the 60-day time period.

Sincerely

A handwritten signature in black ink, appearing to read "Jerry Radman". The signature is stylized with large loops and a horizontal line at the bottom.

Jerry Radman

Caruso Homes
Land Manager – NC
206 High House Road
Cary, NC 27513

STATE OF NORTH CAROLINA

SEDIMENTATION
POLLUTION
CONTROL COMMISSION

COUNTY OF WAKE

IN THE MATTER OF ASSESSMENT)
OF CIVIL PENALTIES AGAINST)
CARUSO LAND, LLC)

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

Property Identification or Project # S005180

Having been assessed civil penalties totaling \$5000 for violation(s) as set forth in the assessment document of the Director, Water Quality Division of the Wake County Department of Environmental Services dated 7/22/2019, the undersigned, desiring to seek remission of the civil penalties, 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, Water Quality Division of the Wake County Department of Environmental Services within sixty (60) calendar days of receipt of the civil penalty assessment. No new evidence in support of a remission request will be allowed after sixty (60) calendar days from the receipt of the civil penalty assessment.

This the 16th day of August, 2019.

DAVID MENDICK
NAME (printed)

[Signature]
SIGNATURE

ADDRESS

206 High House Rd., Suite 205
Cary, North Carolina 27513

TELEPHONE

(919) 880-2829



Wake County Sediment and Erosion Control Section, Water Quality Division
336 Fayetteville Street - PO Box 550 - Raleigh, NC 27602
Phone: 919-856-7400; Fax: 919-856-2747

July 13, 2020

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Jeffrey Caruso
Caruso Land, LLC
2120 Baldwin Ave. #200
Crofton, MD 21114

RE: Request for Remission of Civil Penalty
Jeffrey Caruso
Case No. S005180
Wake County

Dear Mr. Caruso:

The Division of Energy, Mineral and Land Resources (DEMLR) has received your request for remission of the civil penalty in a letter dated 8/28/2019 with accompanying support information. In accordance with the delegation provided by the Sedimentation Control Commission, Wake County Watershed Management staff, along with the Director of Water Quality, have considered the information you submitted in support of your request for remission and did not find grounds to modify the civil penalty assessment. **The civil penalty stands at \$5000** and this is Wake County's recommendation to the Sedimentation Control Commission

If you decide to pay the penalty, please make your check payable to Wake County. Send the payment within thirty (30) calendar days of your receipt of this letter to the following address:

If sending via US Postal Service

Wake County Department of Environmental
Services
P.O. Box 550
Raleigh, NC 27602

If sending via delivery service (UPS, FedEx, etc.)

Wake County Department of Environmental Services
P.O. Box 550
Raleigh, NC 27602

If payment is not received, or a settlement not reached within 30 calendar days from your receipt of this letter, your request for remission with supporting documents and the recommendation of the Wake County Watershed Management staff and Water Quality Director will be delivered to the Sedimentation Control Commission Civil Penalty Remissions Committee

for a final agency decision at one of their regularly scheduled meetings held in Raleigh, North Carolina.

As a part of the remissions process, you will be provided the opportunity to make an oral presentation before this committee on the matter of the case listed above.

Oral Presentation Details

- It is not a requirement to provide an oral presentation on this matter before the Committee; rather you will be provided time to directly present information to the Committee as a part of the remission process if you chose to do so.
- Making a presentation will require the presence of you and/or your representative during a committee on remissions meeting held in Raleigh, North Carolina.
- Your presentation will be limited to discussion of issues and information submitted in your original remission request. You stipulated that the facts are as alleged in the assessment notice.

Should you desire to make an oral presentation before the Civil Penalty Remissions Committee, you must complete the attached "*Request for Oral Presentation*" form and return it within thirty (30) calendar days of receipt of this letter to the address under option 1 above.

The Sedimentation Control Commission Chair will review the request for oral presentation and the documents in the matter. If the Chair determines that there is a compelling reason to require an oral presentation, you will be notified of the date, time, and place for the presentation to be heard. Should you decide not to request an oral presentation, the final agency decision on your remission request will be made by the Committee based on the written record.

Please be advised that the Civil Penalty Remissions Committee will make its remission decision based on the original assessment amount. Therefore, the Committee may choose to uphold the original penalty amount and offer no remissions, remit a portion of the penalty, or fully remit the penalty. The entire amount of the penalty may be remitted only when the petitioner has not been assessed civil penalties for previous violations, and when it can be demonstrated that payment of the civil penalty would prevent payment for necessary remedial actions.

You will be notified of a final decision on the remission of your civil penalty, should a decision be made by the Committee.

Payment of this penalty will not foreclose further enforcement action against you for any new violation. If the violations which resulted in this penalty assessment are continuing in nature, the Wake County Water Quality Division reserves the right to assess additional civil penalties

in the future, or take other enforcement action against you.

Should you have any questions, please feel free to contact me at (919) 594-0895 or Andrew.Lake@wakegov.com.

Sincerely,

A handwritten signature in black ink, appearing to read 'AL', is positioned above the typed name.

Andrew Lake
Environmental Consultant
Wake County Water Quality Division

cc:

Joseph Threadcraft, Ph.D., P. E., Director, Wake County Department of Environmental Services
Michael Orbon, P. E., Director, Water Quality Division
Melinda Clark, CFM, CZO, Watershed Manager, Water Quality Division
Jeevan Neupane, P.E., Environmental Consultant, Wake County, Water Quality Division
Julie Coco, P.E., CPESC, State Sediment Engineer, NCDEQ – Division of Energy, Mineral, and Land Resources

Attachments:

“Request for Oral Presentation”

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Jeffrey Caruso
Caruso Land, LLC
2120 Baldwin Ave
#200
Crofton, MD 21114

2. Article Num
(Transfer fro

7019 1120 0000 3861 3347

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

TCY/19

Agent

Addressee

B. Received by (Printed Name)

COVENS

C. Date of Delivery

5/11/10

D. Is delivery address different from item 1?

Yes

If YES, enter delivery address below:

No

3. Service Type

Certified Mail

Express Mail

Registered

Return Receipt for Merchandise

Insured Mail

C.O.D.

4. Restricted Delivery? (Extra Fee)

Yes

Andrew Lake

From: Jerry Radman <jradman@carusohomes.com>
Sent: Thursday, July 25, 2019 11:32 AM
To: Andrew Lake; Joshua Nance
Subject: RE: Olde Mill Trace Notice of Violation and Civil Penalty

CAUTION: This email originated from outside of the Wake County network. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Andrew

I confirm receipt of the NOV

-Jerry

PLEASE NOTE THAT OUR ADDRESS HAS CHANGED

Jerry Radman

Land Acquisition Manager, North Carolina
Caruso Homes
206 High House Rd #205
Cary, NC 27513
jradman@Carusohomes.com
Cell (919) 880-2829

From: Andrew Lake [mailto:Andrew.Lake@wakegov.com]
Sent: Thursday, July 25, 2019 9:24 AM
To: Jerry Radman <jradman@carusohomes.com>; Joshua Nance <jonance@carusohomes.com>
Subject: Olde Mill Trace Notice of Violation and Civil Penalty

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Sincerely,

Andrew Lake

Environmental Consultant
Wake County Government

Environmental Services / Water Quality

919.594.0895 mobile | 919.856.7407 fax

336 Fayetteville St. / P.O. Box 550, Raleigh, NC 27602

wakegov.com

Wake County Environmental Services would like your feedback.

In order to participate please [CLICK HERE!](#)

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CONFIDENTIALITY NOTICE: This e-mail contains privileged and/or confidential information which is intended only for the use of the Addressee named above. If you are not the intended recipient, or the employee or agent responsible for delivering it to the intended recipient, you are hereby notified that any dissemination or copying of this e-mail, or the taking of any action in reliance on the contents of this information, may be strictly prohibited. If you have received this e-mail in error, please notify us immediately and delete the material. Thank you.



Wake County Sediment and Erosion Control Section, Water Quality Division
336 Fayetteville Street - PO Box 550 - Raleigh, NC 27602
Phone: 919-856-7400; Fax: 919-856-2747

July 22, 2019

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Jeffrey Caruso
Caruso Land, LLC
2120 Baldwin Ave. #200
Crofton, MD 21114
Attn: Jerry Radman

Re: Notice of Violation and Civil Penalty Assessment

Project Name and Land Disturbance Permit #: Buffalo-Lake Wheeler Subdivision (aka Olde Mill Trace) S005180

Dear Jerry Radman:

On 7/12/19, a duly authorized representative of the Water Quality Division of the Wake County Department of Environmental Services inspected the subject project/property and determined that there are violations of the Wake County Unified Development Ordinance (UDO) Article 10 and the Sedimentation Pollution Control Act of 1973, N.C. General Statute 113A-50 et seq. See the attached report.

VIOLATIONS:

The following actions are violations of **Article 10** of the Wake County Unified Development Ordinance (UDO) and subject to the related enforcement and penalty provisions:

1. Failure to have an approved plan:

- **10-40-1** to engage in land-disturbing activity without filing an erosion and sedimentation control plan in accordance with the regulations of this article.

Findings: Lots have been cleared and houses built without a land disturbance permit.

2. Failure to protect against off-site sedimentation:

- **10-40-3** to fail to protect against off-site sedimentation damage when conducting any land-disturbing activity.

Findings: Sediment loss into a riparian buffer and an unclassified intermittent stream that feeds Swift Creek. Sediment in buffer is in two areas. One area is 1/4" - 4" deep

that leads to and into stream. The other area is 1/4"-1" deep that leads up to the stream. Sediment in the stream is 2"-6" deep, 4'x20'.

3. Failure to maintain erosion control measures:

- **10-23-1** During the development of a site, the person conducting the land-disturbing activity must install, routinely inspect and maintain in good working order all temporary and permanent erosion and sedimentation control measures as required by the approved plan or any provision of this article, the North Carolina Sedimentation Pollution Control Act, or any order adopted pursuant to the erosion and sedimentation control regulations of this article or the North Carolina Sedimentation Pollution Control Act.

Findings: Silt fence needs repair in several areas. Silt fence outlets need repair.

Please be advised that any person who commits a violation is subject to a maximum civil penalty of up to \$5,000 per violation per day. A civil penalty may be assessed from the date of the violation. Each day of a continuing violation constitutes a separate violation, **10-42-1**.

The County may require a person who engaged in a land-disturbing activity and failed to retain sediment generated by the activity, as required by this article and **G.S. 113A-57 (3)**, to restore the affected waters and land to minimize the detrimental effects of the resulting pollution by sedimentation. This authority is in addition to any other civil or criminal penalty or injunctive relief authorized under this ordinance, **Article 10-48**. All stream or buffer restoration efforts in the Neuse Basin should be coordinated with NC Department of Environmental Quality - Division of Water Resources.

Civil Penalty Assessment

Due to the nature and severity of the violation(s), there is a one-time, first day civil penalty assessed in the amount of \$5000. This total is based on the criteria listed under **10-42-2** Civil Penalty Assessment Factors in the UDO. Failure to bring the project into compliance within the time specified is subject to additional civil and criminal penalties for continuing a violation under the UDO **Article 10-41-2**. Please be advised that any further land-disturbance or construction activity should not take place until you are compliant with these Articles.

READ CAREFULLY:

To bring the project back into compliance, the following must be accomplished within (see below) days of your receipt of this notification:

- 1) **7 days: Remove sediment by hand in riparian buffer and stream along Miller Rd. immediately. Stabilize area in riparian buffer and apply a native riparian buffer seed mix and anchor. Repair silt fence and outlets. Slope on Miller Rd. needs to have erosion repaired and be stabilized and tacked down or an erosion control matting applied.**
- 2) **7 days: Behind lots 88-90: repair silt fence immediately. Stabilize area behind lots and install inlet protection at two-yard inlets.**
- 3) **7 days: Refresh stone at silt fence outlet left of lot 90.**
- 4) **7 days: Lot 16 needs 57 stone at silt fence outlet.**
- 5) **7 days: Provide self-inspection reports for the months of June/July.**
- 6) **30 days: Apply for a land disturbance permit for the lots or submit a revised site plan including the lots and lot detail.**
- 7) **The off-site sedimentation to the stream should be self-reported to NCDEQ – Division of Water Resources and the Division of Energy, Mineral and Land Resources at (919) 791-4200.**

To comply with the Civil Penalty requirements, you must do one of the following:

- 1) Pay the civil penalty assessment within thirty (30) days from the date of receipt of this letter; or
- 2) File a written petition to Wake County Department of Environmental Services to request a hearing to appeal the civil penalty within thirty (30) days from the date of receipt of this letter. The “Appeal of Civil Penalties – Erosion and Sedimentation Control” guidance document is attached.
- 3) Alternatively, if you choose to stipulate to the facts on which this assessment was based, but wish to request remission of the civil penalty, then within sixty (60) days from the date of receipt of this letter you must file a written request for a remission of the civil penalty from the North Carolina Sedimentation Control Commission.

If the payment is not received or equitable settlement reached within 30 days from the date of receipt of this letter, the matter must be referred to the County Attorney for institution of a civil action in the name of the County, in the appropriate division of the General Court of Justice in Wake County for recovery of the penalty, **Article 10-42-5(B)**.

Below are the instructions for procedures related to payment of civil penalties, appeal of civil penalties and remission of civil penalties.

A. PAYMENT OF CIVIL PENALTY

To pay the penalty, send a check or money order made payable to Wake County to Wake County Department of Environmental Services, P.O. Box 550, Raleigh, NC 27602-0550. Payment of this penalty will not foreclose further enforcement action against you for any new violation. If the violations which resulted in this penalty assessment are continuing in nature, Wake County reserves the right to assess additional civil penalties in the future or take other enforcement action against you.

B. CIVIL PENALTY APPEAL

If you file an appeal, it must be in writing and submitted to Michael Orbon, P.E, Water Quality Director of the Wake County Department of Environmental Services, P.O. Box 550, Raleigh, NC 27602-0550. The applicant bears the burden of presenting factual evidence that the appeal meets one or more of the following tests:

- The penalty was issued in error to a person not responsible for the violation (see definition of Person Responsible for Violation **Section 10-12** Definitions of the UDO)
- Violation resulted from extenuating or mitigating circumstances beyond the control of responsible person (e.g. natural disaster)
- Penalty amount is inconsistent with Wake County's policy and the Civil Penalty Assessment Factors outlined in **Section 10-42-2** of the Unified Development Ordinance
- Other extenuating or mitigating circumstances (Specify)

C. CIVIL PENALTY REMISSION

A request for remission is limited to consideration of the six factors listed below and is not the proper procedure for contesting the accuracy of any of the statements contained in the assessment document.

Because a remission request forecloses the option of an administrative hearing, such a request will not proceed without a waiver of your right to an administrative hearing and a stipulation that there are no factual or legal issues in dispute.

You must execute and return to this office the attached "Waiver of Right to an Administrative Hearing and Stipulation of Facts" and the attached "Justification of Remission Request" which should provide additional information on the following factors which shall be considered in determining whether a civil penalty remission request will be approved:

- 1) Whether one or more of the civil penalty assessment factors in **Section 10-42-2** of the UDO were wrongly applied to the detriment of the petitioner.
- 2) Whether the petitioner promptly abated continuing environmental damage resulting from the violation.
- 3) Whether the violation was inadvertent or a result of an accident.

- 4) Whether the petitioner had been assessed civil penalties for any previous violations.
- 5) Whether the payment of the civil penalty will prevent payment for necessary remedial actions or would otherwise create a significant financial hardship.
- 6) The assessed property tax valuation of the petitioner's property upon which the violation occurred, excluding the value of any structures located on the property.

You have the burden of providing information concerning the financial impact of a civil penalty and the burden of showing any financial hardship.

If you file a request for remission of the civil penalties, you must submit the required information within 60 days of receipt of this notice to Julie Coco, P.E., CPESC, State Sediment Engineer for the North Carolina Department of Environmental Quality – Division of Energy, Mineral, and Land Resources.

Submit this information to the attention of:

If sending by First Class Mail via
The US Postal Service:

Julie Coco, P.E., State Sediment Engineer
DEMLR
1612 Mail Service Center
Raleigh, NC 27699-1612

If sending via delivery service
(e.g. UPS, FedEx):

Julie Coco, P.E., State Sediment Engineer
DEMLR
512 N. Salisbury Street
Raleigh, NC 27604

Your prompt attention and cooperation in this matter is appreciated. Reference all attached documents for additional information. If you have any questions, contact me at 919-594-0895.

Sincerely,



Andrew Lake

cc:

Joseph Threadcraft, Ph.D., P. E., Director, Wake County Department of Environmental Services

Michael Orbon, P. E., Director, Water Quality Division

Melinda Clark, AICP, CFM, Watershed Manager, Water Quality Division

Betsy Pearce, CFM, CPSWQ, Program Lead, Water Quality Division

Julie Coco, P.E., CPESC, State Sediment Engineer, NCDEQ – Division of Energy, Mineral, and Land Resources

Bill Denton, P.E., Regional Engineer, NCDEQ – Division of Energy, Mineral, and Land Resources

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Danny Smith, Water Quality Supervisor, NCDEQ – Division of Water Resources

Attachments:

Wake County Inspection Report

“Resources for Technical Assistance – Erosion and Sedimentation Control”

“Appeal of Civil Penalties – Erosion and Sedimentation Control” – Wake County

”Justification of Remission Request” - North Carolina Department of Environmental Quality

“Waiver of Right to an Administrative Hearing and Stipulation of Facts” – North Carolina Department of Environmental Quality

Updated 3/8/18