



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

December 10, 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: Larry Ward
Case No. VIO-000700-2019
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: No plan has been submitted or approved.
 - ii) Inspection dates: 10/31/2019, 11/25/2019, 7/8/2020, & 12/8/2020
 - iii) Violations found:
 - A) Failure to have an approved plan
 - B) Failure to protect against off-site sedimentation
 - C) Failure to have a Land Disturbance Permit
 - D) Failure to maintain erosion control measures
 - E) Failure to provide adequate ground cover
 - iv) NOV date, and when NOV delivered per proof of service
 - A) NOV date: 11/5/2019
 - B) NOV delivered via email on 11/7/2019, sent via Certified Mail & First Class mail on 11/13/2019 (certified letter returned to sender – USPS tracking # 70153010000204946271)
 - v) Violator response to NOV- Field items listed in NOV were corrected by their due dates, an Erosion Control Plan and Land Disturbance Permit were not obtained.
 - A) 10/31/2019- Inspection of site and violations observed.
 - B) 11/6/2019- Met with owner's contractor (Mike Jones with Duke Lazzara) on site to discuss issues.

- C) 11/6/2019- Received photos from contractor of seed and straw applied to disturbed areas.
 - D) 11/25/2019- Inspection of site. Seed and straw observed applied to disturbed areas.
 - E) 7/8/2020 – Inspection of site. Grass planted in fall died. Some erosion occurring on site. Extension granted to stabilize site.
 - F) 12/8/2020 – Inspection of site. Most of site stabilized except for a few small areas near stream.
- vi) CPA date- 11/5/2019, delivered with NOV via email on 11/7/2019, sent via Certified Mail & First Class mail on 11/13/2019 (certified letter returned to sender)
- 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 have a Land Disturbance Permit
 - (4) Failure to maintain erosion control measures
 - (5) Failure to provide adequate ground cover
 - b) Remission request timeline details and proof of service
 - i) 12/31/2019- Remission request, “Justification for Remission Request”, and “Waiver of Right to an Administrative Hearing and Stipulation of Facts” received by DEMLR
 - ii) 4/8/2020- Received new remission request guidance from Julie Coco (DEMLR).
 - iii) 7/14/2020- Initial recommendation letter sent via certified mail (certified letter returned to sender USPS tracking # 70191120000038613354)
 - iv) 11/10/2020- Initial recommendation letter received by violator. It was resent to a family member’s address (USPS tracking # 70191120000169638578).
 - v) 11/24/20- Received “Request for oral presentation”
 - c) The violator has requested an oral presentation.
 - d) Violator past CPA- none

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

Ashley Rodgers, P.E., CFM, Watershed Manager, Water Quality Division
Jeevan Neupane, P.E., Environmental Consultant, Wake County, Water Quality Division

Attachments:

"Inspection Report 10-31-19"

"Inspection Report 11-25-19"

"Inspection Report 7-8-20"

"Inspection Report 12-8-20"

"Pictures taken and considered in assessment of the penalty"

"Notice of Violation and Civil Penalty Assessment"

"Remission request"

"Remission Decision Letter" – Local government's recommendation letter

"Request for oral presentation form"



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: Larry Ward 919-917-3985

FRP CONTACT EMAIL: larryward4him@gmail.com

CONTRACTOR CONTACT: Mike Jones 919-780-9916

CONTRACTOR EMAIL:

PROJECT NAME: 2605 Brookwood Dr. Raleigh, NC

PERMIT NUMBER:

PERMIT ISSUE DATE: N/A

PERMIT EXPIRATION DATE:

INSPECTION DETAILS

INSPECTION DATE: July 8, 2020

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

INSPECTION STATUS: In Violation, NOV issued

PREVIOUS INSPECTION STATUS: In Violation, see previous NOV

VIOLATIONS \ NONCOMPLIANCE:

Check all that apply

- X 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)
X 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)
X 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:

Stabilize disturbed areas. The grass that established in November 2019 has died.
Civil penalty and a Land Disturbance permit application have not been received.

- 1. Stabilize disturbed areas where vegetation has died.
2. Stabilize disturbed areas where vegetation has died.
3. Repair erosion around pond and stabilize.
4. Repair erosion around rip rap. Ensure lowest point is in the middle of the rip rap.

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: Monday, July 27, 2020

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



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FRP CONTACT: Larry Ward 919-917-3985
CONTRACTOR CONTACT: Mike Jones 919-780-9916
PROJECT NAME: 2605 Brookwood Dr. Raleigh, NC
PERMIT ISSUE DATE: N/A

FRP CONTACT EMAIL: larryward4him@gmail.com
CONTRACTOR EMAIL: _____
PERMIT NUMBER: _____
PERMIT EXPIRATION DATE: _____

INSPECTION DETAILS

INSPECTION DATE: 7/8/2020
INSPECTION STATUS: In Violation, NOV issued

WEATHER, SITE CONDITIONS, ETC. 80s, workable soil
PREVIOUS INSPECTION STATUS: In Violation, see previous NOV



1. Stabilize disturbed areas where vegetation has died.



2. Stabilize disturbed areas where vegetation has died.



3. Repair erosion around pond and stabilize.



4. Repair erosion around rip rap. Ensure lowest point is in the middle of the rip rap.



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FRP CONTACT: Larry Ward 919-917-3985

FRP CONTACT EMAIL:

CONTRACTOR CONTACT: Mike Jones 919-780-9916

CONTRACTOR EMAIL:

PROJECT NAME: 2605 Brookwood Dr. Raleigh, NC

PERMIT NUMBER:

PERMIT ISSUE DATE: N/A

PERMIT EXPIRATION DATE:

INSPECTION DETAILS

INSPECTION DATE: October 31, 2019

WEATHER, SITE CONDITIONS, ETC. 60s, wet, workable soil

INSPECTION STATUS: In Violation, NOV issued

PREVIOUS INSPECTION STATUS:

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)
X 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)
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:

A land disturbance activity greater than one acre has occurred without a Land Disturbance permit. An unclassified intermittent stream has been damaged on the property. This is an unnamed tributary to Swift Creek.

Items to be corrected

Deadline: 11/12/19

- 1. Stabilize all disturbed areas and take all necessary actions to prevent future sediment loss.
2. Remove sediment from street and prevent any future sediment loss.
3. 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.

Deadline: 12/5/19

- 1. Submit an erosion and sediment control plan and obtain a Land Disturbance permit.

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: see observations

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



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Phone: 919-856-7400; Fax: 919-856-2747

FRP CONTACT: Larry Ward 919-917-3985
CONTRACTOR CONTACT: Mike Jones 919-780-9916
PROJECT NAME: 2605 Brookwood Dr. Raleigh, NC
PERMIT ISSUE DATE: N/A

FRP CONTACT EMAIL: _____
CONTRACTOR EMAIL: _____
PERMIT NUMBER: _____
PERMIT EXPIRATION DATE: _____

INSPECTION DETAILS

INSPECTION DATE: 10/31/2019
INSPECTION STATUS: In Violation, NOV issued

WEATHER, SITE CONDITIONS, ETC. 60s, wet, workable soil
PREVIOUS INSPECTION STATUS: _____



1. Disturbed area



2. Disturbed area



3. Impacted pond.



4. Damage to unclassified stream on site.



5. Damage to unclassified stream on site.



6. Damage to unclassified stream on site.

Environmental Consultant: [Andrew Lake 919-594-0895 Andrew.Lake@wakegov.com](mailto:Andrew.Lake@wakegov.com)



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FRP CONTACT:	<u>Larry Ward 919-917-3985</u>	FRP CONTACT EMAIL:	_____
CONTRACTOR CONTACT:	<u>Mike Jones 919-780-9916</u>	CONTRACTOR EMAIL:	_____
PROJECT NAME:	<u>2605 Brookwood Dr. Raleigh, NC</u>	PERMIT NUMBER:	_____
PERMIT ISSUE DATE:	<u>N/A</u>	PERMIT EXPIRATION DATE:	_____

INSPECTION DETAILS

INSPECTION DATE:	<u>10/31/2019</u>	WEATHER, SITE CONDITIONS, ETC.	<u>60s, wet, workable soil</u>
INSPECTION STATUS:	<u>In Violation, NOV issued</u>	PREVIOUS INSPECTION STATUS:	_____



7. Mud tracked onto road



11. Total area disturbed was measured to be approximately 2.2 acres.

Environmental Consultant: [Andrew Lake 919-594-0895 Andrew.Lake@wakegov.com](mailto:Andrew.Lake@wakegov.com)



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Phone: 919-856-7400; Fax: 919-856-2747

FRP CONTACT: Larry Ward 919-917-3985

FRP CONTACT EMAIL:

CONTRACTOR CONTACT: Mike Jones 919-780-9916

CONTRACTOR EMAIL:

PROJECT NAME: 2605 Brookwood Dr. Raleigh, NC

PERMIT NUMBER:

PERMIT ISSUE DATE: N/A

PERMIT EXPIRATION DATE:

INSPECTION DETAILS

INSPECTION DATE: November 25, 2019

WEATHER, SITE CONDITIONS, ETC. 60s, wet soil

INSPECTION STATUS: In Violation, NOV issued

PREVIOUS INSPECTION STATUS: In Violation, see previous NOV

VIOLATIONS \ NONCOMPLIANCE:

Check all that apply

- X 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)
X 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:

Field items from inspection report dated 10/31/19 have been corrected.

Deadline: 12/5/19

1. Submit an erosion and sediment control plan and obtain a Land Disturbance permit.

Civil penalty fee is still due.

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, December 5, 2019

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



WAKE COUNTY SEDIMENT AND EROSION CONTROL INSPECTION REPORT

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336 Fayetteville Street - PO Box 550 - Raleigh, NC 27602
Phone: 919-856-7400; Fax: 919-856-2747

FRP CONTACT: Larry Ward 919-917-3985

FRP CONTACT EMAIL: larryward4him@gmail.com

CONTRACTOR CONTACT: Mike Jones 919-780-9916

CONTRACTOR EMAIL:

PROJECT NAME: 2605 Brookwood Dr. Raleigh, NC

PERMIT NUMBER:

PERMIT ISSUE DATE: N/A

PERMIT EXPIRATION DATE:

INSPECTION DETAILS

INSPECTION DATE: December 8, 2020

WEATHER, SITE CONDITIONS, ETC. 40s, wet, workable soil

INSPECTION STATUS: In Violation, NOV issued

PREVIOUS INSPECTION STATUS: In Violation, see previous NOV

VIOLATIONS \ NONCOMPLIANCE:

Check all that apply

- X 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)
X 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)
X 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:

Site has been stabilized except a few areas along the stream. Follow NC Department of Water Quality's guidance on repairing the riparian buffer.
Remission request recieved for civil penalty and is ongoing.
Land Disturbance permit application and Erosion Control Plan have not been received. Even if work is completed, a plan and permit are still required.

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: Friday, January 10, 2020

ENVIRONMENTAL 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: Larry Ward 919-917-3985
CONTRACTOR CONTACT: Mike Jones 919-780-9916
PROJECT NAME: 2605 Brookwood Dr. Raleigh, NC
PERMIT ISSUE DATE: N/A

FRP CONTACT EMAIL: larryward4him@gmail.com
CONTRACTOR EMAIL: _____
PERMIT NUMBER: _____
PERMIT EXPIRATION DATE: _____

INSPECTION DETAILS

INSPECTION DATE: 12/8/2020
INSPECTION STATUS: In Violation, NOV issued

WEATHER, SITE CONDITIONS, ETC. 40s, wet, workable soil
PREVIOUS INSPECTION STATUS: In Violation, see previous NOV



1. Most of disturbed areas stabilized.



2. Small area near stream needs better ground cover.



3. Small area near stream needs better ground cover.



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

December 10, 2020

Pictures taken and considered in assessment of the penalty

Violator: Larry Ward

Case No. VIO-000700-2019

Wake County

All pictures taken on October 31, 2019.















2016 Photograph from Google Street View showing the pond and vegetation on site.



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

November 5, 2019

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
FIRST CLASS MAIL

Larry Ward
2508 Brookwood Dr.
Raleigh, NC 27603-5204
Attn: Larry Ward

DELIVERED BY HAND TO FINANCIALLY RESPONSIBLE PARTY

Larry Ward
2508 Brookwood Dr.
Raleigh, NC 27603-5204

Signature of FRP: _____

Re: Notice of Violation and Civil Penalty Assessment

Property Address/PIN: 2605 Brookwood Dr. Raleigh, NC/ PIN: 0790521456 & 0790523378

Dear Larry Ward:

On 10/31/19, 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: An area of approximately 2.2 acres was disturbed without an erosion and sediment control plan.

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.
- **10-40-4** to leave dirt, mud or other material on any travel way in a manner that is determined to be a hazard to public safety or deemed detrimental to the waters of the State.

Findings: Sediment loss occurred into an unclassified intermittent stream. Mud was tracked onto the street.

3. Failure to have a Land Disturbance (Grading) Permit:

- **10-20-5(A)(1)** Whenever land disturbing activities disturb more than one acre on a tract, an erosion and sedimentation control permit is required. The person conducting the land disturbing activity must install erosion and sedimentation control devices and practices that are sufficient to retain the sediment generated by the land disturbing activity within the boundaries of the tract during the development of said tract;

Findings: An area of approximately 2.2 acres was disturbed without a Land Disturbance Permit.

4. 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.
- **10-23-4** All streets, sidewalks, greenways or other travel ways must be kept free from mud, dirt, dust or other material that may create a hazard to public safety or cause the travel way to be unreasonably muddy, as determined by the County.

Findings: No sediment or erosion control measures have been installed. Mud has been tracked onto the street.

5. Failure to provide adequate ground cover:

- **10-20-5(B)(5)** All uncovered areas that result from land disturbing activities, and are subject to continued and accelerated erosion, and are causing the movement of sediment offsite from the tract, must be provided with a ground cover or other protective measures, structures or devices sufficient to restrain accelerated erosion and control off-site sedimentation.
- **NCG01** NPDES Stormwater Discharge Permit for Construction Activities

Findings: The disturbed area on site has not been stabilized. An NCG01 permit has not been obtained.

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) **Deadline – 7 days: Stabilize all disturbed areas and take all necessary actions to prevent future sediment loss.**
- 2) **Deadline – 7 days: Remove sediment from street and prevent any future sediment loss.**

- 3) **Deadline – 7 days: The off-site sedimentation to the stream and pond should be self-reported to NCDEQ – Division of Water Resources and the Division of Energy, Mineral and Land Resources at (919) 791-4200.**
- 4) **Deadline – 30 days: Submit an erosion and sediment control plan and obtain a Land Disturbance permit.**

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

Please also be aware that because you have never previously been assessed a civil penalty for violations of Article 10 of the Wake County Unified Development Ordinance or the Sedimentation Pollution Control Act, should you abate continuing environmental damage resulting from these violations within 180 days of the date of the Notice of Violations (no later than 5/3/2020), then the maximum cumulative civil penalty assessed against you for these violations cannot exceed \$25,000.00.

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

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

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

Rick Bolich, Water Quality Supervisor, DWR – Division of Water Resources

Attachments:

Page 7 of 7

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

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

December 16, 2019

Re: 2508 Brookwood Dr.

Ms. Coco,

Please accept this letter as my appeal request for the civil penalty assessed against me.

The intent of the work done was beneficial to the area. The existing area in question was dangerously eroded and uneven from the storm activity over the past couple of years. It was my intent to provide a stable and safe area with the minimal fill materials and grading. Immediately upon learning of the violation, we set an onsite meeting with Mr. Andrew Lake, (11/06/19) and at his direction, immediately made the repairs requested by him. Upon completion, we scheduled another site inspection with Mr. Lake, (11/25/19) at which time he stated all requested repairs had been completed.

We would like to continue with some repairs and will be glad to obtain the required permits.

Thank you for your time and understanding.

Regards,


Larry Ward

JUSTIFICATION FOR REMISSION REQUEST

Project or Property Identification: 0790521456 & 0790523378

County: Wake

Assessed Party: Larry Ward

Project No. (If applicable): N/A

Amount Assessed: \$5,000

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); *Met with Mr LAIRD on site
Rep. from Duke LASARRA*
- (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):

STATE OF NORTH CAROLINA

SEDIMENTATION
POLLUTION
CONTROL COMMISSION

COUNTY OF WAKE

IN THE MATTER OF ASSESSMENT)
OF CIVIL PENALTIES AGAINST)
LARRY WARD)

WAIVER OF RIGHT TO AN
ADMINISTRATIVE HEARING
AND STIPULATION OF FACTS

Property Identification PIN: 0790521456 & 0790523378

Having been assessed civil penalties totaling \$5,000 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 11/5/2019, 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 26 day of December, 2019.

Larry D. Ward
NAME (printed)

Larry D. Ward
SIGNATURE

ADDRESS

2508 Brookwood Dr,
Raleigh NC 27603

TELEPHONE

919 917 3985



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

November 4, 2020

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Larry Ward
2300 Parkway Dr.
Raleigh, NC 27603

RE: Request for Remission of Civil Penalty
Larry Ward
Case No. VIO-000700-2019
Wake County

Dear Mr. Ward:

The Division of Energy, Mineral and Land Resources (DEMLR) has received your request for remission of the civil penalty in a letter dated 12/16/2019 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 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”

STATE OF NORTH CAROLINA

SEDIMENTATION CONTROL COMMISSION

COUNTY OF WAKE

Case Number VIO-000700-2019

IN THE MATTER OF ASSESSMENT)
OF CIVIL PENALTIES AGAINST:)
LARRY WARD)

REQUEST FOR ORAL PRESENTATION

I hereby request to make an oral presentation before the Sedimentation Control Commission in the matter of the case noted above. In making this request, I assert that I understand all of the following statements:

- This request will be reviewed by the Chairman of the Sedimentation Control Commission and may be either granted or denied.
- Making a presentation will require the presence of myself and/or my representative during a Commission meeting held in Raleigh, North Carolina.
- My presentation will be limited to discussion of issues and information submitted in my original remission request, and because no factual issues are in dispute, my presentation will be limited by the Chairman of the Sedimentation Control Commission.

The North Carolina State Bar's Authorized Practice of Law Commission has ruled that the appearance in a representative capacity at quasi-judicial hearings or proceedings is limited to lawyers who are active members of the bar. Proceedings before the Commission on Remissions are quasi-judicial. You should consider how you intend to present your case to the Commission in light of the State Bar's opinion and whether anyone will be speaking in a representative capacity for you or a business or governmental entity. If you or your representative would like to speak before the Commission, you must complete and return this form within thirty (30) days of receipt of this letter.

Depending on your status as an individual, corporation, partnership or municipality, the State Bar's Opinion affects how you may proceed with your oral presentation. See www.ncbar.com/ethics, Authorized Practice Advisory Opinion 2006-1 and 2007 Formal Ethics Opinion 3.

- If you are an individual or business owner and request an opportunity to make an oral presentation before the Commission, then legal representation before the Commission is not required; however, if you intend on having another individual speak on your behalf regarding the factual situations, such as an expert, engineer or consultant, then you must also be present at the meeting in order to avoid violating the State Bar's Opinion on the unauthorized practice of law.
- If the assessed party is a corporation, partnership or municipality and has requested an opportunity to make an oral presentation before the Commission, then your representative must consider the recent State Bar's Opinion and could be considered practicing law without a license if he or she is not a licensed attorney. Presentation of facts by non-lawyers is permissible.

If you choose to request an oral presentation, please make sure that signatures on the previously submitted Remission Request forms and this Oral Presentation Request form are: 1) for individuals and business owners, your own signature and 2) for corporations, partnerships and municipalities, signed by individuals who would not violate the State Bar's Opinion on the unauthorized practice of law.

Also, be advised that the Commission may choose not to proceed with hearing your case if the Commission is informed that a violation of the State Bar occurs.

This the 11th day of NOVEMBER, 2020

SIGNATURE Larry D. Ward
 TITLE (President, Owner, etc.) Owner
 ADDRESS 2508 Brookwood Drive
RALEIGH, N.C. 27603
 TELEPHONE (919) 917-3985