

ROY COOPER

Governor

ELIZABETH S. BISER

Secretary

DOUGLAS R. ANSEL

Interim Director



NORTH CAROLINA
Environmental Quality

December 19, 2022

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

7008 1300 0000 1124 3910

Wayfarers Cove Marina and Beach, LLC

Attn: Mr. Carlos Melo

1107 Bennett Road

Arapahoe, NC 28510

RE: Request for Remission of Civil Penalty
WAYFARERS COVE MARINA AND BEACH, LLC
Case No. LQS-2022-001
PAMLICO County

Dear Mr. Melo:

The Division of Energy, Mineral and Land Resources (DEMLR) has received your request for remission of the civil penalty in a letter dated November 14, 2022 with accompanying support information. In accordance with the delegation provided by the Sedimentation Control Commission, I, Julie Coco, State Sedimentation Specialist of the Division of Energy, Mineral & Land Resources, have considered the information you submitted in support of your request for remission and hereby remit \$6,000.00 of the \$25,000.00 civil penalty assessment. **The revised civil penalty is therefore a total amount of \$19,000.00.**

There are three options available to you:

1) You may pay the penalty.



North Carolina Department of Environmental Quality | Division of Energy, Mineral and Land Resources
Raleigh Regional Office | 1628 Mail Service Center | 3800 Barrett Drive | Raleigh, North Carolina 27609
919.791.4200

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

If sending via US Postal Service

Julie Coco, State Sediment Specialist
DEMLR
1612 Mail Service Center
Raleigh, NC 27699-1612

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

Julie Coco, State Sediment Specialist
DEMLR
512 N. Salisbury Street, Suite 504
Raleigh, NC 27604

You may request a payment schedule. Your request should be sent to Carolyn McLain, Assistant Attorney General, North Carolina Department of Justice, Environmental Division who may be reached by telephone at (919) 716-6600.

OR

- 2) Pursuant to N. C. General Statute 150B-22, informal settlement negotiations may be initiated at any time. To negotiate a settlement of this assessment, please contact Carolyn McLain, Assistant Attorney General, North Carolina Department of Justice, Environmental Division who may be reached by telephone at (919) 716-6600.

OR

- 3) If payment is not received, formally scheduled, 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 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 DEQ 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) 707-9220.

Sincerely,



Julie Coco, PE
State Sedimentation Specialist
DEMLR

cc: Samir Dumpor, Regional Engineer – DEMLR Washington Regional Office
William (Toby) Vinson, Jr., Chief of Program Operations, DEMLR
Doug Ansel, Interim Director, DEMLR
Carolyn McLain, Assistant Attorney General, NCDOJ
DEMLR, Sediment Program - Enforcement File Copy



STATE OF NORTH CAROLINA

SEDIMENTATION CONTROL COMMISSION

COUNTY OF PAMLICO

Case Number LQS-2022-001

IN THE MATTER OF ASSESSMENT)
OF CIVIL PENALTIES AGAINST:)
WAYFARERS COVE MARINA AND BEACH,)
LLC)

REQUEST FOR ORAL PRESENTATION

I hereby request to make an oral presentation before the Sedimentation Control Commission’s Civil Penalty Remissions Committee 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 Committee 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 Civil Penalty Remissions Committee to five (5) minutes in length.

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 Committee on Remissions are quasi-judicial. You should consider how you intend to present your case to the Committee 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 Committee, 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 Committee, then legal representation before the Committee 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 Committee, 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 Committee may choose not to proceed with hearing your case if the Committee is informed that a violation of the State Bar occurs.

This the _____ day of _____, 20_____ SIGNATURE _____

TITLE (President, Owner, etc.) _____

ADDRESS _____

TELEPHONE (_____) _____ - _____