

REQUEST FOR REMISSION OF CIVIL PENALTY ASSESSMENT

DWR Case Number: LV-2015-0033 Region: Asheville County: Haywood

Assessed Entity: LSAA, Inc. dba Sam's Mart – Sam's Mart #45 WWTP

CASE BACKGROUND AND ASSESSMENT

- February 5, 2015 LSAA, Inc. dba Sam's Mart was sent a Notice of Violation and Recommendation for Enforcement regarding effluent limit violations of NPDES permit NC0044199 that occurred during September 2014.
- March 2, 2015 LSAA, Inc. dba Sam's Mart was assessed a civil penalty of \$259.26 (\$100.00 civil penalty plus \$159.26 investigative costs):
 - \$100.00 for one violation of the permitted daily maximum effluent limitation for TSS in September 2014.
- March 6, 2015 Green card indicated delivery of the assessment document.

REMISSION REQUEST

- March 30, 2015 Remission request signed by Robert M. Rose, Jr. on behalf of LSAA, Inc. dba Sam's Mart.
- April 1, 2015 DWR received the request for remission from LSAA, Inc. dba Sam's Mart. The request included a "Justification for Remission Request" and a "Waiver of Right to an Administrative Hearing and Stipulation of Facts."
- June 2, 2015 John E. Hennessy, Supervisor of the Water Quality Permitting Section's Expedited Permitting Unit considered the information contained in the remission request and found no grounds to modify the civil penalty assessment.
- June 5, 2015 Green card indicated delivery of the remission decision document.

ENFORCEMENT HISTORY

- LSAA, Inc. dba Sam's Mart has not been assessed any civil penalties during the five years prior to the assessment of this penalty.

REQUEST FOR ORAL PRESENTATION

- No request has been made for an oral presentation before the Environmental Management Commission's Committee on Civil Penalty Remissions.

DWR RECOMMENDATION

- The Division of Water Resources opposes any remission or mitigation of the penalty.

NPDES PERMIT NO.	NC0044199	DISCHARGE NO.	001	MONTH	SEPT.	YEAR	2014
FACILITY NAME	SAM'S MART #45	CLASS	II	COUNTY	HAYWOOD		
CERTIFIED LABORATORY (1)	JAMES & JAMES ENVIRONMENTAL MGT., INC.			CERTIFICATION NO.		482	
(list additional laboratories on the backside/page 2 of this form)							
OPERATOR IN RESPONSIBLE CHARGE (ORC)	KENNETH JASON RUMMEL		GRADE	II	CERTIFICATION NO.		994182
PERSON(S) COLLECTING SAMPLES	KENNETH JASON RUMMEL		ORC PHONE		828-697-0063		

CHECK BOX IF ORC HAS CHANGED

NO FLOW / DISCHARGE FROM SITE *

Mail ORIGINAL and ONE COPY to:

**ATTN: CENTRAL FILES
DIVISION OF WATER QUALITY
1617 MAIL SERVICE CENTER
RALEIGH, NC 27699-1617**

Kenneth Brown
 (SIGNATURE OF OPERATOR IN RESPONSIBLE CHARGE)
 BY THIS SIGNATURE, I CERTIFY THAT THIS REPORT IS
 ACCURATE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

OCT 29 2014 01/17/2014
DATE

KNW

DATE	Operator Arrival Time 2400 Clock		Operator Time On Site		ORC On Site? **	50050	00010	00400	50060	00310	00610	00530		
	HRS	HRS	Y/B/N	MGD		TEMPERATURE CELSIUS °C	pH UNITS	UG/L	MG/L	MG/L	MG/L			
												FLOW	RESIDUAL CHLORINE	TOTAL SUSPENDED RESIDUE
												EFF <input type="checkbox"/> INF <input type="checkbox"/>	□ UV disinfection	AMMONIA NITROGEN
DAILY RATE														
1	holiday	0.00												
2	1230	0.25	Y											
3	0745	0.25	Y											
4	1035	0.25	Y	0.0005	23.2	7.4			18.7	<0.100	51.4			
5	1040	0.22	Y											
6		0.00												
7		0.00												
8	1340	0.33	Y											
9	0730	0.17	Y	0.0005	22.4	7.1			9.03 B,C		54.3			
10	1320	0.08	Y											
11	1345	0.08	Y											
12	1105	0.17	Y											
13		0.00												
14		0.00												
15	0705	0.12	Y											
16	0715	0.25	Y	0.0005	22.2	6.9			8.5	<0.1	42.2			
17	1430	0.13	Y											
18	1030	0.25	Y											
19	1745	0.12	Y											
20		0.00												
21		0.00												
22	1145	0.63	Y											
23	1430	0.08	Y											
24	0730	0.30	Y	0.0005	21.4	6.5			4.47 B,C		4.8			
25	1345	0.13	Y											
26	1100	0.25	Y								4.6			
27		0.00												
28		0.00												
29	1150	0.17	Y											
30	0740	0.25	Y	0.0005	19.6	6.6			4.03 C		10.0			
31		0.00												
AVERAGE				0.001	21.8				9.0	0.0	27.9			
MAXIMUM				0.0005	23.2	7.4			18.7	<0.1	54.3			
MINIMUM				0.0005	19.6	6.5			4.0	<0.1	4.6			
Comp. (C) / Grab (G)				G	G	G			G	G	G			
Monthly Limit				0.0150	NL	6-9			30/45	NL	30/45			

DWQ Form MR-1 (11/04)

Facility Status: (Please check one of the following)

2/4/15 > NOV-2015-NRS Facility Status: (Please check one of the following) 3/2/15 > LV-2015-0033

All monitoring data and sampling frequencies meet permit requirements
(including weekly averages, if applicable)



Compliant

All monitoring data and sampling frequencies do NOT meet permit requirements



Noncompliant

The permittee shall report to the Director or the appropriate Regional Office any noncompliance that potentially threatens public health or the environment. Any information shall be provided orally within 24 hours from the time the permittee became aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances.

If the facility is noncompliant, please attach a list of corrective actions being taken and a time-table for improvements to be made as required by Part II.E.6 of the NPDES permit.

"I certify, under penalty of law, that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who managed the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

SAMS MART #45

Permittee (Please print or type)

Signature of Permittee**
(Required unless submitted electronically)

Date

10/17/2014

935 COUNCIL PLACE, SUITE 200, MATTHEWS, NC 28105

828-697-0063

1/31/2016

Phone Number

e-mail address

Permit Expiration Date

ADDITIONAL CERTIFIED LABORATORIES

Certified Laboratory (2)

Certified Laboratory (3)

Certified Laboratory (4)

Certified Laboratory (5)

Certification No.

Certification No.

Certification No.

Certification No.

PARAMETER CODES

Parameter Code assistance may be obtained by calling the NPDES Unit at (919) 807-6300 or by visiting <http://portal.ncdenr.org/web/wq/swp/ps/npdes/appforms>.

Only units of measurement designated in the reporting facility's NPDES permit for reporting data.

No Flow/Discharge From Site: Check this box if no discharge occurs and, as a result, there are no data to be entered for all of the parameters on the DMR for the entire monitoring period.

ORC On Site?: ORC must visit facility and document visitation of facility as required per 15A NCAC 8G .0204.

* **Signature of Permittee:** If signed by other than the permittee, then the delegation of the signatory authority must be on file with the state per 15A NCAC 2B .0506(b)(2)(D).

(File Copy)



JAMES & JAMES ENVIRONMENTAL MANAGEMENT, INC
PO BOX 1354, MOUNTAIN HOME, NC 28758
(828) 697-0063 OFFICE
(828) 697-0065 FAX

September, 2014 - DMR

Client: SamsMart #45
NPDES PERMIT NUMBER: NC0044199

Dear Client,

We are pleased to notify you that your facility operated most of the month within your National Pollutant Discharge Elimination System (NPDES) permit. We did experience a result that was greater than the permit discharge limits. Your permit has both a monthly maximum and a daily maximum. Your facility exceeded the permit discharge limits on the items listed below:

TOTAL SUSPENDED SOLIDS – 51.4 mg/l on the 4TH
54.3 mg/l on the 9th
Monthly average compliant

This gave a daily maximum violation on two days and did not give a monthly violation. This facility has been running exceptionally well over the last several months. The facility had lost a large portion of the food entering the facility when the restaurant closed. The facility has been able to maintain until this point. Another restaurant is in discussion with the Health Department about opening. During this same time frame a toxic load of low pH entered the facility. This caused the bacteria to become unsettled. Alum was used to settle the facility out. This took a couple of weeks to get the system polished. We also recommended that the grease trap be pumped to remove any potential residual preventing the settling out.

You may receive a monetary fine for this month. Thank you for your understanding in this matter.

Thank you for choosing James & James as your service company.

Harry & Juanita James
Harry & Juanita James



North Carolina Department of Environment and Natural Resources

Pat McCrory
Governor

Donald R. van der Vaart
Secretary

February 5, 2015

CERTIFIED MAIL

RETURN RECEIPT REQUESTED 7014 0510 0000 4466 0097

RECEIVED/DENR/DWF

FEB 09 2015

Mr. Haytham Kasem
LSAA, Inc. dba Sam's Mart
Sam's Mart #45
7935 Council Place
Matthews, North Carolina 28105-5000

Water Quality
Permitting Section

Subject: **Notice of Violation and
Recommendation for Enforcement**
Tracking #: NOV-2015-LV-0051
Sam's Mart #45 WWTP
NPDES Permit No. NC0044199
Haywood County

Dear Mr. Kasem:

A review of the **September 2014** self-monitoring report for the subject facility revealed violations of the following parameter:

Date	Outfall	Parameter	Reported Value	Permit Limit
09/04/2014	001	TSS	51.4 mg/ l	45 mg/ l
09/09/2014	001	TSS	54.3 mg/ l	45 mg/ l

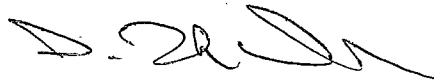
A Notice of Violation/ Notice of Recommendation for Enforcement (NOV/ NRE) is being issued for the noted violation of North Carolina General Statute (G.S.) 143-215.1 and NPDES Permit No. NC0044199. Pursuant to G.S. 143-215.6A, a civil penalty of not more than twenty-five thousand dollars (\$25,000.00) may be assessed against any person who violates or fails to act in accordance with the terms, conditions, or requirements of any permit issued pursuant to G.S. 143-215.1. If you wish to provide additional information regarding the noted violation, request technical assistance, or discuss overall compliance please respond in writing within ten (10) days after receipt of this Notice. A review of your response will be considered along with any information provided on the September 2014 Discharge Monitoring Report. You will then be notified of any civil penalties that may be assessed regarding the violations. **If no response is received in this Office within the 10-day period, a civil penalty assessment may be prepared.**

Mr. Haytham Kasem
February 5, 2015
Page Two

Remedial actions, if not already implemented, should be taken to correct any problems. The Division of Water Resources may pursue enforcement actions for this and any additional violations. If the violations are of a continuing nature, not related to operation and/or maintenance problems, and you anticipate remedial construction activities, then you may wish to consider applying for a Special Order by Consent. You may contact this office for additional information.


If you have questions concerning this matter, please do not hesitate to contact Janet Cantwell or me at 828/296-4500.

Sincerely,

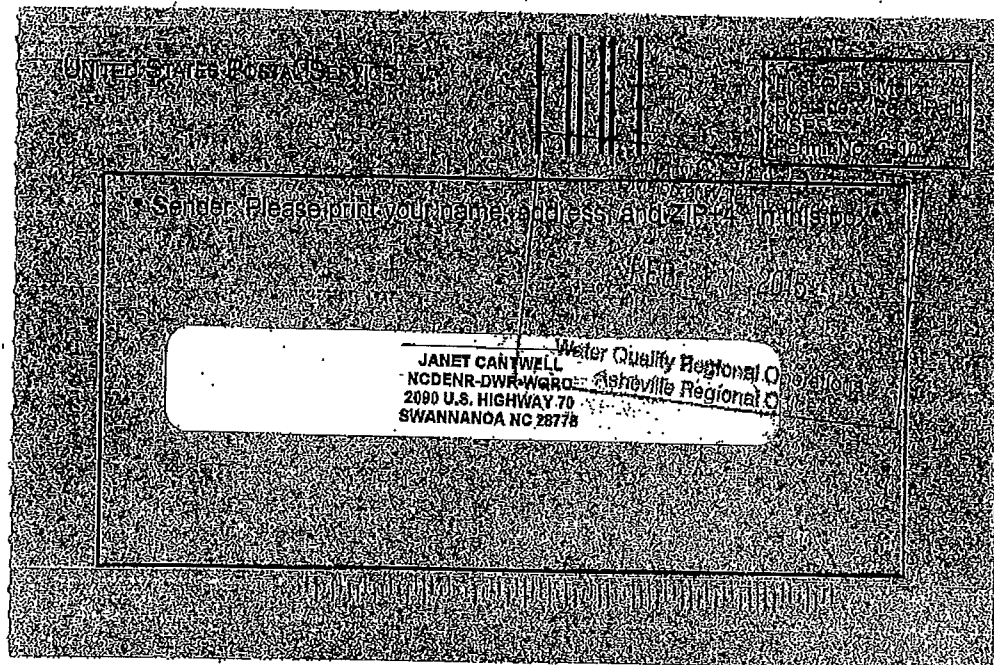


G. Landon Davidson, P.G., Regional Supervisor
Water Quality Regional Operations, NCDENR
Asheville Regional Office

cc: WQ Asheville Files
MSC 1617-Central Files-Basement
WQ Enforcement/ NPDES Point Source Branch

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p> <input type="checkbox"/> Complete items 1, 2 and 3. Also complete item 4 if Restricted Delivery is desired. <input type="checkbox"/> Print your name and address on the reverse so that we can return the card to you. <input type="checkbox"/> Attach this card to the back of the mail piece. </p>		<p> POSTAL SERVICE U.S. MAIL REGISTERED MAIL 2/6/15 </p>	
 <p> North Carolina Department of Environment and Natural Resources Division of Water Resources Water Quality Regional Operations Section 2090 U.S. Highway 70, Swannanoa, NC 28778 </p>		<p> POSTAGE WILL BE PAID BY ADDRESSEE NO POSTAGE NECESSARY IF MAILED IN THE UNITED STATES </p>	
<p> Haytham Kasem LSAA, Inc. d/b/a Sam's Mart Sam's Mart #45 7935 Council Place, Suite 200 Matthews, NC 28106-5000 </p>		<p> POSTAGE WILL BE PAID BY ADDRESSEE NO POSTAGE NECESSARY IF MAILED IN THE UNITED STATES </p>	
<p>7014 0510 0000 4466 0097</p>		<p>7014 0510 0000 4466 0097</p>	
<p>February 08, 2015</p>		<p>February 08, 2015</p>	

U.S. Postal Service TM	
CERTIFIED MAILTM RECEIPT	
(Domestic Mail Only; No Insurance Coverage Provided)	
For delivery information visit our website at www.usps.com	
OFFICIAL USE	
Postage \$	
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees \$	
<p> Haytham Kasem LSAA, Inc. d/b/a Sam's Mart Sam's Mart #45 7935 Council Place, Suite 200 Matthews, NC 28106-5000 </p>	
<p> Postmark Here 2/6/15 </p>	
<p> See Reverse for Instructions </p>	



DIVISION OF WATER RESOURCES - CIVIL PENALTY ASSESSMENT (FILE)

Violator: Sam's Mart # 45 / LSAA / NC0044199
(September 2014 DMR)

County: Haywood


Case Number: LV-2015-0033

8 ASSESSMENT FACTORS

As required by G.S. 143-214.6A(c), in determining the amount of the penalty I considered the factors set out in G.S. 143B-282.1(b), which are:

- 1) **The degree and extent of harm to the natural resources of the State, to the public health, or to private property resulting from the violation;**
All effluent violations may be detrimental to the receiving stream but may not be immediately quantified.
- 2) **The duration and gravity of the violation;**
Two Daily Max TSS's exceeded the permit limit by 14.2 % & 20.66%.
- 3) **The effect on ground or surface water quantity or quality or on air quality;**
All effluent violations may be detrimental to the receiving stream but may not be immediately quantified.
- 4) **The cost of rectifying the damage;**
The cost is unknown.
- 5) **The amount of money saved by noncompliance;**
The amount of money saved would include the cost of excess solids removal and additional aeration. It would also include more operating and maintenance time on site and the cost of additional chemical treatment.
- 6) **Whether the violation was committed willfully or intentionally;**
It does not appear to be either.
- 7) **The prior record of the violator in complying or failing to comply with programs over which the Environmental Management Commission has regulatory authority; and**
There have been no civil penalty enforcements in the twelve months prior to this violation.
- 8) **The cost to the State of the enforcement procedures.**
\$159.26.

03.02.15
Date


G. Landon Davidson, Regional Supervisor
Water Quality Regional Operations Section
Asheville Regional Office, NCDENR

03/02/2015



North Carolina Department of Environment and Natural Resources

Pat McCrory
Governor

Donald R. van der Vaart
Secretary

Certified Mail # 7014 0510 0000 4466 0295

Return Receipt Requested

March 02, 2015

RECEIVED/DENR/DWR

MAR 06 2015

Water Quality
Permitting Section

Haytham Kasem
LSAA, Inc. dba Sam's Mart
7935 Council Pl
Ste 200
Matthews, NC 28105-5000

SUBJECT: Notice of Violation and Assessment of Civil Penalty
for Violations of North Carolina General Statute (G.S.) 143-215.1(a)(6)
and NPDES Permit No. NC0044199
LSAA, Inc. dba Sam's Mart
Sam's Mart #45
Case No. LV-2015-0033
Haywood County

Dear Permittee:

This letter transmits a Notice of Violation and assessment of civil penalty in the amount of \$259.26 (\$100.00 civil penalty + \$159.26 enforcement costs) against LSAA, Inc. dba Sam's Mart.

This assessment is based upon the following facts: a review has been conducted of the discharge monitoring report (DMR) submitted by LSAA, Inc. dba Sam's Mart for the month of September 2014. This review has shown the subject facility to be in violation of the discharge limitations and/or monitoring requirements found in NPDES Permit No. NC0044199. The violations, which occurred in September 2014, are summarized in Attachment A to this letter.

Based upon the above facts, I conclude as a matter of law that LSAA, Inc. dba Sam's Mart violated the terms, conditions or requirements of NPDES Permit No. NC0044199 and G.S. 143-215.1(a)(6) in the manner and extent shown in Attachment A. In accordance with the maximums established by G.S. 143-215.6A(a)(2), a civil penalty may be assessed against any person who violates the terms, conditions or requirements of a permit required by G.S. 143-215.1(a).

Based upon the above findings of fact and conclusions of law, and in accordance with authority provided by the Secretary of the Department of Environment and Natural Resources and the Director of the Division of Water Resources, I, G. Landon Davidson, Regional Supervisor, Asheville Regional Office hereby make the following civil penalty assessment against LSAA, Inc. dba Sam's Mart:

2090 U.S. 70 Highway, Swannanoa, NC 28778

Phone: 828-296-4500 \ Internet: www.ncdenr.gov <<http://www.ncdenr.gov>>

An Equal Opportunity \ Affirmative Action Employer - Made in part by recycled paper

\$100.00 1 of the 2 violations of 143-215.1(a)(6) and NPDES Permit No.NC0044199, by discharging waste water into the waters of the State in violation of the Permit Daily Maximum for TSS - Conc.

\$100.00 **TOTAL CIVIL PENALTY**

\$159.26 Enforcement Costs

\$259.26 **TOTAL AMOUNT DUE**

Pursuant to G.S. 143-215.6A(c), in determining the amount of the penalty I have taken into account the Findings of Fact and Conclusions of Law and the factors set forth at G.S. 143B-282.1(b), which are:

- (1) The degree and extent of harm to the natural resources of the State, to the public health, or to private property resulting from the violation;
- (2) The duration and gravity of the violation;
- (3) The effect on ground or surface water quantity or quality or on air quality;
- (4) The cost of rectifying the damage;
- (5) The amount of money saved by noncompliance;
- (6) Whether the violation was committed willfully or intentionally;
- (7) The prior record of the violator in complying or failing to comply with programs over which the Environmental Management Commission has regulatory authority; and
- (8) The cost to the State of the enforcement procedures.

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

- (1) Submit payment of the penalty, **OR**
- (2) Submit a written request for remission, **OR**
- (3) Submit a written request for an administrative hearing

Option 1: Submit payment of the penalty:

Payment should be made directly to the order of the Department of Environment and Natural Resources (*do not include waiver form*). Payment of the penalty will not foreclose further enforcement action for any continuing or new violation(s). Please submit payment to the attention of:

NPDES Compliance/Enforcement Unit
Division of Water Resources
1617 Mail Service Center
Raleigh, North Carolina 27699-1617

Option 2: Submit a written request for remission or mitigation including a detailed justification for such request:

Please be aware that a request for remission is limited to consideration of the five factors listed below as they may relate to the reasonableness of the amount of the civil penalty assessed. Requesting remission is not the proper procedure for contesting whether the violation(s) occurred or the accuracy of any of the factual statements contained in the civil penalty assessment document. Because a remission request forecloses the option of an administrative hearing, such a request must be accompanied by a waiver of your right to an administrative hearing and a stipulation and agreement that no factual or legal issues are in dispute. Please prepare a detailed statement that establishes why you believe the civil penalty should be remitted, and submit it to the Division of Water Resources at the address listed below. In determining whether a remission request will be approved, the following factors shall be considered:

- (1) whether one or more of the civil penalty assessment factors in NCGS 143B-282.1(b) was wrongfully applied to the detriment of the petitioner;
- (2) whether the violator promptly abated continuing environmental damage resulting from the violation;
- (3) whether the violation was inadvertent or a result of an accident;
- (4) whether the violator had been assessed civil penalties for any previous violations; or
- (5) whether payment of the civil penalty will prevent payment for the remaining necessary remedial actions.

Please note that all evidence presented in support of your request for remission must be submitted in writing. The Director of the Division of the Division of Water Resources will review your evidence and inform you of his decision in the matter of your remission request. The response will provide details regarding the case status, directions for payment, and provision for further appeal of the penalty to the Environmental Management Commission's Committee on Civil Penalty Remissions (Committee). Please be advised that the Committee cannot consider information that was not part of the original remission request considered by the Director. Therefore, it is very important that you prepare a complete and thorough statement in support of your request for remission.

In order to request remission, you must complete and submit the enclosed "Request for Remission of Civil Penalties, Waiver of Right to an Administrative Hearing, and Stipulation of Facts" form within thirty (30) days of receipt of this notice. The Division of Water Resources also requests that you complete and submit the enclosed "Justification for Remission Request."

Both forms should be submitted to the following address:

NPDES Compliance/Enforcement Unit
Division of Water Resources
1617 Mail Service Center
Raleigh, North Carolina 27699-1617

Option 3: File a petition for an administrative hearing with the Office of Administrative Hearings:

If you wish to contest any statement in the attached assessment document you must file a petition for an administrative hearing. You may obtain the petition form from the Office of Administrative Hearings. You must file the petition with the Office of Administrative Hearings within thirty (30) days of receipt of this notice. A petition is considered filed when it is received in the Office of Administrative Hearings during normal office hours. The Office of Administrative Hearings accepts filings Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m., except for official state holidays. The petition may be filed by facsimile (fax) or electronic mail by an attached file (with restrictions) - provided the signed original, one (1) copy and a filing fee (if a filing fee is required by NCGS §150B-23.2) is received in the Office of Administrative Hearings within seven (7) business days following the faxed or electronic transmission. You should contact the Office of Administrative Hearings with all questions regarding the filing fee and/or the details of the filing process.

The mailing address and telephone and fax numbers for the Office of Administrative Hearings are as follows:

Office of Administrative Hearings
6714 Mail Service Center
Raleigh, NC 27699-6714
Tel: (919) 733-2698
Fax: (919) 733-3478

One (1) copy of the petition must also be served on DENR as follows:

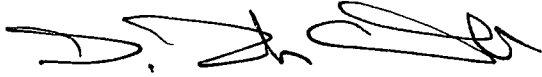
Mr. Sam M. Hayes, General Counsel
Department of Environment and Natural Resources
1601 Mail Service Center
Raleigh, North Carolina 27699-1601

Please indicate the case number (as found on page one of this letter) on the petition.

Failure to exercise one of the options above within thirty (30) days of receipt of this letter, as evidenced by an internal date/time received stamp (not a postmark), will result in this matter being referred to the Attorney General's Office for collection of the penalty through a civil action. Please be advised that additional penalties may be assessed for violations that occur after the review period of this assessment.

If you have any questions, please contact Janet Cantwell with the Division of Water Resources staff of the Asheville Regional Office at (828) 296-4667 or via email at janet.cantwell@ncdenr.gov.

Sincerely,



for S. Jay Zimmerman, P.G.

Acting Director, Division of Water Resources, NCDENR

By G. Landon Davidson, *Regional Supervisor*

Water Quality Regional Operations Section

Asheville Regional Office

Division of Water Resources, NCDENR

ATTACHMENTS

Cc:	WQS Asheville Regional Office - Enforcement File	(w/attachments)
	NPDES Compliance/Enforcement Unit - Enforcement File	(w/attachments)
	Central Files, Water Quality Section	(w/attachments)

ATTACHMENT A
LSAA, Inc. dba Sam's Mart
CASE NUMBER: LV-2015-0033

PERMIT: NC0044199

FACILITY: Sam's Mart #45

COUNTY: Haywood

REGION: Asheville

Limit Violations

PENALTY	MONITORING REPORT	OUTFALL / PPI	LOCATION	PARAMETER	VIOLATION DATE	FREQUENCY	UNIT OF MEASURE	LIMIT	CALCULATED VALUE	% OVER LIMIT	VIOLATION TYPE
\$0.00	9-2014	001	Effluent	TSS - Conc	9/4/14	Weekly	mg/l	45	51.40	14.2	Daily Maximum Exceeded
\$100.00	9-2014	001	Effluent	TSS - Conc	9/9/14	Weekly	mg/l	45	54.30	20.7	Daily Maximum Exceeded

Permit Enforcement History Details by Owner

(File Copy)

3/2/2015

1

Owner : LSAA, Inc. dba Sam's Mart

Facility : Sam's Mart #45

Permit : NC0044199

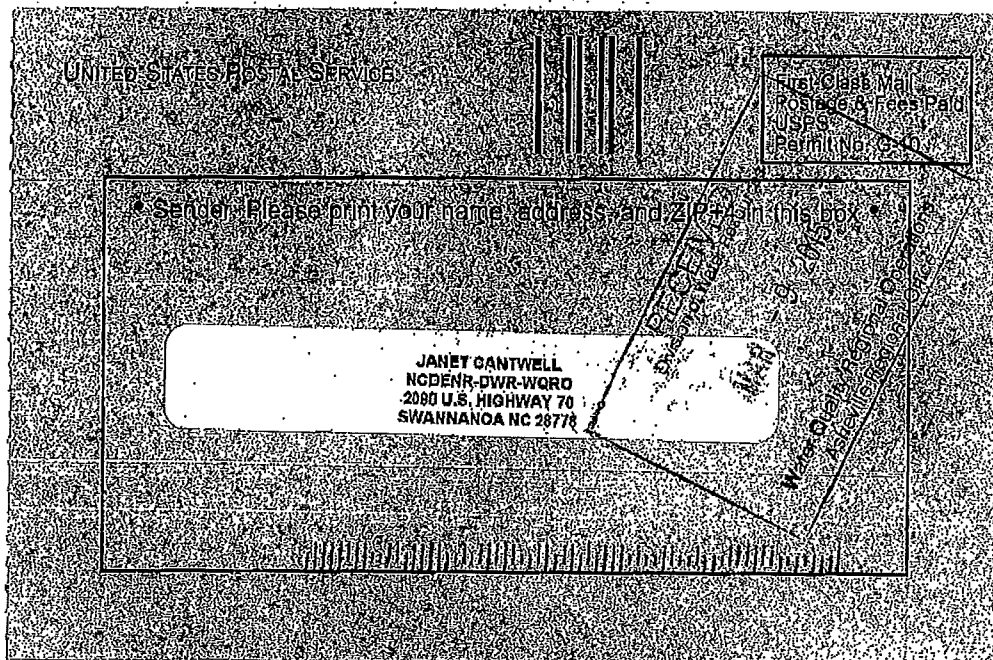
Region : Asheville

County : Haywood

Case Number	MR	Penalty Assessment Approved	Penalty Amount	Enforcement Costs	Damages	Remission Request Received	Enf Conf Held	Enf Remission Amount	EMC Hearing Held	EMC Remission Amount	OAH Remission Amount	Collection MemoSent To AGO	Total Paid	Balance Due	Has Pmt Plan	Case Closed
LR-2008-0001	7-2007	2/20/08	\$500.00	\$100.00		3/28/08	6/9/08	\$0	7/9/09	\$0.00			\$600.00	\$0.00	No	9/10/09
<hr/>																
Total Cases:	1	Total Penalty Amount:	\$500			Total Enforcement Cost:	\$100.00		Sum Of Total Paid:	\$600.00		Total Balance Due :	\$0.00			
						Sum of Total Case Penalties:	\$600.00					Total Penalties After Remissions:	\$600.00			

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>■ Complete items 1, 2, and 3. Also, complete item 4 if Restricted Delivery is desired.</p> <p>■ Print your name and address on the reverse so that we can return it to you.</p> <p>■ Attach this card to the back of the mail piece or on the front if space permits.</p>		<p>1. Signature <i>[Signature]</i> <input type="checkbox"/> Add-on</p> <p>2. Restricted Delivery <input type="checkbox"/> Addressable</p> <p>3. Signature <i>[Signature]</i> <input type="checkbox"/> Add-on</p> <p>4. Signature <i>[Signature]</i> <input type="checkbox"/> Add-on</p>	
<p>NCDENR</p> <p>North Carolina Department of Environment and Natural Resources Division of Water Resources Water Quality Regional Operations Section 2090 U.S. Highway 70, Swannanoa, NC 28778</p>		<p>5. Signature <i>[Signature]</i> <input type="checkbox"/> Add-on</p> <p>6. Signature <i>[Signature]</i> <input type="checkbox"/> Add-on</p> <p>7. Signature <i>[Signature]</i> <input type="checkbox"/> Add-on</p> <p>8. Signature <i>[Signature]</i> <input type="checkbox"/> Add-on</p>	
<p>Haytham Kasem LSAA, Inc. d/b/a Sam's Mart 7935 Council Place, Suite 200 Matthews, NC 28105-5000</p>		<p>9. Signature <i>[Signature]</i> <input type="checkbox"/> Add-on</p> <p>10. Signature <i>[Signature]</i> <input type="checkbox"/> Add-on</p> <p>11. Signature <i>[Signature]</i> <input type="checkbox"/> Add-on</p> <p>12. Signature <i>[Signature]</i> <input type="checkbox"/> Add-on</p>	
<p>7014 0510 0000 4466 0295</p>		<p>13. Signature <i>[Signature]</i> <input type="checkbox"/> Add-on</p> <p>14. Signature <i>[Signature]</i> <input type="checkbox"/> Add-on</p> <p>15. Signature <i>[Signature]</i> <input type="checkbox"/> Add-on</p> <p>16. Signature <i>[Signature]</i> <input type="checkbox"/> Add-on</p>	
<p>PS Form 3811, February 2004</p>		<p>Domestic Return Receipt</p>	

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<p>Postage \$</p> <p>Certified Fee</p> <p>Return Receipt Fee (Endorsement Required)</p> <p>Restricted Delivery Fee (Endorsement Required)</p> <p>Total Postage & Fees \$</p>	<p>Postmark Here</p>
<p>Haytham Kasem LSAA, Inc. d/b/a Sam's Mart 7935 Council Place, Suite 200 Matthews, NC 28105-5000</p> <p>3/4/15</p> <p>See Reverse for Instructions</p>	





March 30, 2015

NPDES Compliance/Enforcement Unit
Division of Water Resources
1617 Mail Service Center
Raleigh, NC 27699-1617

RECEIVED/DENR/DWR

APR - 1 2015

Water Quality
Permitting Section

Dear Mr. Zimmerman,

I am requesting remission of the civil penalties associated with Sam's Mart 45 (Case #: LV-2015-0033) based on consideration 2 listed in the Assessment Letter.

The wastewater treatment system associated with this assessment is designed to provide treatment for the convenience store and a restaurant. At the time of the violation, the restaurant was not in service and there was very low flow into the system. After the violation occurred, our operator recommended that we remove the waste in the system and replaced it with "fresh" waste so the system could operate more effectively. This has been conducted in an effort to keep our system in compliance regarding our Total Suspended Solids discharge.

Please take into consideration these factors and remove the penalty associated with this case.

If you have any questions please feel free to contact me at any time.

Sincerely,

Mitch Rose
Environmental Manager

encl

STATE OF NORTH CAROLINA

DEPARTMENT OF ENVIRONMENT
AND NATURAL RESOURCES

COUNTY OF HAYWOOD

IN THE MATTER OF ASSESSMENT
OF CIVIL PENALTIES AGAINST

LSAA, Inc. dba Sam's Mart
Sam's Mart #45

PERMIT NO. NC0044199

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

) **CASE NO. LV-2015-0033**

Having been assessed civil penalties totaling \$259.26 for violation(s) as set forth in the assessment document of the Division of Water Resources dated March 02, 2015, the undersigned, desiring to seek remission of the civil penalty, does hereby waive the right to an administrative hearing in the above-stated matter and does stipulate that the facts are as alleged in the assessment document. The undersigned further understands that all evidence presented in support of remission of this civil penalty must be submitted to the Director of the Division of Water Resources within thirty (30) days of receipt of the notice of assessment. No new evidence in support of a remission request will be allowed after (30) days from the receipt of the notice of assessment.

This the 30th day of March, 2015

Robert M. Rose Jr

SIGNATURE

ADDRESS

7935 Council Place, Suite 200
Matthews, NC 28105

TELEPHONE

704-940-3612



North Carolina Department of Environment and Natural Resources

Pat McCrory
Governor

Donald R. van der Vaart
Secretary

April 8, 2015

Sent via e-mail

Mr. Haytham Kasem
LSAA, Inc. dba Sam's Mart
7935 Council Place; Ste. 200
Matthews, NC 28105

Subject: Remission Request of Civil Penalty Assessment
Sam's Mart #45 WWTP
NPDES Permit NC0044199
Case Number LV-2015-0033
Haywood County

Dear Mr. Kasem:

This letter is to acknowledge your request for remission of the civil penalty levied against the subject facility. Your request will be scheduled for review by the Director and you will be notified of the result.

If you have any questions about this matter, please contact me at (919) 807-6398 or via e-mail at bob.sledge@ncdenr.gov.

Sincerely,

Bob Sledge, Environmental Specialist
Compliance & Expedited Permitting Unit
Division of Water Resources

cc: Enforcement File w/originals
Central Files w/attachments
Asheville Regional Office w/attachments

MONITORING REPORT(MR) VIOLATIONS for:

Report Date: 04/24/15

Page: 1 of 1

Permit: nc0044199	MRs Between 1 - 2013 and 4 - 2015	Region: %	Violation Category: Limit Violation	Program Category: NPDES WW
Facility Name: %	Param Name %	County: %	Subbasin: %	Violation Action: %
Major Minor: %				

PERMIT: NC0044199
FACILITY: LSAA, Inc. dba Sam's Mart - Sam's Mart #45
COUNTY: Haywood
REGION: Asheville

Limit Violation

MONITORING REPORT	OUTFALL/ PPI	LOCATION	PARAMETER	VIOLATION DATE	FREQUENC	UNIT OF MEASURE	LIMIT	CALCULATED VALUE	% Over	VIOLATION TYPE	VIOLATION ACTION
01 - 2015	001	Effluent	BOD, 5-Day (20 Deg. C) - Concentration	01/31/15	Weekly	mg/l	30	31.45	4.8	Monthly Average Exceeded	Proceed to NOV
09 - 2014	001	Effluent	Solids, Total Suspended - Concentration	09/04/14	Weekly	mg/l	45	51.4	14.2	Daily Maximum Exceeded	Proceed to Enforcement Case
09 - 2014	001	Effluent	Solids, Total Suspended - Concentration	09/09/14	Weekly	mg/l	45	54.3	20.7	Daily Maximum Exceeded	Proceed to Enforcement Case

**DIVISION OF WATER RESOURCES
CIVIL PENALTY REMISSION FACTORS**

Case Number: LV-2015-0033 **Region:** Asheville
Assessed Entity: Sam's Mart #45 WWTP

County: Haywood
Permit: NC0044199

☐ (a) Whether one or more of the civil penalty assessment factors were wrongly applied to the detriment of the petitioner:

☒ (b) Whether the violator promptly abated continuing environmental damage resulting from the violation:

The WWTP's normal operation was augmented with the addition of alum to encourage settling of solids. The sludge in the WWTP was replaced by new sludge from another source. These actions returned the WWTP to compliance.

DMR data indicate the WWTP was restored to compliant performance after about three weeks of higher than normal TSS values being reported.

☒ (c) Whether the violation was inadvertent or a result of an accident:

The facility states the violations were due to the restaurant at the site not being in service at the time, denying the WWTP both its normal flow and waste loading, and disturbing normal operational conditions.

Operation of facilities in such situations can be modified to provide an alternative food source for the treatment organisms within the system.

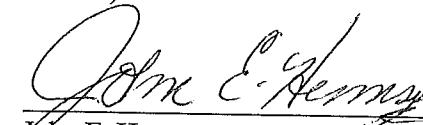
☐ (d) Whether the violator had been assessed civil penalties for any previous violations:

The facility has not been assessed civil penalties during the five years prior to this civil assessment.

☐ (e) Whether payment of the civil penalty will prevent payment for the remaining necessary remedial actions:

DECISION (Check One)

Request Denied ☒
Full Remission ☐ Retain Enforcement Costs? Yes ☐ No ☐
Partial Remission ☐ \$ _____ (Enter Amount)


John E. Hennessy


Date



North Carolina Department of Environment and Natural Resources

Pat McCrory
Governor

Donald R. van der Vaart
Secretary

June 2, 2015

CERTIFIED MAIL 7013 2630 0001 8998 0829
RETURN RECEIPT REQUESTED

Mr. Haytham Kasem
LSAA, Inc. dba Sam's Mart
7935 Council Place; Ste. 200
Matthews, NC 28105

Subject: Remission Request of Civil Penalty Assessment
NPDES Permit Number NC0044199
Sam's Mart #45 WWTP
Haywood County
Case Number LV-2015-0033

Dear Mr. Kasem:

In accordance with North Carolina General Statute 143-215.6A(f), and delegation from the Director of the North Carolina Division of Water Resources, John E. Hennessy, supervisor of the Water Quality Permitting Section's Compliance and Expedited Permitting Unit, considered the information you submitted in support of your request for remission and did not find grounds to modify the civil penalty assessment of \$259.26. A copy of the remission decision is attached.

Two options are available to you at this stage of the remission process:

You may pay the penalty.

If you decide to pay the penalty please make your check payable to the Department of Environment and Natural Resources (DENR). Send the payment within thirty (30) calendar days of your receipt of this letter to the attention of:

Bob Sledge
NC DENR-DWR – Wastewater Branch
Compliance & Expedited Permitting Unit
1617 Mail Service Center
Raleigh, North Carolina 27699-1617

OR

Mr. Haytham Kasem
LV-2015-0033 Remission Decision
p. 2

You may decide to have the Environmental Management Commission's (EMC) Committee on Civil Penalty Remissions make the final decision on your remission request.

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 North Carolina Division of Water Resources will be delivered to the Committee on Civil Penalty Remissions for final agency decision.

If you or your representative would like to speak before the Committee, you must complete and return the attached Request for Oral Presentation Form within thirty (30) calendar days of receipt of this letter. Send the completed form to:

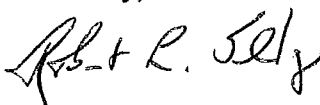
Bob Sledge
NC DENR-DWR – Wastewater Branch
Compliance & Expedited Permitting Unit
1617 Mail Service Center
Raleigh, North Carolina 27699-1617

The EMC Chairman will review the supporting documents and your request for an oral presentation (if you make the request). If the Chairman determines that there is a compelling reason to require a presentation, you will be notified of when and where you should appear. If a presentation is not required, the final decision will be based upon the written record.

Please be advised that the EMC's Committee on Civil Penalty Remissions will make its remission decision based on the original assessment amount. Therefore, the EMC may choose to uphold the original penalty amount and offer no remission, they may agree with the Division of Water Resources' remission recommendation detailed above, or the penalty amount may be further remitted.

Thank you for your cooperation in this matter. If you have any questions, please contact me at (919) 807-6398, or via e-mail at bob.sledge@ncdenr.gov.

Sincerely,



Bob Sledge, Environmental Specialist
Compliance & Expedited Permitting Unit
Division of Water Resources

Attachments

cc: Asheville Regional Office – DWR/Water Quality
Enforcement File
DWR Central Files

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> 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. 	<p>A. Signature X <i>Patricia M. Kase</i> <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) C. Date of Delivery</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>
<p>MR. HAYTHAM KASEM LSAA, INC. DBA SAM'S MART 7935 COUNCIL PLACE, STE. 200 MATTHEWS, NC 28106</p>	<p>3. Service Type <input type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from service label) 7013 2630 0001 8998 0829</p>	
<p>PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540</p>	

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Restricted Delivery Fee (Endorsement Required)	
<p>MR. HAYTHAM KASEM LSAA, INC. DBA SAM'S MART 7935 COUNCIL PLACE, STE. 200 MATTHEWS, NC 28106</p>	
<p>PS Form 3800, August 2006 See Reverse for Instructions</p>	

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NCDENR/DWR
WATER QUALITY PERMITTING SECTION
ATTN: BOB SLEDGE
1617 MAIL SERVICE
RALEIGH, NC 27699-1617

RECEIVED/DENR/DWR

JUN 08 2015

Water Quality
Permitting Section

LS LV-2015-0033