

AGENDA ITEM: 16-14

DAQ CIVIL PENALTY ASSESSMENT CASE SUMMARY

Case Number: DAQ 2015-035 **Region:** Fayetteville Regional Office **County:** Cumberland

Violator: Vance Brewer (VB) Marsh

Case Summary

- On July 23, 2015, DAQ FRO received a complaint from the Cumberland County Sheriff's Office concerning open burning of non-vegetative materials nearby and surrounding the residence of Mr. VB Marsh at 1627 and 1621 Zarzamore St. Hope Mills, in Cumberland County, North Carolina.
- On July 23, 2015, DAQ FRO staff investigated and observed 12 piles of charred non-vegetative materials including 40+ tires, mattress springs, plastics, furniture, clothing, household garbage, metals, and other unidentifiable non-vegetative debris at 1627 Zarzamore St. DAQ staff also observed 5 piles containing the burnt remnants of numerous tires at 1621 Zarzamore St.
- A Notice of Violation/Notice of Recommendation for Enforcement (NOV/NRE) dated October 08, 2015, was sent to VB Marsh for the above violation. No written response to the NOV/NRE was received; However, Mr. VB Marsh arrived at DAQ FRO on October 28, 2015, and accepted responsibility for the illegal open burning.
- On February 10, 2016, Sheila Holman, Director of DAQ, issued a civil penalty assessment in the amount of \$1500.00 plus \$363.00 investigative costs, for the above noted violation. This certified letter was delivered on April 28, 2016.
- The DAQ received a request for remission from VB Marsh dated May 17, 2016. The request included a justification for remission request and a waiver of rights to an administrative hearing and stipulation of facts.
- On June 01, 2016, Sheila C. Holman, Director of DAQ, reviewed the information contained in the remission and found no grounds to modify the assessment.
- To date, the DAQ has not received a request for an oral presentation to the EMC from VB Marsh.



**North Carolina Department of Environment and Natural Resources
Division of Air Quality**

Michael F. Easley, Governor

William G. Ross, Jr., Secretary
B. Keith Overcash, P.E., Director

14 January 2008

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Mr. Vance Marsh, Registered Agent
M J Marsh Farms, Inc.
5284 Butler Nursery Rd.
Fayetteville, NC 28306

SUBJECT: Notice of Violation: Open Burning
M J Marsh Farms, Inc.
Fayetteville, NC, Cumberland County 6/26-00000

Dear Mr. Marsh,

On 8 January 2008, Neil Joyner, of this office, investigated a complaint lodged against you, by the Cumberland Co. Fire Marshal's Office (CCFMO), for allowing the open burning of tires on your rental properties at 3163 and 3166 Shem Creek Rd. near Fayetteville, Cumberland County, NC. The CCFMO stated that you were aware of illegal tire burning on your trailer rental properties. Upon arrival at 3166 Shem Creek Rd., Mr. Joyner observed a large pile of charred tire rims and tire wire. Mr. Joyner spoke with Ms. Brenda Moore, your tenant, and she stated that she burned the observed tires to salvage the rims for subsequent monetary gain. Upon arrival at 3163 Shem Creek Rd., Mr. Joyner observed another pile of charred tire rims and tire wire. Mr. Joyner spoke with Ms. Mary Moore, your tenant, and she stated that she burned the observed tires to salvage the rims for subsequent monetary gain. Mr. Joyner also spoke with you that day, and you stated that your company owned both of these properties. Mr. Joyner gave to you a copy of the NC Open Burning regulations and explained from them why these burns were not allowed. Be advised that it is illegal to open burn synthetic/manmade materials, including tires, for waste disposal in North Carolina.

This letter is to officially inform you that to permit, allow, or cause such open burning is a violation of North Carolina Administrative Code 15A 2D .1900, "Open Burning." Please review the enclosed brochure and insert explaining this regulation before conducting any future open burning. If you have any questions, please call this Office at (910) 433-3300.

Be advised that you have a previous history on file with this office for illegal burning in December of CY 1999. At that time, you received NC Open Burning regulations information. You are again requested to find a legal method for the disposal of these wastes. Additional information concerning solid waste disposal can be obtained from a Division of Waste Management Specialist at (910) 433-3300. In addition, please refer to the enclosed Pollution Prevention/Small Business insert for further information if you need assistance.

In some cases, people have obtained Burn Permits from the NC Forest Service and have then conducted open burnings in violation of other state and local laws. Please note that in almost all cases on the back of the NC Forest Service permit are the NC Air Quality regulations and that their burn permit indicates you must abide by our rules as well as theirs. Please also realize that various counties, townships, and/or fire departments have their own regulations in addition to the various State burning regulations. Prior to burning, you are required to consider all these regulations and to make certain you are meeting the most restrictive regulation(s).

As stated in the "subject" above, this letter represents a Notice of Violation for the open burning investigated on 8 January 2008. The above violation and any future violation of an air quality regulation are subject to the assessment of civil penalties as per North Carolina General Statute 143-215.114A. This General Statute provides that civil penalties of not more than twenty five thousand dollars (\$25,000) may be assessed against any person who violates any classification, standard, or limitation established pursuant to General Statute 143-215.107, "Air Quality Standards and Classifications." In addition, each day of continuing violation after written notification from the Division of Air Quality shall be considered a separate offense.

Please submit a written response to this office by 28 January 2008, as to actions taken to bring about compliance and any additional information or description of any mitigating circumstances in reference to the violation. Please be advised that neither this letter, nor any subsequent action, absolve you from responsibility for any violation or damage to public or private property or from any enforcement action available to this agency.

We appreciate your immediate attention to this environmental concern. If you have any questions, please call Neil Joyner, Environmental Specialist, or Robert Hayden, Environmental Engineer, at (910) 433-3300.

Sincerely,



Steven F. Vozzo
Regional Air Quality Supervisor
Fayetteville Regional Office

SFV\caj

attachments - OB Brochure, OB Insert, and P2 Insert

cc: (w/o attachment)

FRO Complaint Files

Mr. Rodney Ward, Cumberland Co. Fire Marshal's Office, PO Box 1829, Fayetteville, NC 28302



North Carolina Department of Environment and Natural Resources
Division of Air Quality

Beverly Eaves Perdue
Governor

Sheila C. Holman
Director

Dee Freeman
Secretary

13 June 2012

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Vance Brewer (VB) Marsh
3646 Hidden Oaks Drive
Fayetteville, NC 28306-7307

SUBJECT: Notice of Violation: Open Burning
Vance Brewer (VB) Marsh
Fayetteville, NC, Cumberland County 6/26-00000

Dear Mr. Marsh,

On 7 June 2012, Ms. Pam Vivian of this Office investigated an open burning of non-vegetative materials at 7876 NC Highway 87 South near Fayetteville, Cumberland County NC. Upon arrival, Ms Vivian observed you tending a fire containing tires with spokes and rims, paint, aerosol, and aluminum cans, garden hose, various plastic bottles, and other unknown waste. She spoke with you and you admitted that you were cleaning up your son's property and burning this material for waste disposal and metal salvaging for monetary gain. Be advised that the NC Open Burning rule prohibits the open burning of non-vegetative materials for waste disposal. You have been informed of the NC Open Burning rule numerous times in the past.

This letter is to officially inform you that by *permitting, allowing, or causing* the above-mentioned open burning you violated the North Carolina Administrative Code 15A 2D .1900, "Open Burning." Please review the enclosed brochure and insert explaining this regulation before conducting any future open burning.

This is your fourth violation for illegally open burning non-vegetative materials on file with this Office. Be advised that future violations for illegally burning non-vegetative materials may result in a civil penalty assessment. You are required to find a legal method for the disposal of these wastes. Additional information concerning solid waste disposal can be obtained from a Division of Waste Management Specialist at (910) 433-3300.

In some cases, people have obtained Burn Permits from the NC Forest Service and have then conducted open burnings in violation of other state and local laws. Please note that, in almost all cases, on the back of the NC Forest Service permit are the NC Air Quality regulations and that their burn permit indicates you must abide by our rules as well as theirs. Please also

13 June 2012

Page 2

realize that various counties, townships, and/or fire departments have their own regulations in addition to the various State burning regulations. Prior to burning, you are required to consider all these regulations and to make certain you are meeting the most restrictive regulation(s).

As stated in the "subject" above, this letter represents a Notice of Violation for the open burning that occurred on 7 June 2012. The above violation and any future violation of an air quality regulation are subject to the assessment of civil penalties as per North Carolina General Statute 143-215.114A. This General Statute provides that civil penalties of not more than twenty-five thousand dollars (\$25,000) may be assessed against any person who violates any classification, standard, or limitation established pursuant to General Statute 143-215.107, "Air Quality Standards and Classifications." In addition, each day of continuing violation after written notification from the Division of Air Quality shall be considered a separate offense.

Please submit a written response to this office by 27 June 2012, as to actions taken to bring about compliance and any additional information or description of any mitigating circumstances in reference to the violation. Please be advised that neither this letter, nor any subsequent action, absolve you from responsibility for any violation or damage to public or private property or from any enforcement action available to this agency.

We appreciate your immediate attention to this environmental concern. If you have any questions, please call Pam Vivian, Environmental Specialist, or Heather Hawkins, Environmental Specialist, at (910) 433-3300.

Sincerely,



Steven F. Vozzo
Regional Air Quality Supervisor
Fayetteville Regional Office

SFV\pcv

attachments - Open Burning Brochure and Insert

cc: (w/o attachments)

FRO Complaint Files

Michael John Marsh, Property Owner, 5284 Butler Nursery Road, Fayetteville, NC 28306



**North Carolina Department of Environment and Natural Resources
Division of Air Quality**

Beverly Eaves Perdue, Governor

Dee Freeman, Secretary
Sheila C. Holman, Director

14 September 2010

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. V. B. Marsh
3646 Hidden Oaks Drive
Fayetteville, NC 28306

SUBJECT: Notice of Violation: Open Burning
V. B. Marsh
Hope Mills, NC, Cumberland County 6/26-00000

Dear Mr. Marsh,

On 31 August 2010, Neil Joyner, of this office, investigated a complaint lodged against you, by the Cumberland Co. Fire Marshal's Office, for open burning of tires on property at 2962 H. Bullard Road, near Hope Mills, Cumberland County, NC. Upon arrival, Mr. Joyner observed a small, smoldering pile of materials that included a few tire rims, tire wire, paint can, metal, and a plastic hose. The burn pile was on property adjacent to yours and appeared to be for waste disposal. Mr. Joyner left a copy of the Open Burning regulations brochure beside the burn pile which explained that it is illegal to burn non-vegetative materials, including tires, for waste disposal. During this investigation, this office received a report that you had been seen recently entering the road leading down to the burn site. Over the next several days, Mr. Joyner left phone messages for you to call this office, but to date we have not heard back from you. **Please call this office at 910-433-3300 when you receive this letter.**

This letter is to officially inform you that by permitting, allowing, or causing the above-mentioned open burning you violated the North Carolina Administrative Code 15A 2D .1900, "Open Burning." Please review the enclosed brochure and insert explaining this regulation before conducting any future open burning. If you have any questions, please call this Office at (910) 433-3300.

Be advised that this incident is your third violation for illegal burning on file with this office. On 10 December 1999, you were issued a violation for burning tires on your property. On 14 January 2008, you were issued another violation for allowing the burning of tires on one of your rental properties. You are requested to find a legal method for the disposal of these wastes. Additional information concerning solid waste disposal can be obtained from a Division of Waste Management Specialist at (910) 433-3300. In addition, please refer to the enclosed Pollution Prevention/Small Business insert for further information if you need assistance.

In some cases, people have obtained Burn Permits from the NC Forest Service and have then conducted open burnings in violation of other state and local laws. Please note that, in almost all cases, on the back of the NC Forest Service permit are the NC Air Quality regulations and that their burn permit indicates you must abide by our rules as well as theirs. Please also realize that various counties,

14 September 2010

Page 2

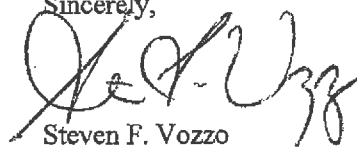
townships, and/or fire departments have their own regulations in addition to the various State burning regulations. Prior to burning, you are required to consider all these regulations and to make certain you are meeting the most restrictive regulation(s).

As stated in the "subject" above, this letter represents a Notice of Violation for the open burning investigated on 31 August 2010. The above violation and any future violation of an air quality regulation are subject to the assessment of civil penalties as per North Carolina General Statute 143-215.114A. This General Statute provides that civil penalties of not more than twenty-five thousand dollars (\$25,000) may be assessed against any person who violates any classification, standard, or limitation established pursuant to General Statute 143-215.107, "Air Quality Standards and Classifications." In addition, each day of continuing violation after written notification from the Division of Air Quality shall be considered a separate offense.

Please submit a written response to this office by 28 September 2010, as to actions taken to bring about compliance and any additional information or description of any mitigating circumstances in reference to the violation. Please be advised that neither this letter, nor any subsequent action, absolve you from responsibility for any violation or damage to public or private property or from any enforcement action available to this agency.

We appreciate your immediate attention to this environmental concern. If you have any questions, please call Neil Joyner, Environmental Specialist, or Heather Hawkins, Environmental Specialist, at (910) 433-3300.

Sincerely,



Steven F. Vozzo
Regional Air Quality Supervisor
Fayetteville Regional Office

SFV\caj

attachments - OB Brochure, OB Insert, and P2 Insert

cc: (w/o attachment)

FRO Complaint Files

Mr. Gene Booth, Cumberland Co. Fire Marshal's Office, PO Drawer 1829, Fayetteville, NC 28302



North Carolina Department of Environment and Natural Resources
Division of Air Quality

Beverly Eaves Perdue, Governor

Dee Freeman, Secretary
Sheila C. Holman, Director

20 November 2012

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

MJ Marsh Farms, Inc.
Attn: Mr. Vance Brewer (VB) Marsh
3646 Hidden Oaks Drive
Fayetteville, NC 28306-7307

SUBJECT: Notice of Violation: Open Burning
MJ Marsh Farms, Inc.
Fayetteville, NC, Cumberland County 6/26-00000

Dear Mr. Marsh,

On 25 October 2012, Ms. Pam Vivian, of this Office, observed and investigated the open burning of non-vegetative materials at 7876 NC Highway 87 South near Fayetteville, Cumberland County NC. Upon arrival, Ms Vivian observed two burn piles containing paint, aerosol, and aluminum cans; a large sink, various plastic bottles, wire, unknown non-vegetative waste, and vegetative debris. She spoke with you and you stated that you were cleaning up your business property and thought you were only burning yard waste. You extinguished the fires and later said your son, Vance Allen Marsh, did not know about the open burning rule and started the fires. You have an extensive history with this office involving illegal open burning activities on your business and personal properties. You have been educated multiple times on the NC Open Burning rule and your responsibility in preventing illegal open burning on your properties.

This letter is to officially inform you that by *permitting, allowing, or causing* the above-mentioned open burning you violated the North Carolina Administrative Code 15A 2D .1900, "Open Burning." Please review the enclosed brochure and insert explaining this regulation before conducting any future open burning.

This is your fifth violation for illegally open burning non-vegetative materials on file with this Office. Be advised that future violations for illegally burning non-vegetative materials may result in a civil penalty assessment. You are required to find a legal method for the disposal of these wastes. Additional information concerning solid waste disposal can be obtained from a Division of Waste Management Specialist at (910) 433-3300.

20 November 2012

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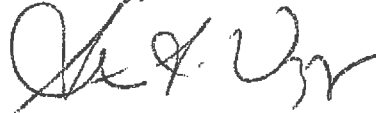
In some cases, people have obtained Burn Permits from the NC Forest Service and have then conducted open burnings in violation of other state and local laws. Please note that, in almost all cases, on the back of the NC Forest Service permit are the NC Air Quality rules and that their burn permit indicates you must abide by our rules as well as theirs. Please also realize that various counties, townships, and/or fire departments have their own regulations in addition to the various State burning rules. Prior to burning, you are required to consider all these rules and regulations and to make certain you are meeting the most restrictive.

As stated in the "subject" above, this letter represents a Notice of Violation for the open burning that occurred on 25 October 2012. The above violation and any future violation of an air quality regulation are subject to the assessment of civil penalties as per North Carolina General Statute 143-215.114A. This General Statute provides that civil penalties of not more than twenty-five thousand dollars (\$25,000) may be assessed against any person who violates any classification, standard, or limitation established pursuant to General Statute 143-215.107, "Air Quality Standards and Classifications." In addition, each day of continuing violation after written notification from the Division of Air Quality shall be considered a separate offense.

Please submit a written response to this office by 4 December 2012, as to actions taken to bring about compliance and any additional information or description of any mitigating circumstances in reference to the violation. Please be advised that neither this letter, nor any subsequent action, absolve you from responsibility for any violation or damage to public or private property or from any enforcement action available to this agency.

We appreciate your immediate attention to this environmental concern. If you have any questions, please call Pam Vivian, Environmental Specialist, or Heather Hawkins, Environmental Specialist, at (910) 433-3300.

Sincerely,



Steven F. Vozzo
Regional Air Quality Supervisor
Fayetteville Regional Office

SFV\pcv

attachments - Open Burning Brochure and Insert

cc: (w/o attachments)

FRO Complaint Files

MJ Marsh Farms, Inc., Attn: Michael John Marsh, 5223 Hub Johnson Road, Hope Mills, NC 28348

North Carolina Department of Environmental Quality

Pat McCrory
Governor

Donald R. van der Vaart
Secretary

8 October 2015

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Vance Brewer (VB) Marsh
1627 Zarzamora Street
Hope Mills, NC 28348

SUBJECT: Notice of Violation/Notice of Recommendation for Enforcement: Open Burning
Vance Brewer (VB) Marsh
Hope Mills, NC, Cumberland County 6/26-00000

Dear Mr. Marsh:

On 23 July 2015, Pam Vivian investigated a complaint lodged against you by the Cumberland County Sheriff's Department for open burning non-vegetative materials on properties located at 1621 and 1627 Zarzamora Street Hope Mills, Cumberland County, NC. Upon arrival at 1627 Zarzamora St., your residence, Ms. Vivian observed several burn piles surrounding your home. The piles containing the remains of non-vegetative materials including: tires, mattress box springs, plastics, furniture, clothing, household garbage, metals, paper, and other unidentifiable non-vegetative materials that had been burned for waste disposal. At 1621 Zarzamora St., the property immediately adjacent to your residence, Ms. Vivian observed burn piles containing the burnt remnants of numerous tires. Information about the NC Open Burning rule and a request to contact this office was left at your residence. Ms. Vivian has been unsuccessful in her attempts to contact you by phone to discuss this matter. To date, this office has received no response from you.

This letter is to officially inform you that by *permitting, allowing, or causing* the above-mentioned open burning you violated the North Carolina Administrative Code 15A 2D .1900, "Open Burning." Please review the enclosed insert explaining this rule before conducting any future open burning.

You have an extensive history with this office involving illegal open burning activities on your business, residential, and familial properties. You have been educated multiple times on the NC Open Burning rule and your responsibility in preventing illegal open burning on your properties and on properties/projects you manage. You are requested to find a legal method for the disposal of waste on these properties. Additional information concerning solid waste disposal can be obtained from a Division of Waste Management Specialist at (910) 433-3300. In addition, please refer to the enclosed Pollution Prevention/Small Business insert for further information if you need assistance.

8 October 2015

Page 2

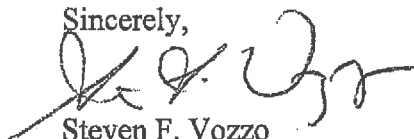
In some cases, people have obtained burn permits from the NC Forest Service (NCFS) and have then conducted open burnings in violation of other state and local laws. Please note that in almost all cases on the back of the NCFS permit are the NC Air Quality rules and that their burn permit indicates you must abide by our rules as well as theirs. Please also realize that various counties, townships, and/or fire departments have their own rules in addition to the various State burning rules. Prior to burning, you are required to consider all these rules and to make certain you are meeting the most restrictive.

As stated in the "subject" above, this letter represents not only a Notice of Violation for the open burning investigated on 23 July 2015, but puts you on notice that this office is preparing an enforcement report addressing the violation observed. The above violation and any future violation of an air quality rule are subject to the assessment of civil penalties as per North Carolina General Statute 143-215.114A. This General Statute provides that civil penalties of not more than twenty-five thousand dollars (\$25,000) may be assessed against any person who violates any classification, standard, or limitation established pursuant to General Statute 143-215.107, "Air Quality Standards and Classifications." In addition, each day of continuing violation after written notification from the Division of Air Quality shall be considered a separate offense.

Please submit a written response to this office by 22 October 2015, as to actions taken to bring about compliance and any additional information or description of any mitigating circumstances that you believe should affect the outcome of the enforcement evaluation. After the above date, in lieu of any mitigating circumstances brought to our attention, this office will submit the enforcement report to the Director of the Division of Air Quality, including recommendations for the assessment of appropriate civil penalties. Please be advised that neither this letter, nor any subsequent action, absolve you from responsibility for any violation or damage to public or private property or from any enforcement action available to this agency.

We appreciate your immediate attention to this environmental concern. If you have any questions, please call Pam Vivian, Environmental Specialist, or Heather Carter, Compliance Coordinator, at (910) 433-3300. Additional information on open burning is available on the Division webpage located at www.ncair.org.

Sincerely,



Steven F. Vozzo

Regional Air Quality Supervisor
NCDEQ Division of Air Quality

SFV\pcv

attachments - OB Insert and DEACS Insert

cc: (w/o attachment)

FRO Enforcement Files

FRO Complaint Files

Michael John Marsh, 5284 Butler Nursery Rd., Fayetteville, NC 28306

Cumberland County Sheriff Office, Attn: Deputy Dowless, 131 Dick St., Fayetteville, NC 28301

Complaint Investigation Report

NC Dept. of Environment & Natural Resources
Division of Air Quality

County: Cumberland
Region: FRO
Suspect: Vance Brewer (VB) Marsh
Facility ID#
Record # 16947

Regional Investigator: Vivian, Pam
Regional Co-investigator:
Partner Agency: Cumberland Co. Sheriff Deputy
David Dowless.
Date Complaint Received: 07/23/2015
Received By: Carter, Heather
Date assigned: 07/23/2015

Suspect: Vance Brewer (VB) Marsh
Suspect Contact: Vance Brewer Marsh
Physical Location: 1621 and 1627 Zarzamora Street -
Hope Mills
Mailing Address: 1627 Zarzamora Street
City/State/Zip: Hope Mills, NC 28348
Telephone: (910) 723-0677
Alternate Telephone: (910) 703-9211

Investigation date: 07/23/2015
Follow-up date: 07/28/2015

Report submit date: 08/13/2015

Complaint type: OB - Residential
Complaint description: Burns tire, household
garbage, metal salvage.

Complainant: David Dowless
Complainant Address: Cumberland County Sheriff
Office
City/State/Zip: Fayetteville NC 28301
Telephone (H): (910) 849-7151
Telephone (W): (910) 323-1500
Call Back Required? Call Back Requested

Referral to DAQ: Local/state/fed agency

Situation Dangerous:
Occurring Now:

Violation documented: Yes
NCFS Permit:

Signature: *Pam Vivian*

Report Date: 8/13/2015

Complaint:

On 23 July 2015, Heather Carter with DAQ FRO received a complaint from Cumberland County Sheriff Deputy David Dowless concerning a lot of non-vegetative materials, to include several tires that had been burned at and around the residence of VB Marsh at 1627 Zarzamora Street, Hope Mills, NC 28348. The county animal control and deputy department are arriving on site today to investigate and request DAQ FROs presence.

Directions:

From FRO, travel on Hwy 87 south; turn right onto Thrower Rd and travel about 2 miles; turn left onto North Fork Drive; Zarzamora St (bumpy dirt road) veers to the right; travel down and either turn left at 'Y' or continue straight; straight leads directly to 1627 on the right; burn piles surround this home and are also located on the property(ies) directly in front of this address.

Previous History:

- On 20 November 2012 an NOV was sent to Vance Allen Marsh, son of Vance Brewer (VB) Marsh and MJ Marsh Farms, Inc (Attn: Vance Brewer (VB) Marsh) for burning non-vegetative materials for waste disposal. Michael John Brewer is the President of MJ Marsh Farms and son of Vance Brewer (VB) Marsh.
- On 13 June 2012 an NOV was sent to Mr. V.B. Marsh for burning non-vegetative materials for waste disposal.
- On 14 October 2010 an NOV was sent to Mr. V.B. Marsh for burning non-vegetative materials for waste disposal.

- On 14 January 2008 an NOV was sent to Mr. Vance Marsh, Registered Agent of MJ Marsh Farms, Inc. for permitting the burning of tires on rental property.

Summary of investigation:

July 23, 2015

1) I, Pam Vivian with DAQ FRO met with Cumberland County Sheriff Deputy Sergeant (Sgt) David Dowless to be an intricate part of an inter-agency task force working together to stop the various violations of the County and State laws that Mr. Vance Brewer (VB) Marsh has succeeded in doing over the years (DAQ FRO since 1997). Sgt. Dowless showed me the warrant the County had provided for the Sheriff Department and Cumberland County Animal Control, along with DAQ FRO to search the property for illegal burning and capture horses on the property associated with VB Marsh at 1627 Zarzamora Street. According to Sgt. Dowless, Mr. Marsh has been a problem citizen for several years concerning illegal open burnings for waste disposal and metal salvaging, accumulating solid waste on various rental/affiliated properties, and animal cruelty issues. Mr. Marsh has avoided the law by blaming others for his illegal activities, to include family members, and these people have just allowed him to use them, thus Mr. Marsh avoids prosecution. Accordingly, various Cumberland County officials want to stop these continual violations of the County and State laws to help create a better environment for the citizens that surround this property and work towards other properties as well that VB Marsh is affiliated with in Cumberland County. Sgt. Dowless guided me throughout this open burning investigation.

2) Mr. Marsh was not at home the day of this investigation but I left an NC OB flyer with my business card secured to his front door requesting a return call to further discuss (this office never received a return call from Mr. Marsh). Mr. Marsh's home address is 1627 Zarzamora Street, Hope Mills as found using the Cumberland County Property GIS. This property where Mr. Marsh resides belongs to, as listed in the Cumberland County Property GIS, Ms. Janet Lee Marsh, daughter of Mr. VB Marsh. Many NC OB rule violations were documented throughout this investigation. Pictures were taken to document.

3) The burn piles found in violation at 1627 Zarzamora Street were as follows:

1. Pile 1* - Charred pile stepped to be about 5 ft in diameter and less than 1 foot high containing a tree log and various non-vegetative materials to include but not limited to plastics, paper, metal, cans, glass, insulation/packing material, and other unidentifiable debris.
2. Pile 2* - Charred pile stepped to be about 4 ft in diameter and about 1 foot high containing a tree limb and various non-vegetative materials to include but not limited the remains of about three tires, plastics, paper, metal, cans, glass, black plastic household item, wire/cable, and other unidentifiable debris.
3. Pile 8* - Past charred pile with vegetation around it, but was stepped to have been about six ft in diameter containing what appeared to have been household garbage with glass, metal cans, aerosol cans, plastics, paper, wood furniture leg, and other unidentifiable debris.
4. Pile 9* - Charred pile stepped to be about 9 ft in diameter and about 2 ft high with vegetative materials placed on top of cinder blocks with other large metal items, wire, paper, and other unidentifiable debris.
5. Pile 10* - Charred pile stepped to be about 11 ft by 8 ft and about 2-1/2 ft high with some vegetative materials stuck within what appeared to be a queen size box spring with various household garbage on top of it, to include but not limited to glass, metal cans, aerosol cans, various plastics, horse feed bag, paper, tennis shoe, white matting cloth material, wire, aluminum foil material, and other unidentifiable debris.

6. Pile 11* - Charred pile stepped to be about 8 ft in diameter and about 6 inches high with various household garbage to include but not limited to metal cans, aerosol cans, wire, aluminum foil pans, plastics, paper, possibly resin furniture item, and other unidentifiable debris.
7. Pile 12* - Past charred pile with vegetation around it but was stepped to be about 10 ft in diameter containing various small pieces of unidentifiable non-vegetative materials, and unburned plastic bottle, bags, and cardboard.

3) The burn piles found to be in violation at 1621 Zarzamora Street were as follows (no home on this property):

1. Pile 3* - Several burned tires in an extended straight long strip that was stepped to be about 25 ft long and 4 ft wide and was approximated by Sgt. Dowless and myself to have contained about 25 to 30 tires burned.
2. Pile 4* Stacked burned tire pile that was stepped to be about 8 ft in diameter and was approximated by Sgt. Dowless and myself to have contained about 6 tires burned
3. Pile 5* - Burn pile area was stepped to be about 10 ft in diameter and was approximated by Sgt. Dowless and myself to have contained about 8 tires burned but total unknown.
4. Pile 6* - Burn pile area was stepped to be about 16 ft by 17 ft. Tires were apparently burned here as well as seen by the charred materials still remaining. The amount of tires burned was not possible to estimate but the size of the charred area appears to indicate a large amount were burned. Note the charred condition of the wood post.
5. Pile 7* - Past burn pile area was stepped to be about 12 ft in diameter. This charred area contains various small pieces of non-vegetative debris but vegetative materials were also observed in it. Note damaged/dead lower limbs.

4) Sgt. Dowless told me he would be able to provide copies of his reports within a few days but at the time he would need to go back and assist Cumberland County Animal Control obtain the horses that they were capturing due to animal cruelty laws. I told him I would contact him later to further discuss this investigation. Note: I had hoped to go to the two other homes on Zarzamora St, 1611 and 1639, to discuss with the tenants, properties owned by MJ Marsh Farms, Inc., but a severe rain storm poured on this area and prevented further investigation at that time.

July 24, 2015

1) I called Sgt. Dowless and he agreed to meet me on Zarzamora Street to assist with investigating property addresses 1611 and 1639.

2) At 1611 Zarzamora St, I knocked on the door, but no one answered. I did not observe any illegal burn piles on this property. Sgt. Dowless told me that VB Marsh had told him that the tenant who lived here was Vernon Hobbs, but he comes and goes. Mr. Hobbs is an auto mechanic and most of the vehicles in the yard are ones he works on or takes parts from. Sgt. Dowless stated the red Chevrolet truck with NC license tag: BLB-2312 actually belongs to Mr. Hobbs. I left an NC OB flyer with my business card at the front door requesting a call back. This office has not received a response.

3) At 1639 Zarzamora St, I observed two different phone numbers and a name written on the front door with a permanent marker: 910-305-5039, 910-723-0677, and the name 'VB Marsh.' Sgt. Dowless informed me the '723' number was the active number his department had on hand for VB Marsh. I knocked on the door, could hear sounds from inside, but no one answered the door. I left an NC OB flyer with my business card, with a note requesting a call back.

4) As we were leaving, I observed from the side, backyard area, a burn pile which contained charred non-vegetative debris with unburned debris, of household garbage, and a large gray plastic trash can adjacent to it. It appeared to be about 7 ft in diameter and 2-1/2 ft high. From this same location, I also observed behind this home, another charred, with unburned debris of household garbage and other apparent non-vegetative debris. This pile appeared to be about 12 ft in diameter and about 3-1/2 ft high. I took pictures to document. The warrant did not give permission to search this property.

5) Sgt. Dowless again made the statement he made to me the previous day: VB Marsh has avoided the law for several years while others are pointed at as being the ones at fault. The County is working to stop his illegal activities. He said that VB may not admit to doing any illegal burning but he is affiliated with all that goes on and allows and permits it to continue through others. He said he would have the reports next week for me to add to my investigation.

6) Before leaving I called both numbers that were observed on the door but neither number had been set up to receive voice messages.

7) At the office, I did various searches for this investigation:

- a) Cumberland County Property GIS indicates 1627 Zarzamore Street is owned by Janett Lee Marsh Smith, daughter of VB Marsh. This is where VB Marsh lives. I searched Ms. Marsh's address but other people were stated to live there. I called both numbers provided but these were no longer in service.
- b) According to the Cumberland County Property GIS website, 1621 Zarzamore Street is owned by Michael John Marsh, son of VB Marsh.
- c) Both 1611 and 1639 Zarzamore Street are owned by M. J. Marsh Farms, Inc. with Michael John Marsh as President and Vance Brewer (VB) Marsh as Secretary Treasury. I searched both addresses and found several different names associated with them but with no contact number.
- d) Both phone numbers found on the door at 1639 Zarzamore Street are mobile phones, AT&T and Verizon Wireless, respectively. VB Marsh's contact number, as stated by Sgt. Dowless is 910-723-0677.
- e) NC Corporate Web search indicates M. J. Farms, Inc. was incorporated on 30 December 1999 with Michael John Marsh as President and Vance Brewer (VB) Marsh as Secretary of Treasury. Annual reports submitted, with most recent 3 November 2014, have been signed by Vance B. Marsh with mailing address change to 7890 NC Hwy 87 south, Fayetteville, NC 28306. This address is located in the same area of both the June and October 2012 OB investigations located at 7876 Hwy 87 south, Fayetteville 28306.
- f) I was not able to find any contact information for Mr. Michael John Marsh or Janet Lee Marsh. I did find Ms. Marsh now is Ms. Janet Lee Marsh Smith.
- g)

July 28, 2015

1) I, Pam Vivian, along with Josh Harris, both with DAQ FRO went back to 1627 Zarzamore Street to verify each property GPS location.

2) Upon arrival, we observed a large metal utility trailer in front of Mr. Marsh's home with various metal items on it. We verified the address locations as planned.

3) During this investigation we observed a smoldering pile of tires, a rim, cinder blocks, aerosol cans, lumber, and vegetative materials at the property of 1611 Zarzamora Street next to a large tree. The pile was about 5 ft in diameter and about 1-1/2 ft high. It appeared that 4 tires had been burned. Pictures were taken to document.

4) I called DAQ FRO and reported to Steven Vozzo about this new burn pile. He said to call the numbers previously obtained. I called the number for VB Marsh, 910-723-0677 but the out-going voice message stated the mail box had not been set up. I call 910-305-5039 and a woman answered the phone and identified herself as Tasha. I inquired about contacting Mr. Marsh but she only said that she had not seen him but she would let him know I called and to call me. I left her my name and contact information. I called back Mr. Vozzo and during our conversation, I saw a woman walking down Zarzamora St towards Mr. Marsh's home.

5) I walked to '1639' address thinking she was headed that way, but did not find her there. I called Sgt. Dowless but he was at Animal Control issuing a citation to Mr. Marsh and would not be able to attend. During this time, Mr. Harris saw the woman at 1627, Mr. Marsh's home and began talking with her.

6) She told Mr. Harris she was Ms. Stella Oenning and she comes to Mr. Marsh's home periodically to help clean and cook for him. She rarely sleeps overnight, only if needed. She did state she lives at the old hair dresser shop off Hwy 87 (former complaint location in two separate investigations during June and October 2012). She said she was doing laundry today, as well as cleaning up VB's yard. She said 'VB' had brought in the large metal utility trailer, which already contained various kinds of metal that Ms. Oenning said would be taken to the salvage yard so he could get money to help pay for his current problems with the County. She also stated Mr. Vernon Hobbs at '1611' use to be a tenant but 'VB' had the electricity turned off since Vernon was not paying his rent or the electric bill. She said the electricity was in 'VB's' name. She said the cars were Vernon's and she has not seen him around for some time. If he does return, VB will get the money Vernon owns him.

7) I asked about the smoldering burn pile and pointed to it. She said she did not know who started that fire but she had earlier sprayed water on it to put it out.

8) Through our conversations, Ms. Oenning said she thought the man who lived at '1639' was named Stan but she did not know anything else. She said VB had Stan's contact number. I asked her if she would call Mr. Marsh so I could speak with him. Using her cell phone, she called and began talking with him. I asked to speak with him but he told her he was busy with other things and could not talk but he would arrive back within an hour and would talk with me then.

9) She said that VB picked her up at her place this morning and dropped her off at Zarzamora St. I asked if she meant he just dropped her off and she said yes, just now when I saw her. She said VB had to go to another appointment he was involved with at animal control. She said the horses were taken away and he was hoping to get them back. Something did not add up with her stating she had just arrived whereas earlier told me she tried to put the fire out but did not know who started it. I asked her about putting the fire out and her time of arrival and she became nervous acting and walked back into Mr Marsh's home.

10) Mr. Harris and I waited for over 1-1/2 hours but Mr. Marsh never arrived. During this time, I asked Ms. Oenning again to call Mr. Marsh. She did but then received the same out-going message I received earlier about voice message not having been set up. I asked for her contact information in

case I needed to call her back: 910-703-9211. I gave her another NC OB flyer with my business card and told her to have Mr. Marsh call me to further discuss. To date, this office has not heard back from Mr. Marsh.

August 3, 2015

1) I called Sgt. Dowless and asked if he could fax his reports to me for my investigation. He told me that his reports could not be faxed due to the sheriff department's policies but I could come to his office and receive copies. He told me that Animal Control also had their reports which I could obtain at their office. He said for me to come by the following day and I could acquire his reports.

August 4, 2015

1) I arrived and met with Sgt. Dowless. He provided copies of the search warrant including the incident/ investigation report on 23 July 2015, as well as the NC Uniform Citation report given to Mr. Marsh on 28 July 2015. I told him about the other tire burn observed on 28 July 2015. He told me that when 'VB' arrived at animal control that same morning, he noticed VB's arms were streaked with something black. Sgt. Dowless said VB had probably been moving tires around and burning them and that had created the black mess on his arms. He told me Mr. Marsh appears to be cooperating with the County as compared to the past years and it is probably due to the actions the County is taking at this time. He told me if we need any other assistance to call him and he would make sure the department responds.

2) Sgt. Dowless also told me that Cumberland County Planning and Enforcement will be involved in the near future at the Zarzamora Street location to deal with the several abandoned vehicles located on property(ies) affiliated with Mr. VB Marsh. At present, this agency is involved with the location on Hwy 87 where Ms. Oenning resides in the hair dresser shop.

3) I arrived at animal control and after filing a report request form, was provided copies of this agencies' response reports starting 3 July 2015 through 28 July 2015 as well as the Civil Citation for Violation of Animal Control that was issued 5 July 2015 to VB Marsh for the various animals stated within. Ms. Oenning's name is within this report as Stella.

Comments/Recommendations:

Mr. VB Marsh is affiliated with each of these properties as the Father to the property owners, and as the Secretary/Treasurer of MJ Marsh Farms, Inc. He has not complied with State and County laws over the years that resulted from various violations at several property locations.

The recommendations are as follows:

1) Send Mr. Vance Brewer (VB) Marsh an NOV/NRE letter for violating the NC OB rules by permitting, allowing, or causing the illegal burning of non-vegetative materials, to include but not limited to tires, metals, plastics, paper, cardboard, glass, lumber, household garbage, and other unidentifiable debris for waste disposal and salvage at 1627 and 1621 Zarzamora Street in Hope Mills.

2) Send an NOV/NRE to M. J. Marsh Farms, Inc for permitting, allowing, or causing the illegal burning of non-vegetative materials at 1611 and 1639 Zarzamora Street in Hope Mills.

3) Send an NOV letter to Michael John Marsh as property owner of 1621 Zarzamora Street for permitting, allowing, or causing the illegal burning of non-vegetative materials.

4) Send a WAR letter to Janet Lee Marsh Smith as property owner of 1627 Zarzamora Street for permitting, allowing, or causing the illegal burning of non-vegetative materials.

/pcv

Send NOV/NRE to:

Mr. Vance Brewer (VB) Marsh
1627 Zarzamora Street
Hope Mills, NC 28348

Send NOV/NRE to:

M. J. Marsh Farms, Inc
Vance Brewer (VB) Marsh, Registered Agent
1627 Zarzamora Street
Hope Mills, NC 28348

Send NOV to:

Mr. Michael John Marsh
2916 Thrower Rd
Hope Mills, NC 28348

Send NOV to:

Janet Lee Marsh Smith
5807 Labonte Drive
Hope Mills, NC 28348

Attachments:

Pictures

Cumberland County Property GIS/Tax Records
Cumberland County Sheriff Department Reports
Cumberland County Animal Control Reports
NC Corporate business search/Annual Reports
People Searches

Update:

October 14, 2015 @ 7:15 am: Pam Vivian with DAQ FRO, met with Cumberland County Sheriff Deputy, Sgt. David Dowless to hand deliver the four letters noted above.

- At 1133 Fairhaven Trail, no one responded but the letter, along with an open burning flyer and my contact information for Janet Lee Marsh Smith was left on the door, a picture was taken and the Sheriff signed the card. *Later in the afternoon, Mr. Smith called and said his wife was not related to this name nor any illegal burning on any property.*
- At 1627 Zarzamora St., we did not find VB Marsh but a man who said he was Moses, living in a small camper trailer recently having been placed on this property stated, Mr. Marsh was at 7890 Hwy 87 south, Fayetteville, NC in the former hair salon.
- At 7890 Hwy 87 south, VB Marsh was present and signed for both NOV/NRE letters.
- At 5284 Butler Nursery Road, Fayetteville for Michael John Marsh's letter, we found there was no identifiable address for this location nor a home. Sgt. Dowless stated he remembered about 3 to 4 years ago the home on this property was condemned and demolished. County tax assessor states the property changed ownership between 2012 and 2013 to Cumberland Farms, LLC, address 5214 Butler Nursery Rd. Sgt. Dowless later determined through his office network that Michael John Marsh address now is 2916 Thrower Rd, Hope Mills with now updated contact number and Janet Lee Marsh Smith address is 5807 Labonte Rd, Hope Mills, NC 28348; Janet's contact number: 910-850-1197. I called Mrs. Smith and she verified her mailing address as states via Sgt. Dowless.

2) October 28, 2015 @ 10:15 am, Heather Carter and Pam Vivian, both with DAQ FRO, met with Mr. Vance Brewer Marsh (VB) at this office. Mr. Brewer previously called and made plans to meet to discuss his response to the previously received enforcement letters. He stated the following:

- He has been working on cleaning up property at 1611 Zarzamora Street but Vernon Hobbs was burning tires there.
- He said he is guilty of burning trash over the years at the property on Hwy-87 and some at 1627 Zarzamora Street. His daughter, Janice Marsh Smith, and her son use to live there and most of the trash burning was left there by them about 2 years ago.
- He admitted to burning tires years ago on the farm property off Hwy 87.
- Trailer addresses 1627 and 1639 Zarzamora Street were repossessed about 1 year ago from a father and son, Jerry and Scottie Bell. At that time 1639 was rented by MJ Marsh Farms to Stan Benez (sp) and he may have burned there.
- He stated he does take responsibility for all of the burning even though he did not do it all.
- He said he knew the man living at 1611 Zarzamora Street before Vernon Hobbs moved in, burned but he also knew Vernon Hobbs burned; he never told either of them not to burn. He did not know why, but he should have told them. Mr. Hobbs was selling used tires and burned those that were bad. Some of the tires behind 1611 trailer have been cleaned up
- He said he will not burn anymore, period.
- He said 1621 and 1627 Zarzamora Street are just about cleaned up with metal being taken to Omini Recycling and garbage will be taken to the county dump off Odom Road.
- He noted his health has been bad and he cannot afford to be assessed a penalty.

Complaint Investigation Report

NC Dept. of Environment & Natural Resources
Division of Air Quality

1627 Zarzamora Street
Hope Mills, NC
Several non-vegetative burn piles
July 23, 2015

County: Cumberland
Region: FRO
Suspect: V. B. Marsh
Facility ID#
Record # 16947

Pictures taken by Pam Vivian

Page 1 of 2



View of V. B. Marsh residence.



View of Pile 1*.



View of Pile 2*.



View of Pile *8.



View of Pile 9*.



View of Pile 10*.



View of Pile 11*.



View of Pile 12*.

Complaint Investigation Report

NC Dept. of Environment & Natural Resources
Division of Air Quality

1621 Zarzamora Street
Hope Mills, NC
Non-vegetative burn piles containing tires.
July 23, 2015

County: Cumberland
Region: FRO
Suspect: V. B. Marsh
Facility ID#
Record # 16947

Pictures taken by Pam Vivian



View of Pile 3* with several tires burned.



View of Pile 4* with tires burned.



View of burn Piles 5* and 6* respectively where tires have been burned.



View of burn Pile 7* with vegetative and non-vegetative debris burned.

Janet Lee Marsh/Property Owner
1627 Zarzamora Street (VB Marsh lives here)
Hope Mills, NC 28348

Property Owner's Address

5807 Labonte Drive, 1133 Foxchase Rd.
Hope Mills, NC 28348 Sheriff verified 5807 Labonte Dr.

23 July 2015

Burn piles



Pile #1
Vegetation
and
Household
Culinary

Pile #2
Vegetation,
Household
Garbage,
1-2-2-1

Pile #12
Past
None Vegetative

File #11
Household
Garbage,
metals

Pile #10
Box Spring
and
Household
Garbage

Pile #9
Vegetation,
metals,
Non-Vegetative

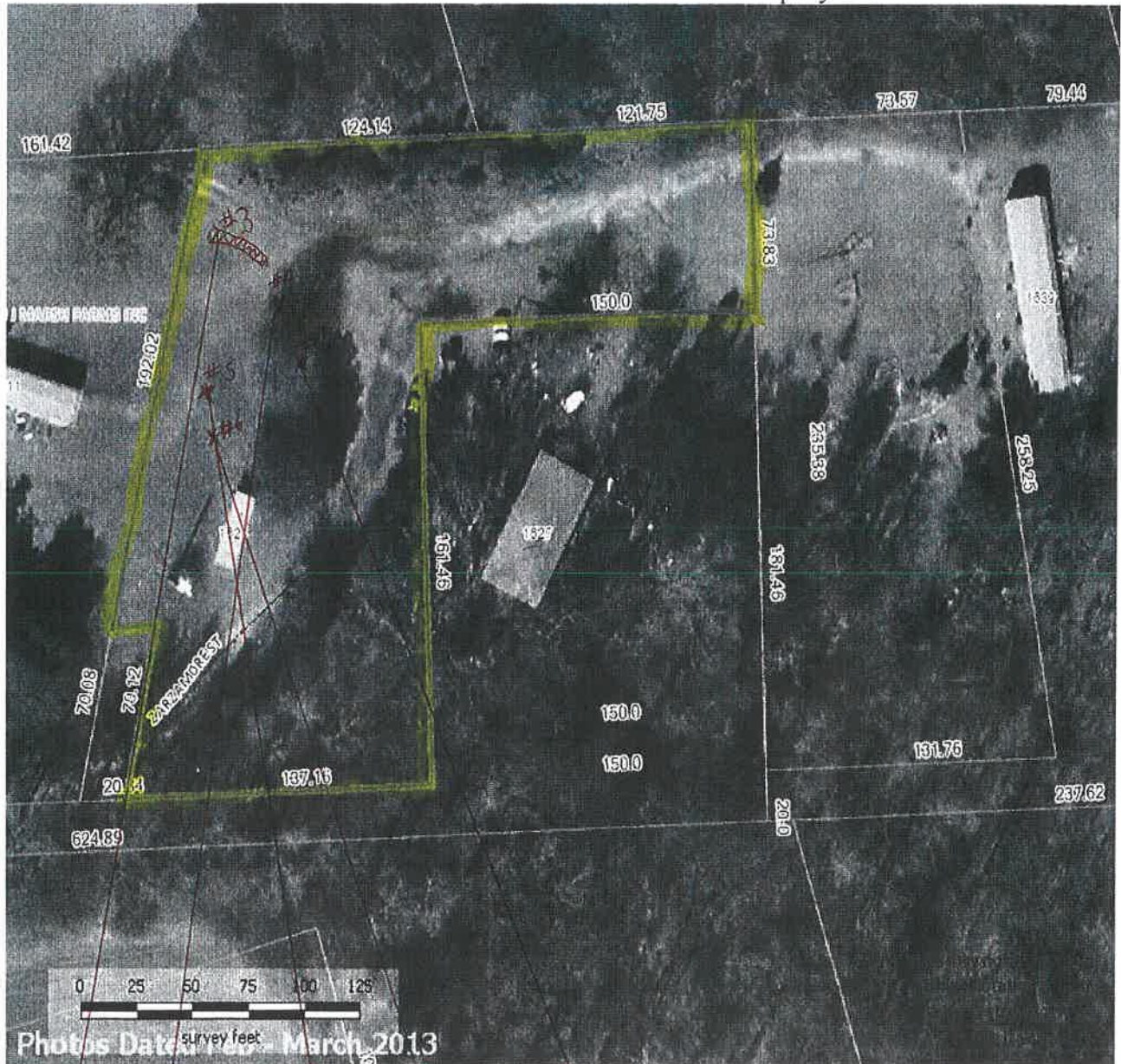
Pile #8
Household
Garbage

Michael John Marsh, Property Owner
1621 Zarzamora Street (No home on property)
Hope Mills, NC 28348

Property Owner's Address
5284 Butler Nursery Rd
Fayetteville, NC 28306

VB Marsh associated
23 July 2015
Burn piles

Cumberland Co Property GIS



Pile #3
About
25-30
Tires

Pile #4
About
6 Tires

Pile #5
About
8 Tires -
Total Unknown

Pile #6
Unknown
Amount

Pile #7
Miscellaneous
Vegetative and
Non-vegetative

2015-06100

File No.	
SEARCH WARRANT	
IN THE MATTER OF	
1621 Zarzamora Street Hope Mills NC 28348	
Date Issued	Time Issued 11:25 <input checked="" type="checkbox"/> AM <input type="checkbox"/> PM
Name Of Applicant Kirsten Long	
Name Of Additional Affiant Megan Russell	
Name Of Additional Affiant Eddie Bullard	
RETURN OF SERVICE	
I certify that this Search Warrant was received and executed as follows:	
Date Received	Time Received <input type="checkbox"/> AM <input type="checkbox"/> PM
Date Executed	Time Executed <input type="checkbox"/> AM <input type="checkbox"/> PM
<input type="checkbox"/> I made a search of _____	
_____ as commanded.	
<input type="checkbox"/> I seized the items listed on the attached inventory.	
<input type="checkbox"/> I did not seize any items.	
<input type="checkbox"/> This Warrant WAS NOT executed within forty-eight (48) hours of the date of issuance and I hereby return it not executed.	
Name Of Officer Making Return (Type Or Print)	
Signature Of Officer Making Return	
Department Or Agency Of Officer	Incident Number
Cumberland County Animal Control	

STATE OF NORTH CAROLINA

Cumberland County

In The General Court Of Justice
District/Superior Court Division

To any officer with authority and jurisdiction to conduct the search authorized by this Search Warrant:


I, the undersigned, find that there is probable cause to believe that the property and person described in the application on the reverse side and related to the commission of a crime is located as described in the application.

You are commanded to search the premises, vehicle, person and other place or item described in the application for the property and person in question. If the property and/or person are found, make the seizure and keep the property subject to Court Order and process the person according to law.

You are directed to execute this Search Warrant within for Warrant and make due return to the Clerk of the Issuing Court.

This Search Warrant is issued upon information furnished

**Cumberland County**
SHERIFF'S OFFICE
International Accredited Law Enforcement Agency
Sergeant David Dowless
Nuisance and Abatement
Phone: (910) 438-2000
Fax: (910) 821-6846
Email: ddowless@ccsone.org

**Payetteville Police**
Nuisance and Abatement
314 Jasper Street
Payetteville, NC 28301

Date 7-23-15 Name (Type Or Print) R. Douglas

☐ Deputy CSC ☐ Assistant CSC ☐ CSC ☒ Magistrate ☐ District Ct. Judge ☐ Superior Ct. Judge

This Search Warrant was delivered to me on the date and at the time shown below when the Office of the Clerk of Superior Court is closed for the transaction of business. By signing below, I certify that I will deliver this Search Warrant to the Office of the Clerk of Superior Court as soon as possible on the Clerk's next business day.

Date	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Magistrate (Type Or Print)	Signature Of Magistrate
------	--	------------------------------------	-------------------------

This Search Warrant was returned to the undersigned clerk on the date and time shown below.

Date	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Clerk (Type Or Print)	Signature Of Clerk	<input type="checkbox"/> Dep CSC <input type="checkbox"/> Asst CSC <input type="checkbox"/> CSC
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APPLICATION FOR SEARCH WARRANT

I, Kirsten Long Lead Officer Animal Control

(Insert name and address; or if law enforcement officer, name, rank and agency)

being duly sworn, request that the Court issue a warrant to search the person, place, vehicle, and other items described in this application and to find and seize the property and person described in this application. There is probable cause to believe that (Describe property to be seized; or if search warrant is to be used for searching a place to serve an arrest warrant or other process, name person to be arrested)

Four horses on property are deprived of necessary sustenance and the stable conditions may cause injury due to not being maintained in a clean and healthful condition.

constitutes evidence of a crime and the identity of a person participating in a crime, (Name crime) NCGS 14-360 (a) Cruelty to Animals NCGS 14-4

Local Ordinance Sec.3-71 Stables to kept clean.

and is located (Check appropriate box(es) and fill-in specified information)

☒ in the following premises (Give address and, if useful, describe premises)
1621 Zarzamora Hope Mills NC 28348

(and)

☐ on the following person(s) (Give name(s) and, if useful, describe person(s))

(and)

☐ in the following vehicle(s) (Describe vehicle(s))

(and)

☐ (Name and/or describe other places or items to be searched, if applicable)

The applicant swears or affirms to the following facts to establish probable cause for the issuance of a search warrant:

SWORN/AFFIRMED AND SUSCRIBED TO BEFORE ME

Date

07/23/2015

Date

7-23-15

Name Of Applicant (Type Or Print)

Kirsten Long

Signature

Signature Of Applicant

Kirsten Long

☒ Magistrate

☐ Dep. CSC

☐ Asst. CSC

☐ Clerk Of Superior Court

☐ Judge

☐ In addition to the affidavit included above, this application is supported by additional affidavits, attached, made by

☐ In addition to the affidavit included above, this application is supported by sworn testimony, given by

This testimony has been (check appropriate box) ☐ reduced to writing

☐ tape recorded and I have filed each with the clerk.

NOTE: If more space is needed for any section, continue the statement on an attached sheet of paper with a notation saying "see attachment." Date the continuation and include on it the signatures of applicant and issuing official.

MAGISTRATE'S ORDER - MISDEMEANOR ONLY

The named defendant has been arrested without a warrant and there is probable cause for the defendant's detention on the stated charges. This Magistrate's Order is issued upon information furnished under oath by the named officer. A copy of this Order has been delivered to the defendant.

Signature Of Magistrate/Deputy/Assistant/CSC

Date

OFFICER'S NOTES

OFFICER'S COPY

STATE OF NORTH CAROLINA *Cherokee* County

The undersigned officer has probable cause to believe that on or about
12-1-83, 12-1-83 (a) (p) m., the 12-1-83 day of 12-1-83

_____, in the named county, the named defendant did unlawfully and willfully operate a (motor) vehicle on a (street or highway) (public vehicular area)

- ☐ 1. At a speed of _____ MPH in a _____ zone. G.S. 20-141.
77. ☐ work zone. G.S. 20-141(j). 88. ☐ school zone. G.S. 20-141.i.
- ☐ 2. In forward motion without having the provided seat belt properly fastened about the defendant's body. G.S. 20-135.2A.
- ☐ 3. By transporting a passenger of less than 16 years of age without having the passenger in a (weight appropriate child passenger restraint system) (seat belt). G.S. 20-137.1.
- ☐ 4. By transporting a child of less than five years of age and less than 40 pounds in weight without the child being secured in the rear seat, when the vehicle was equipped with an active passenger-side front air bag and the vehicle had a rear seat. G.S. 20-137.1(a1).
- ☐ 5. While subject to an impairing substance. G.S. 20-138.1.
- ☐ 6. Without being licensed as a driver by the Division of Motor Vehicles of North Carolina. G.S. 20-7(a).
- ☐ 7. While the defendant's drivers license ☐ was revoked. G.S. 20-20(a).
93. ☐ was revoked and was originally revoked for an impaired driving revocation. G.S. 20-28(n).
- ☐ 8. While displaying an expired registration plate on the vehicle knowing the same may be expired. G.S. 20-117(2).
- ☐ 9. Without displaying thereon a current approved inspection certificate) (having a current electronic inspection authorization for the vehicle), such vehicle requiring inspection in North Carolina. G.S. 20-183.b. Month Expired: _____
- ☐ 10. By failing to see before (starting) (stopping) (turning from a direct line) that such movement could be made in safety. G.S. 20-164.
- ☐ 11. By failing to stop at a duly erected (stop sign) (flashing red light).
G.S. 20-158(b)(1), (b)(3).
- ☐ 12. By entering an intersection while a traffic signal was emitting a steady red circular light for traffic in defendant's direction of travel. G.S. 20-158(b)(2).
- ☐ 13. Without having in full force and effect the financial responsibility required by G.S. 20-313. The defendant was the owner of the motor vehicle that was (registered) (required to be registered) in this State. G.S. 20-313.
- ☐ 14. (Possess an open container of) (Consume) an alcoholic beverage in the passenger area of a motor vehicle. G.S. 20-138.7(a1). [NOTE: Strike "operate a (motor) vehicle" and "(public vehicular area)" above].
- ☐ 15. Without decreasing speed as necessary to avoid colliding with a (vehicle) (person). G.S. 20-141(m).
- ☒ 16. To any person shall unlawfully operate a
driver's license
and/or law books or any other items
in said car, whether or not related to
the operation of the vehicle or the law.
violation of N.C.G.S. 20-360
- ☐ 17. And on or about the date and time shown above in the named county, the named defendant did unlawfully and willfully operate a (motor) vehicle on a (street or highway) (public vehicular area)

Date 04/27/2010	Signature Of Officer <i>[Signature]</i>
--------------------	--

Agency Name: Cumberland County Sheriff's Office

ORI: NC

INCIDENT / INVESTIGATION REPORT

DOA: 2015-06100

Date / Time Reported: 07/23/2015 12:57:03

Month: 07, Day: 23, Year: 2015, Time: 12:57:03

Crime / Incident(s): Administrative Search Warrant

Crime Incident: Administrative Search Warrant

Crime Incident: Administrative Search Warrant

How Attacked or Committed: SERVED Administrative Search Warrant

Number of Victims: 1

Type: Person

Victim / Business Name (Last, First, Middle): Cumberland County Animal Control

Home Address: 4704 Corporation Drive Fayetteville NC 28306

Employer Name / Address: Cumberland County Animal Control 4704 Corporation Dr. Fayetteville NC 28306

Home Phone: 910-321-6852

Business Phone: 910-321-6852

Codes: V - Victim (Denote V2, V3) O - Owner (if other than victim) R - Reporting Person (if other than victim)

Type: Person

Name (Last, First, Middle): R. B. B. (Sgt. Animal Control Investigator)

Home Address: 4704 Corporation Drive, Fayetteville, N.C. 28306

Employer Name / Address: Cumberland County Animal Control 4704 Corporation Dr. Fayetteville NC 28306

Home Phone: 321-6852

Business Phone: 910-321-6852

Status Codes: L - Lost S - Stolen R - Recovered D - Damaged Z - Seized B - Burned C - Counterfeit/Forged F - Found

Property Description: 4 Brown Horses

Number of Vehicles Stolen: 0

Number Vehicles Recovered: 0

Officer Name: D. D. D. S. (465)

Officer Signature: [Signature]

Supervisor Signature: [Signature]

Case Status: Closed/Cleared

Case Disposition: Prosecution Declined

INCIDENT/INVESTIGATION REPORT

Page 2

OCA
2015-06100

Status Codes	L - Lost S - Stolen R - Recovered D - Damaged Z - Seized B - Burned C - Counterfeit/Forged F - Found																							
DRUGS	DCI	Status	Suspected Quantity	Type Measure	Suspected Type	Check up to 3 types of activity for each																		
						Possess	Buy	Sale	Mfg.	Importing	Operating													
OFFENDER	Offender Used		<input type="checkbox"/> Yes <input type="checkbox"/> Wnk <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A		Offender 1			Offender 2			Offender 3			Primary Offender <input checked="" type="checkbox"/> Resident <input type="checkbox"/> Non-Resident <input type="checkbox"/> Unknown										
	Alcohol/Drugs				Age: 76 Race: W Sex: M			Age: Race: Sex:			Age: Race: Sex:													
	Computer		<input type="checkbox"/> Yes <input type="checkbox"/> Wnk <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A		Offender 4			Offender 5			Offender 6													
					Age: Race: Sex:			Age: Race: Sex:			Age: Race: Sex:													
SUSPECT	Name (Last, First, Middle)				Alias or Nickname				Home Address															
	MARSH, VALERIE BREWER SR.								1621 ZARZAMORE, HOPE MILLS NC 28340															
	Occupation				Business Address																			
	DOB / Age				Race		Sex		Height		Weight		Build		Hair Color		Hair Style		Hair Length		Eye Color		Glasses	
	76 02/05/1939				W		M		0510		225		MED		Grey		Short		Short					
	Scars, Marks, Tattoos, or other distinguishing features (i.e. limp, foreign accent, voice characteristics)																							
	Hat		Jacket		Shirt/Blouse		Tie/Scarf		Coat/Suit		Pants/Dress/Skirt		Socks		Shoes									
	Was Suspect Armed?		Type of Weapon										Direction of Travel				Mode of Travel							
	N/A																							
	VYR		Make		Model		Style		Color		Lic/Lis		Vin											
WITNESS	Name (last, first, middle)								DOB / Age		Race		Sex		OCA									
	Home Address								Home Phone		Employer		Phone											
	Suspect Male / Bias Motivated: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>																							
	Narrative																							
NARRATIVE	<p>On Thursday July 23, 2015 at approx 1303 hours I went out with Animal Control to serve a search warrant at 1621 Zarzamore Hope Mills, N.C. Animal Control seized 4 horses that was deprived of necessary substance and the stable conditions may cause injury due to not being maintained in a clean and healthful condition. State Air quality was also called do to the evidence of burning lines owner of the horses is V.B. Marsh, Animal Control will charge V.B. Marsh for animal cruelty. Attached is copy of search warrant.</p>																							

Activity Card

A15-086366-13 CONTACT Priority Level: 3 Total Animals: 1 Animal Type: DOG

Activity Address: 1621 ZARZAMORE ST

Activity Comment: JOHN MELVIN 495-6256// ABOUT DOG BEING GONE/// AC7 OR AC9

Owner Information:

P058062 VANCE MARSH
1621 ZARZAMORE ST
(910) 885-2679

Caller Information:

P222222 CUMBERLAND CCSO
131 DICK ST
FAYETTEVILLE NC 28301
(910) 323-1500

Result Codes:

A214987

Officer: P999007 LONG

Clerk: CBURNS

Call Date: 07/03/15 03:59 PM

New Date: 07/27/15 12:00 AM

Dispatch Date: 07/27/15 07:43 AM

Working Date:

Complete Date: 07/27/15 06:22 PM



**CUMBERLAND
★ COUNTY ★**
NORTH CAROLINA

**ANIMAL CONTROL DEPARTMENT
ANIMAL ENFORCEMENT OFFICER**

4704 Corporation Drive • Fayetteville, NC 28306

Phone: 910-321-6852 • Fax: 910-223-3357

E-mail: ccac@co.cumberland.nc.us

Christy Burns
Enforcement Lead Officer

Memo:

07/03/15 16:29 K.Long

I called to confirm 3 times before Stella answered her phone. Stella is very difficult to understand. (slurs her speech) EMS was on scene treating Stella, or trying to, while I was on the phone with her. Stella was not cooperative with giving information. Stella stated she bitten by a dog on the ankle a couple of days ago. I asked Stella if it was her dog that bit her, she stated no. She stated it was a dog at a store and she stepped on the dogs tail. I tried to get Stella to tell me what store, Stella stopped responding and began to talk to EMS about her ankle.

07/03/15 16:37K.Long

Tried to call Stella back to confirm she is still home. Straight to VM

07/04/15 10:06 M.Russell

Arrived at 1621 Zarzamore, observed a white and red pit bull type tethered to a branch in a tree. The dog has no shelter, no visible water, and was walking on metal roofing materials. I went to the door, knocked several times with negative results. The door had a padlock on it. I called AC07 to advise her of the condition the dog was being kept in, per AC07 I posted the house with 2 orange investigation notices, one for the dog bite reading "24hrs to contact regarding dog bite." and a second for cruelty reading "24 hrs to get the dog water and a dog house. 24hrs to get the metal out of the dogs area.". I will pend the call and recheck conditions of the dog tomorrow.

07/05/15 12:37 M.Russell

Arrived at 1621 Zarzamora with ACO Herring. We observed the white/red pit bull still on the tether with no doghouse and no visible water. The metal was still in the dogs area, and she was walking on the metal. We observed a pan of dog food and a pot with burned beans in it. Next to the pot was a pile of vomit with worms in it. The area the dog was in was covered in trash, dead/rotting fish and vomit. The dog had water behind the car, in a plastic car battery cover, the water was green and smelled badly and had many bug and larva in it. Located behind the dog was a shed with rabbits in a pen in front of it and a second set of rabbits in another pen on the porch of the shed.

I walked to the front door and knocked on the door with negative results. The notice from 7/4/2015 had been removed and the lock was off of the door.

We approached the pen with 2 rabbits in it behind the dog. We then observed 2 more rabbits in the second pen, and could hear the sounds of chickens from inside the shed. The first pen contained 2 rabbits (one white with gray spots, one gray/brown) with no food or water. The second pen contained 2 rabbits (one gray/brown and one tan) with no food, but they had half a bottle of green water. Inside the shed where 5 or more young chickens, had no visible water or food.

When turning to walk away from the shed, I observed a marijuana plant in plain site next to the shed. At that time AC07, Sgt Long, was contacted and CCSD was contacted. Deputy Rodgers from CCSD arrived on scene and we showed him to the marijuana plant and he proceeded to the door and knocked several times. At the time a Stella Oenning came from the residence. Deputy Rodgers spoke with Oenning. Sgt Long arrived on scene and we began to show her the property. Oenning provided ID but was uncooperative on the bite investigation.

Oenning showed us to Mr. Vance Marsh's horses at the back of the property. The 4 horses have moldy hay, and are standing in mud. The horses do have clean water, but each horse is in need of 50# or more in weight.

07/05/15 12:18 V.Herring

Responded to 1621 Zarzamora st, with Officer Russell to assist with check conditions and follow up on a posted notice. I arrived on scene with Officer Russell and observed the notice taken off the door. Officer Russell knocked on the door with no response. We both walked over to check on a white and brown dog named Paulia. Paulia was on a tether among trash and burnt debris. Two dead fish and rotten food was on the ground, as noted in photo's. Paulia had a sore under her neck possibly from the tin laying on the ground in range of her tether. Ends of the tin were pointing up causing a hazard to Paulia. Paulia at one point was laying in trash and rotten food. While checking on Paulia, Officer Russell observed some rabbits in a cage beside the area where Paulia was tethered. Two rabbits in the first cage observed were housed in a small cage with no food or water. The water bottle was dry and food bowl empty. Officer Russell checked on the conditions of two other rabbits house behind the first cage. Both rabbits were housed together. While looking at the rabbits and discovering some small chickens, Officer Russell pointed at a green plant about two feet high, inside of a black planter with wire leading up to the height of the plant wrapped around the container. The container was in plain view. Officer Russell asked if that was what she thought it was, meaning Marijuana, and I advised it was. I then made contact with CCSO, while Officer Russell was on the phone with Sgt. Long. While speaking with "Stella" a white female at the residence, I observed another marijuana plant growing in a small garden. I have seventeen years of law enforcement, two of which I was a narcotic agent and four working a narcotic K-9. My experience with the type of plant observed has been consistent with my work in Law enforcement, as a Marijuana plant prior to being harvested. Photo's were taken of conditions prior to leaving the scene. Also observed were horses on property, toward the rear of the property, that were muddy conditions. No dry areas observed. A water hose was draining water onto the ground making conditions worse. I briefly observed their conditions, leaving that to Officer Russell, which has more experience and knowledge of horses. Prior to leaving I saw Stella feed and water the animals on property. Also provided was a statement to CCSO.

07/05/15 12:11 K.Long

I was contacted via phone by Officer Russell (AC37). AC37 and Officer Herring (AC42) were on scene and stated that no one was answering the door at the residence. I was advised that the canine observed the day before was in the same condition. AC37 stated that rabbits were also on the property without water. Also both AC37 and AC42 found marijuana plants growing on the property.

I arrived on scene and met with AC37 and AC42. Deputy Rogers was also on scene and was able to get Stella out of the residence. I asked Stella if she was bit by a dog, she stated she was. I asked Stella where she was bitten, Stella's reply was inaudible. The third time I asked, Stella replied she was bitten by a dog while working at a store. Stella then walked off. I attempted to gather more information when Stella. Stella was uncooperative.

V.B. Marsh arrived and met with Deputy Rogers reference the cannabis found on property. During this time I observed the animals on property.

In the front yard to the right of residence I observed a white and brown female pit bull type tethered. The canine appears to be a young adult and very friendly. The tether is suspended from a pine tree. The canine did not have food or potable water. The canine did not have and shelter except a broken down car. On the ground around the canine is filthy. The canine is surrounded by trash piles, raw whole decomposing fish, maggots and raw sewage. I observed a pile of vomit that appeared to be ascarides and/or hook worms.

A hutch with several rabbits and a chicken coop with 5 or more chickens are located approximately 100 feet behind the canine's location. The rabbits are without food or water. The bowl inside the hutch appears to have molded food and/or feces inside of it. The chickens are without food and water as well. Neither habitat is clean.

In the woodline behind the residence is a horse pasture. The pasture is full of mud. Hay is the bed of a pick up truck backed up to the fence and appears molded. The hay is toward the front of the truck which would cause the horses to climb on the bed of the truck to access it. Water is available. The condition of the horses' appears to be okay.

continued...

continued....

V.B. Marsh stated to Deputy Rogers that he does not live at 1621 Zarzamora but comes and goes as he pleases. Marsh stated that Stella stays at 1621 Zarzamora, however Stella advised she has only stayed at the residence a week. Marsh yelled for and at Stella several times while on scene. V.B. Marsh became very agitated and loud several times with Stella. Stella was giving all the animals fresh water while on scene. V.B. Marsh called a friend to bring him a dog house for the canine. Deputy Rogers called for CSI. Deputy Rogers confiscated the plants and advised he will turn the case over to narcotics. V.B. Marsh left the residence prior to CSI arriving.

Stella came out crying and stated V.B. Marsh told her to surrender the canine and that if we take the canine we need to take the canines from Benitez as well. We advised Stella that Marsh would need to sign the canine over or give verbal consent by phone. Stella got V.B. Marsh on the phone. I confirmed that I was speaking with V.B. Marsh and stated "do you give Stella permission to sign the canine, Paula over to CCAC?" V.B. Marsh then began asking what did the canine do and what did Stella do? I advised Marsh that the canine has done nothing wrong but her living conditions are not up to the minimum standards. V.B. Marsh became agitated and I asked again if he wanted to sign over custody. Marsh asked what that meant. I advised Marsh that I needed to speak with him face to face. Marsh stated he was with the deputies at his other house.

Stella put the pad lock on the front door and left the residence. Officer Russell left a citation on the door.

Follow up on 7/13/15.

07/05/15 15:50 M.Russell

Vance Marsh arrived on scene and quickly became upset, yelling at Oenning and about his tenant/neighbor Alfred Beneitz. Marsh yelled at Oenning about the animals not having any food or water, at that time Oenning gave the animals on the property water and food. Oenning washed out the container that the dog "Paula" was drinking out of and filled it with fresh water. Marsh had a friend come to the property with a dog house for Paula while we were on the property. Marsh left the property before CCAC or CCSD cleared the scene. CCSD confiscated the marijuana from the property and cleared the scene shortly after.

I wrote a citation for: 1x No rabies, 1x no county lic, 1x tethering, 4x cruelty(no food/water/shelter) and posted same on the door. The door had a lock on it again and Oenning had left the residence. Photographs were taken and put into Chameleon.

07/13/15 11:31 M.Russell

Arrived at 1621 Zarzamora with ACO Herring and Deputy Hampton, we observed the canine known as "Paula" running loose dragging approx. 10 ft of chewed rope. "Paula" was running between 1621 and 1638 Zarzamora at the time of our arrival. Deputy Hampton attempted to make contact with negative results, lock was on the outside of the door. I called Sgt Long in regards to Paula RAL and us not being able to make contact, she advised me to pick the dog up for RAL. Myself and ACO Herring loaded Paula into my truck. We then went to check on the conditions of the rabbits. There are now 5 rabbits total, 3 in the first pen had no food or water, feces caked to the bottom of the pen. The second pen contained 2 rabbits with no food, and a bottle of green water, feces caked to the bottom of the pen in this pen also. The chickens are now confined in a small wooden box, no water or food, and barely any room for them to move around. I notified Sgt Long of the conditions and she advised me to take photos of everything and bring it in to the shelter to speak with Lt. Smith about the problems at this address. Myself, ACO Herring, and Deputy Hampton cleared the scene.

07/13/15 11:30 V.Herring

Prior to arriving on scene, myself and AC Russell met with Deputy D. Hampton (D-Platoon) and briefed him on the call. After briefing myself, AC Russell and Deputy Hampton arrived in scene and observed "Paulie" the white and red pit bull running at large. We called her and she approached us. Non aggressive and playful. Rabbits were checked with no food and water and small chickens were closed inside a wood type crate about 12 to 15 inches long and about 12 to 15 inches wide. Unknown how many were inside. AC Russell loaded Paulie into the truck with no problems or aggression from the dog. Photo's were taken and all units cleared the scene. Deputy Hampton indicated in his note for CCSO CAD that he also observed the dog running loose.

07/13/15 19:27 M.Russell

Arrived at 1621 Zarzamora with Sgt Long(AC07), CCSD D-13, CCSD D-17. We met with Stella Oenning at the front door who advised V. B. Marsh was currently home. Marsh came to the door and spoke with Sgt Long. Sgt. Long served the search and seizure warrant on V.B. Marsh, Marsh stated he understood what the warrant meant and was given a copy. Upon our arrival we noted the rabbits had been given water and grain, the chickens had a small container of dirty water at the back of the box filled with fecal matter. We began loading the animals into carriers. As we were loading the rabbits, Marsh became argumentative about us removing the rabbits from the first pen. Sgt Long advised that the search warrant stated we were removing all animals from the property, and he was given a copy of the warrant. Marsh got his copy of the warrant from the house and demanded to know who said we could take all the animals and who told that person that the animals were in bad condition. Sgt Long advised that we had been out earlier today, and at that time the animals had no food or water and were being kept in filthy conditions. In total: 5 rabbits, 4 chickens, and the box the chickens were being kept in was seized from the property. While on scene we checked the condition of the horses on property. The horses hay has not been moved down for them to eat it since our last visit, and the horse's water is dirty, stagnant, green and unpalatable. The horses are still slightly underweight. The paddock the horses are kept in is full of debris and mud. There are bricks which may injure the horses next to the hay trailer. The mud is so thick up in front of the hay trailer that the horses did not want to approach it. The hay inside the trailer has black mold on the outside and smells pungent. Photographs were taken of all the animals on the property and the conditions they are being kept in.

M.Russell CONT.

Upon arrival to the shelter with the animals, Sgt Long and I photographed and weighed each animal. Chickens weighed 12.5 ounces (A214201), 9 ounces (A214535), 8 ounces (A214536), and 5.5 ounces (A214537) respectfully. All of the chickens where emaciated with their keel (breast) bone protruding approx. 1 inch or more from their bodies. The chickens had missing feathers, urine scald, and abrasions to the body. The box the chickens where being kept in measured 11.5" deep and 14" wide. The rabbits weighed 2 pounds 11 ounces (A214199), 2 pounds 12 ounces (A214200), 3 pounds 7.5 ounces (A214538), 3 pounds 15 ounces (A214540). One of the rabbits has urine scald and maggots on its genitals. The chickens where placed into a holding pen with food and water and immediately began to eat voraciously. The rabbits where placed into individual pens with food and water and all began to eat shortly after being placed into the cages. All weights and photos of the animals were recorded.

07/14/15 09:12 MKP

Vance Marsh came in to speak with Enforcement; called x6829 and spoke with Lt Smith who stated Sgt Long will be meeting with Marsh. I called Sgt Long and she stated that she will meet with Marsh.

07/20/15 15:37 Jlauby AC 1

I examined four Chickens removed from 1621 Zarzamora for possible cruelty. These birds are all under weight with feather loss, prominent chest bone very little if any breast muscles. These birds were kept in an 11" by 14" box with tiny air holes in it. It is obvious these birds haven't have proper care for a long time. The lack of food has caused them to lose all developed muscle just to stay alive.

I also examined four rabbits that appeared in good flesh but had urine gall from being in a rabbit box that was covered with feces where the rabbits could not get away from the caustic effects of urine. We have multiple pictures of the deplorable conditions these animals were kept in.

It is my professional opinion that the treatment of these animals was cruel and inhumane.

John A. Lauby DVM CVCP., Director, CCAC
4704 Corporation Drive
Fayetteville NC, 28306
910-321-6856

07/22/15 16:02 JLauby AC 1

I drove to 1621 Zarzamora to examine the pasture conditions of the four horses that were at this location. On arrival the horses were standing in 14 inches of mud and each step caused a swooshing sound for them to pull their feet out of the mud to take a step. The entire paddock area was a mud pit with mud 6-18" deep when the horses walked or moved. These conditions are a danger to these horses as they can break a leg or pull a hoof off by trying to walk. I recommend the horses be removed from this area immediately under exigent circumstances which constitutes a danger to the horses the entire time they are in this area.

07/22/15 16:13 M.Russell

Arrived at 1621 Zarzamora, with Dr. Lauby, Sgt. Long, and ACO Abert. The residence was locked from the outside, we where unable to make contact with the residence despite knocking several times. We proceeded to the paddock the horses are being kept in. The horses in the paddock are standing and attempting to walk in muck and mud 6 inches to 18 inches deep. The horses struggle to walk in these conditions. The horses still have no access to the hay. The white water bucket is empty, with green algae at the bottom. The gray trash can of water is filled with debris, algae, and dead bugs. The black fish pond has running water to is, but also has algae and muck at the bottom. The body condition of the horses is almost the same, some appear slightly thinner.

07/22/15 18:53 K.Long

I arrived at 1621 Zarzamora with Dr. Lauby, Officer Russell and Officer Abert. No one was home. We observed the pasture to be in unsatisfactory conditions. It is filled with feces, urin and mud at approximately 6-18 inches deep. The water is full of algae and debris. The hay was poor and not accessible to the horses. Video and photographs were taken. Conditions are poor enough to seize per Dr. Lauby.

07/23/15 17:33 K.Long

A warrant was obtained to seize four horses from 1621 Zarzamora Street. Myself, Lt. Smith, Sgt. Bullard, Sgt. Donovan, Officer Russell, Officer Wrench, Officer Abert. Sgt. Dowless (CCSO) assisted.

Lt. Smith and I went to the door of the residence. The padlock was locked to the outside usually indicating no one is home. I knocked on the door, no answer. I taped the warrant to the front door. A photograph was taken.

Lt. Smith and I went to the paddock. The horses and the paddock are in the same condition. The paddock itself is still in unsanitary conditions. Officer Russell went into the paddock near the shelter. Once inside Officer Russell sunk in the mud and muck well above the shin. Officer Russell and Officer Wrench were able to leash the two mares and load. Eventually Officer Russell and Officer Wrench were able to leash the stallion and then the gelding. All were loaded without incident.

The impound notice was left on the front door along with the warrant

07/23/15 18:41 A. Wrench

Arrived at 1621 Zarzamora and assisted AC7 & AC37 in capturing and loading 4 horses.

07/23/15 17:27 M. Russell

Arrived at 1621 Zarzamora with Lt. Smith(AC02), Sgt. Long(AC07), Sgt. Donovan(AC09), Sgt. Bullard(AC08), ACO Abert(AC43), ACO Wrench(AC39), and Deputy Dallas of CCSD. Upon arrival no one was at the residence; Sgt. Long, Sgt. Donovan and Deputy Dallas posted the search warrant on the front door of the residence. We relocated to the muddy paddock where the horses were being kept and observed the conditions had not changed since the previous visit the day before. The horses hay was still moldy, inedible, and inaccessible. The horses were still standing in 6-18 inches of urine, feces, muck, mud, and water. The horses water was still filled with debris. The paddock the horses are in smells strongly of decomposing feces and urine. At this time we began removing the animals from the property due to improper living conditions, lack of potable water, lack of edible food, and conditions of the paddock. We impounded:

A214985 One female(mare), Chestnut horse with no markings.

A214988 One female(mare), black and white paint pony. The pony has a star and stripe on its face and four white socks.

A214986 One gelding(castrated male), chestnut horse with a small star on its forehead, and small white sock on its rear right foot.

A214987 One stallion, chestnut horse with two hind white feet, star and stripe on its face.

Impound notice was left on the door to notify the owners of the impoundment.

Upon arrival to the shelter it is clear that the body condition of the horses is poorer than originally thought. The pony being the only equine of a healthy weight. The chestnut mare, chestnut gelding, and chestnut stallion all need approx. 100# of weight. The horse's hooves are long and in need of trimming. At the time the horses were unloaded we were unable to check the condition of the horses feet further.

07/23/15 17:27 CONT. M. Russell

During our time there it began to rain, walking in the paddock once the rain began became next to impossible. I (AC37, Russell), had great difficulty walking in these conditions and frequently sank to my knees in the muck, urine, and feces. I had to hold onto the sides of the pen for stability to pull my feet out of the mud and muck and forcefully pull my feet up and out. The horses were struggling to walk in the conditions as well. Once we left the scene I was able to remove my boots. The mud, muck, urine, and feces had came up over my 11" tall boots, and into the interior of my boots. The outside of my pants had mud, muck, urine and feces up 18" up the outside and inside of my pants.

07/25/15 1318 cburns

I called and left a message for John Melvin @ 910-495-6256. CCSO stated he was calling about his dog being gone from above address. I left my office number for Mr. Melvin to contact me 910-321-6901.

07/25/15 1729 Cburns

Mr. John Melvin left a message for me at 321-6901, in reference to horses that were taken from the above address. Mr. Melvin stated he was trying to help a friend get the horses back. I called Mr. Melvin back and left him another message advising him Sgt. Long would be back Monday 7/27/15 and could assist him. I advised Mr. Melvin of my working hours this weekend, and he was more than welcome to contact me, but Sgt. Long was handling this case.

07/28/15 11:30 K.Long

Vance Marsh came in to CCAC at 10:00 as he said he would. Sgt. Dowless (CCSO) arrived at the same time. I explained to Mr. Marsh the fees for all the animals through today. I advised Mr. Marsh that he is being charged due to the conditions they were seized for and that I could not release them until he goes to court. Mr. Marsh stated he does not have the money, or the time. Mr. Marsh stated he does realize he is in over his head with his responsibilities. Mr. Marsh chose to sign over the animals that have been seized.

Mr. Marsh stated one of the horses belongs to Stella.

Mr. Marsh signed over all the animals except the mare named Star.

Sgt. Dowless had Mr. Marsh sign the criminal summons to appear in court on 08/11/15 at 3pm. Mr. Marsh stated he understood. I explained to Mr. Marsh that he is signing the animals over to the custody of CCAC and that they now belong to CCAC. Mr. Marsh stated he understood prior to signing.

CIVIL CITATION FOR VIOLATION OF ANIMAL CONTROL ORDINANCE
CUMBERLAND COUNTY ANIMAL CONTROL DEPARTMENT
4704 CORPORATION DRIVE - FAYETTEVILLE NC 28306
PHONE : (910) 321-6852

V15-005844

A15-086366

DATE ISSUED: 07/05/2015 TIME ISSUED: 12:43 OFFICER: P999037 - RUSSELL
NAME: P058062 VANCE MARSH SEX: M DOB: 02/05/1939
STATE DL/ID: NCDL#1745793 PHONE: (910) 885-2679 ALT. PHONE: (910) 723-0677
ADDRESS: 1621 ZARZAMORE ST CITY: HOPE MILLS STATE: NC ZIP: 28348

THE UNDERSIGNED OFFICER HAS PROBABLE CAUSE TO BELIEVE THAT ON **JULY 5 2015** IN CUMBERLAND COUNTY, NORTH CAROLINA, THE ABOVE NAMED PERSON DID UNLAWFULLY VIOLATE THE CUMBERLAND COUNTY ANIMAL CONTROL ORDINANCE. THE ABOVE NAMED PERSON IS HEREBY ISSUED A CITATION FOR THE OFFENSE(S) LISTED:

C.C SEC 3-35(F) FAILURE TO HAVE DOG OR CAT VACCINATED AGAINST RABIES A214198 PAULA PIT BULL \ MIX WHITE & RED - FEMALE	\$100.00
C.C SEC 3-58 FAILURE TO LIST DOG OR CAT FOR ANNUAL PRIVILEGE LICENSE (ANIMAL LICENSE) A214198 PAULA PIT BULL \ MIX WHITE & RED - FEMALE	\$100.00
C.C SEC 3-23 ANIMAL UNLAWFULLY TETHERED 1ST OFFENSE A214198 PAULA PIT BULL \ MIX WHITE & RED - FEMALE	\$100.00
C.C SEC 6-21 ANIMAL CRUELTY 1ST OFFENSE A214198 PAULA PIT BULL \ MIX WHITE & RED - FEMALE	\$100.00
C.C SEC 6-21 ANIMAL CRUELTY 1ST OFFENSE A214199 WHITE RABBIT SH WHITE - MALE	\$100.00
C.C SEC 6-21 ANIMAL CRUELTY 1ST OFFENSE A214200 CHARCOAL RABBIT SH GRAY & WHITE - FEMALE	\$100.00
C.C SEC 6-21 ANIMAL CRUELTY 1ST OFFENSE A214201 12.5OZ CHICK CHICKEN BLACK - UNKNOWN SEX	\$100.00

MEGAN RUSSELL
ENFORCEMENT OFFICER

DEFENDANT

YOU MUST PAY THE FINE(S) AT THE CUMBERLAND COUNTY ANIMAL CONTROL DEPARTMENT AT 4704 CORPORATION DRIVE, FAYETTEVILLE, NC 28306 WITHIN 7 DAYS. PAYMENTS MAY BE MADE IN PERSON OR MAY BE MAILED (INCLUDE COPY OF CITATION).

FAILURE TO PAY THE PENALTY AND TO COMPLY WITH THE ORDINANCE WILL RESULT IN IMPOSITION OF FURTHER PENALTIES AND COLLECTION OF FEES THROUGH THE CUMBERLAND COUNTY COURT SYSTEM AND OR CRIMINAL PROSECUTION FOR VIOLATION OF THE ORDINANCE.

DIVISION OF AIR QUALITY - CIVIL PENALTY ASSESSMENT

Violator: Vance Brewer (VB) Marsh

County: Cumberland

Case Number: 2015-035

ASSESSMENT FACTORS

- 1) The degree and extent of harm to the natural resources of the State, to the public health, or to private property resulting from the violation;

Smoke, particulate matter and toxic emissions are generated from this type of fire -

OB of 40+ times and other synthetic materials.

- 2) The duration and gravity of the violation;

Open burning occurred on multiple days -

No written response to NOV/NRE received.

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

Air quality nearby and downwind of the fire was significantly impacted.

- 4) The cost of rectifying the damage;

N/A

- 5) The amount of money saved by noncompliance;

Unclear

- 6) Whether the violation was committed willfully or intentionally;

Violation appears to have been done with knowledge of these OB rules, given prior history.

- 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

1/14/08 - NOV - allowing OB of times

9/14/10 NOV - burning of synthetic materials

6/13/12 NOV - burning of synthetic materials

9/20/12 NOV - burning of synthetic materials -

- 8) Cost to the State of the enforcement procedures;

Normal investigative and processing costs incurred.

2/10/16
Date

Sheila C. Holman
Sheila C. Holman

STATE OF NORTH CAROLINA

COUNTY OF CUMBERLAND

NORTH CAROLINA
ENVIRONMENTAL MANAGEMENT
COMMISSION

IN THE MATTER OF:)
VANCE BREWER (VB) MARSH)

CASE NUMBER 2015-035

FOR VIOLATION OF:)
15A NCAC 2D .1900)
"OPEN BURNING")

CIVIL PENALTY ASSESSMENT

Acting pursuant to North Carolina General Statutes (G.S.) 143-215.114A, I, Sheila C. Holman, Director of the Division of Air Quality (DAQ), make the following:

I. FINDINGS OF FACT:

- A. On 23 July 2015, the Division of Air Quality Fayetteville Regional Office, DAQ FRO, received a complaint from the Cumberland County Sheriff's Office concerning the open burning of non-vegetative materials nearby and surrounding the residence of Mr. Vance Brewer (VB) Marsh at 1627 and 1621 Zarzamora St. Hope Mills, in Cumberland County, North Carolina.
- B. On 23 July 2015, Ms. Pam Vivian, DAQ FRO, investigated this complaint. Upon arrival at 1627 Zarzamora St., she observed 12 piles of charred non-vegetative materials including 40+ tires, mattress springs, plastics, furniture, clothing, household garbage, metals, and other unidentifiable non-vegetative debris. At 1621 Zarzamora St., Ms. Pam Vivian observed 5 piles containing the burnt remnants of numerous tires.
- C. On 8 October 2015, DAQ FRO issued a Notice of Violation/Notice of Recommendation of Enforcement (NOV/NRE) to Mr. Vance Brewer (VB) Marsh. Certified green card was received on 14 October 2015.
- D. On 28 October 2015, Mr. Marsh arrived at DAQ FRO and discussed the illegal open burning on his residence and the surrounding properties investigated on 23 July 2015. Ms. Heather Carter and Ms. Pam Vivian listened to his explanations of how someone else did most of the burning, but that he did burn some of the debris right around his residence (1627 Zarzamora St.). He also admitted to allowing the illegal open burning of non-vegetative materials by others on his family land that he manages. He took responsibility for the illegal open burnings observed at 1627 & 1621 Zarzamora St.
- E. Air Quality Compliance History:
 - 01/14/08- NOV- allowing open burning of tires on MJ Marsh Farms property
 - 09/14/10- NOV- burning non-vegetative materials for waste disposal
 - 06/13/12- NOV- burning non-vegetative materials for waste disposal
 - 11/20/12- NOV- open burning non-vegetative materials on MJ Marsh Farms property
- F. The costs of investigation or inspection in this matter totaled \$363.

Based upon the above Findings of Fact, I make the following:

II. CONCLUSIONS OF LAW:

- A. Vance Brewer (VB) Marsh was in violation of 15A NCAC 2D .1900, for causing, allowing or permitting open burning, as stated in Part I, Findings of Fact, above.
- B. G.S. 143-215.114A provides that a civil penalty of not more than twenty-five thousand dollars (\$25,000) per violation may be assessed against a person who violates or fails to act in accordance with the terms, conditions, or requirements of a permit required by NCGS 143-215.108 or who violates any regulation adopted by the Environmental Management Commission.
- C. G.S. 143-215.3(a)(9) provides that the costs of any investigation or inspection may be assessed against a person who violates or fails to act in accordance with the terms, conditions, or requirements of a permit required by G.S. 143-215.108 or who violates any regulation adopted by the Environmental Management Commission.

Based upon the above Findings of Fact and Conclusions of Law, I make the following:

III. DECISION:

Vance Brewer (VB) Marsh is hereby assessed a civil penalty of:

\$ <u>1500.00</u>	For one (1) violation of 15A NCAC 2D .1900, "Open Burning," for the open burning investigated on 23 July 2015.
\$ <u>1500.00</u>	TOTAL CIVIL PENALTY, which is <u>6</u> percent of the maximum penalty authorized by G.S. 143-215.114A.
\$ <u>363.00</u>	Investigation costs
\$ <u>1863.00</u>	<u>TOTAL AMOUNT DUE</u>

Pursuant to G.S. 143-215.114A in determining the amount of the penalty, I considered the factors listed in G.S. 143B-282.1(b) and 15A NCAC 2J .0106, which are the following:

- 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(s);
- 2) The duration and gravity of the violation(s);
- 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.

2/10/16
Date



Sheila C. Holman, Director
Division of Air Quality

AGENDA ITEM: _____ REQUEST FOR REMISSION OF CIVIL PENALTY BY:

Vance Brewer (VB) Marsh
DAQ 2015-035
Cumberland County

EXPLANATION: On 2/10/16, the Division of Air Quality, assessed a total penalty of \$1,863 (Civil Penalty of \$1,500 plus investigative costs of \$363) against Vance Brewer (VB) Marsh, for:

2D .1900 Open Burning

On 5/17/16, Vance Brewer (VB) Marsh requested remission and waived the right to an administrative hearing by stipulating the facts were as alleged in the assessment document.

RECOMMENDATION: a. SCA The Division of Air Quality opposes any remission or mitigation of the civil penalty and recommends the initial assessment in the amount of \$1,863 be upheld.

b. _____ The Division of Air Quality grants the request for remission of civil penalties and recommends the following penalty amounts apply:

\$ _____ Remitted Civil Penalty Amount

\$ _____ Remitted Investigative Costs

\$ _____ Total Penalty Amount

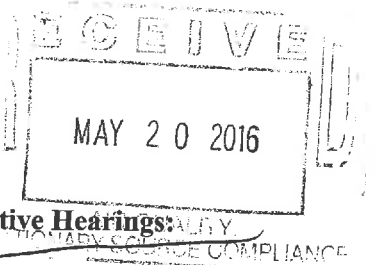
REMISSION FACTORS

- o Whether one or more of the civil penalty assessment factors were wrongly applied to the detriment of the petitioner;
- o Whether the violator promptly abated continuing environmental damage resulting from the violation;
- o Whether the violation was inadvertent or a result of an accident;
- o Whether the violator had been assessed civil penalties for any previous violations; and
- o Whether payment of the civil penalty will prevent payment for the remaining necessary remedial actions.

Mr. Marsh

Page 3

OR



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 (OAH). You must file the petition with the OAH 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 OAH 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 OAH within seven (7) business days following the faxed or electronic transmission. You should contact the OAH with all questions regarding the filing fee and/or the details of the filing process. The mailing address, telephone number, and facsimile number for the OAH are as follows:

Office of Administrative Hearings
6714 Mail Service Center
Raleigh, NC 27699-6714
Telephone: (919) 431-3000 Facsimile: (919) 431-3100

A copy of the petition must also be served on NCDEQ as follows:

Sam M. Hayes, General Counsel
North Carolina Department of Environmental Quality
1601 Mail Service Center
Raleigh, North Carolina 27699-1601

Please indicate the DAQ case number, as found on Page 1 of this letter, on your petition to OAH.

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 if the violations that are the subject of this action have not been corrected.

If you have any questions concerning this matter, please contact Thaochi Vu at 919-707-8433.

Sincerely,

Sheila C. Holman, Director
Division of Air Quality, NCDEQ

Enclosures: Assessment Document

cc: Steven F. Vozzo, Supervisor Fayetteville Regional Office
Enforcement File (DAQ 2015-035)

I WISH TO FILE THE NECESSARY PAPERS FOR A
ADMINISTRATIVE HEARING ON CASE # DAQ 2015-035
ALSO CASE # 16A NC. AC. 201900 ALSO ASK FOR REMEDIATION OF CHARGES
Sincerely
Vanner
Page 4 of 91

STATE OF NORTH CAROLINA

NORTH CAROLINA
ENVIRONMENTAL MANAGEMENT
COMMISSION

County of Cumberland

FILE NO. DAQ 2015-035

IN THE MATTER OF ASSESSMENT
OF CIVIL PENALTIES AGAINST
Vance Brewer (VB) Marsh

) REQUEST FOR REMISSION OF CIVIL
) PENALTIES; WAIVER OF RIGHT TO
) AN ADMINISTRATIVE HEARING
) AND STIPULATION OF FACTS

Having been assessed civil penalties totaling \$1,863 for violation(s) of:

2D .1900 Open Burning

as set forth in the assessment document of the Director, Division of Air Quality dated February 10, 2016, the undersigned, desiring to seek remission of the civil penalties, does hereby waive 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 Air Quality within thirty (30) days of receipt of the notice of assessment. No new evidence in support of a remission request will be allowed after thirty (30) days from the receipt of the notice of assessment.

This the 17TH day of MAY 2016, 20__

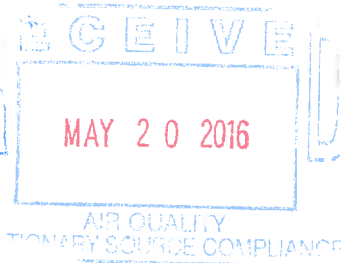
VB Marsh

Signature

By

VANCE BREWER MARSH

Print Name



Address

1621 ZARZAMORE ST
HOPE MILLS NC 28348

Telephone

(910) 703-9211

MISCELLANEOUS DOCUMENTS



PAT MCCRORY
Governor

DONALD R. VAN DER VAART
Secretary

SHEILA C. HOLMAN
Director

CERTIFIED MAIL RETURN RECEIPT REQUESTED
7014 2120 0003 9404 8267

February 10, 2016

Mr. Vance Brewer Marsh, Registered Agent
1627 Zarzamora St.
Hope Mills, NC 28348

SUBJECT: Civil Penalty Assessment for Violation(s)
2D .1900 Open Burning
File No.: DAQ 2015-035
Violator: Vance Brewer (VB) Marsh
County: Cumberland

Dear Mr. Marsh:

This letter transmits notice of civil penalty assessed against Vance Brewer (VB) Marsh in the amount of \$1,500 and \$363 investigative costs, for a total of \$1,863.

Enclosed is a copy of the assessment document explaining this penalty. This action was taken under the authority vested in me by the delegation pursuant to North Carolina General Statutes (NCGS) 143-215.114A(d). Any new or continuing violation(s) may be the subject of a new enforcement action, including additional penalty.

You must take one of the three actions outlined below within thirty (30) days from the date of receipt of this letter. Please be advised that if you fail to exercise one of the following options within thirty (30) days, you will lose your right to appeal or contest this case and your case will be forwarded to the Attorney General's Office for collection.

1. Submit payment of the penalty:

Payment should be made directly to the order of the North Carolina Department of Environmental Quality (NCDEQ). When submitting payment, please reference your DAQ case number on your check to insure proper posting. Please do not include the attached waiver form when submitting payment. Payment of the penalty will not foreclose further enforcement action for any continuing or new violation(s). Please submit payment to the attention of:

Enforcement Group - Payment
Department of Environmental Quality
Division of Air Quality
1641 Mail Service Center
Raleigh, NC 27699-1641

Please be advised, that it is the policy for NCDEQ to charge and collect a processing fee of \$25.00 for checks on which payment has been refused by the bank because of insufficient funds or because of an invalid bank account.

OR

2. Submit a written request for remission 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 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 civil penalty should be remitted, and submit it to 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) were wrongfully applied to the detriment of the violator;
- (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 has 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. **If you choose this option, do not send in payment at this time.** The Director of the Division of Air Quality (DAQ) will review your evidence and inform you of his/her 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 DAQ also requests that you complete and submit the enclosed *"Justification for Remission Request."* Both forms should be submitted to the following address:

Enforcement Group - Remission
Department of Environmental Quality
Division of Air Quality
1641 Mail Service Center
Raleigh, North Carolina 27699-1641

OR

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 (OAH). You must file the petition with the OAH 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 OAH 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 OAH within seven (7) business days following the faxed or electronic transmission. You should contact the OAH with all questions regarding the filing fee and/or the details of the filing process. The mailing address, telephone number, and facsimile number for the OAH are as follows:

Office of Administrative Hearings
6714 Mail Service Center
Raleigh, NC 27699-6714
Telephone: (919) 431-3000 Facsimile: (919) 431-3100

A copy of the petition must also be served on NCDEQ as follows:

Sam M. Hayes, General Counsel
North Carolina Department of Environmental Quality
1601 Mail Service Center
Raleigh, North Carolina 27699-1601

Please indicate the DAQ case number, as found on Page 1 of this letter, on your petition to OAH.

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 if the violations that are the subject of this action have not been corrected.

If you have any questions concerning this matter, please contact Thaochi Vu at 919-707-8433.

Sincerely,



Sheila C. Holman, Director
Division of Air Quality, NCDEQ

Enclosures: Assessment Document

cc: Steven F. Vozzo, Supervisor Fayetteville Regional Office
Enforcement File (DAQ 2015-035)

STATE OF NORTH CAROLINA

COUNTY OF CUMBERLAND

NORTH CAROLINA
ENVIRONMENTAL MANAGEMENT
COMMISSION

IN THE MATTER OF:
VANCE BREWER (VB) MARSH

CASE NUMBER 2015-035

FOR VIOLATION OF:
15A NCAC 2D .1900
"OPEN BURNING"

CIVIL PENALTY ASSESSMENT

Acting pursuant to North Carolina General Statutes (G.S.) 143-215.114A, I, Sheila C. Holman, Director of the Division of Air Quality (DAQ), make the following:

I. FINDINGS OF FACT:

- A. On 23 July 2015, the Division of Air Quality Fayetteville Regional Office, DAQ FRO, received a complaint from the Cumberland County Sheriff's Office concerning the open burning of non-vegetative materials nearby and surrounding the residence of Mr. Vance Brewer (VB) Marsh at 1627 and 1621 Zarzamora St. Hope Mills, in Cumberland County, North Carolina.
- B. On 23 July 2015, Ms. Pam Vivian, DAQ FRO, investigated this complaint. Upon arrival at 1627 Zarzamora St., she observed 12 piles of charred non-vegetative materials including 40+ tires, mattress springs, plastics, furniture, clothing, household garbage, metals, and other unidentifiable non-vegetative debris. At 1621 Zarzamora St., Ms. Pam Vivian observed 5 piles containing the burnt remnants of numerous tires.
- C. On 8 October 2015, DAQ FRO issued a Notice of Violation/Notice of Recommendation of Enforcement (NOV/NRE) to Mr. Vance Brewer (VB) Marsh. Certified green card was received on 14 October 2015.
- D. On 28 October 2015, Mr. Marsh arrived at DAQ FRO and discussed the illegal open burning on his residence and the surrounding properties investigated on 23 July 2015. Ms. Heather Carter and Ms. Pam Vivian listened to his explanations of how someone else did most of the burning, but that he did burn some of the debris right around his residence (1627 Zarzamora St.). He also admitted to allowing the illegal open burning of non-vegetative materials by others on his family land that he manages. He took responsibility for the illegal open burnings observed at 1627 & 1621 Zarzamora St.
- E. Air Quality Compliance History:
 - 01/14/08- NOV- allowing open burning of tires on MJ Marsh Farms property
 - 09/14/10- NOV- burning non-vegetative materials for waste disposal
 - 06/13/12- NOV- burning non-vegetative materials for waste disposal
 - 11/20/12- NOV- open burning non-vegetative materials on MJ Marsh Farms property
- F. The costs of investigation or inspection in this matter totaled \$363.

Based upon the above Findings of Fact, I make the following:

II. CONCLUSIONS OF LAW:

- A. Vance Brewer (VB) Marsh was in violation of 15A NCAC 2D .1900, for causing, allowing or permitting open burning, as stated in Part I, Findings of Fact, above.
- B. G.S. 143-215.114A provides that a civil penalty of not more than twenty-five thousand dollars (\$25,000) per violation may be assessed against a person who violates or fails to act in accordance with the terms, conditions, or requirements of a permit required by NCGS 143-215.108 or who violates any regulation adopted by the Environmental Management Commission.
- C. G.S. 143-215.3(a)(9) provides that the costs of any investigation or inspection may be assessed against a person who violates or fails to act in accordance with the terms, conditions, or requirements of a permit required by G.S. 143-215.108 or who violates any regulation adopted by the Environmental Management Commission.

Based upon the above Findings of Fact and Conclusions of Law, I make the following:

III. DECISION:

Vance Brewer (VB) Marsh is hereby assessed a civil penalty of:

\$ <u>1500.00</u>	For one (1) violation of 15A NCAC 2D .1900, "Open Burning," for the open burning investigated on 23 July 2015.
\$ <u>1500.00</u>	TOTAL CIVIL PENALTY, which is <u>6</u> percent of the maximum penalty authorized by G.S. 143-215.114A.
\$ <u>363.00</u>	Investigation costs
\$ <u>1863.00</u>	<u>TOTAL AMOUNT DUE</u>

Pursuant to G.S. 143-215.114A in determining the amount of the penalty, I considered the factors listed in G.S. 143B-282.1(b) and 15A NCAC 2J .0106, which are the following:

- 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(s);
- 2) The duration and gravity of the violation(s);
- 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.

2/10/16
Date

Sheila C. Holman
Sheila C. Holman, Director
Division of Air Quality

JUSTIFICATION FOR REMISSION REQUEST

DAQ Case Number: 2015-035

County: Cumberland

Violator: Vance Brewer (VB) Marsh

Facility ID:

Amount Assessed: \$1,863 (\$1,500 in penalty and \$363 in investigative costs)

Please use this form when requesting remission of this civil penalty. You must also complete the "Request For Remission, Waiver of Right to an Administrative Hearing, and Stipulation of Facts" form to request remission of this civil penalty. You should attach any documents that you believe support your request and are necessary for the Director to consider in determining your request for remission. Please be aware that a request for remission is limited to consideration of the five factors listed below as they may relate to the reasonableness of the amount of the civil penalty assessed. Requesting remission is not the proper procedure for contesting whether the violation(s) occurred or the accuracy of any of the factual statements contained in the civil penalty assessment document. Pursuant to N.C.G.S. 143B-282.1(c), remission of a civil penalty may be granted only when one or more of the following five factors applies. Please check each factor that you believe applies to your case and provide a detailed explanation, including copies of supporting documents, as to why the factor applies (attach additional pages as needed).

- ☐ (a) one or more of the civil penalty assessment factors in N.C.G.S 143B-282.1(b) were wrongfully applied to the detriment of the petitioner (the assessment factors are listed in the civil penalty assessment document);
- ☐ (b) the violator promptly abated continuing environmental damage resulting from the violation (i.e., explain the steps that you took to correct the violation and prevent future occurrences);
- ☐ (c) the violation was inadvertent or a result of an accident (i.e., explain why the violation was unavoidable or something you could not prevent or prepare for);
- ☐ (d) the violator had not been assessed civil penalties for any previous violations;
- ☐ (e) payment of the civil penalty will prevent payment for the remaining necessary remedial actions (i.e., explain how payment of the civil penalty will prevent you from performing the activities necessary to achieve compliance).

EXPLANATION:

STATE OF NORTH CAROLINA

NORTH CAROLINA
ENVIRONMENTAL MANAGEMENT
COMMISSION

County of Cumberland

FILE NO. DAQ 2015-035

IN THE MATTER OF ASSESSMENT
OF CIVIL PENALTIES AGAINST
Vance Brewer (VB) Marsh

) REQUEST FOR REMISSION OF CIVIL
) PENALTIES; WAIVER OF RIGHT TO
) AN ADMINISTRATIVE HEARING
) AND STIPULATION OF FACTS
)

Having been assessed civil penalties totaling \$1,863 for violation(s) of:

2D .1900 Open Burning

as set forth in the assessment document of the Director, Division of Air Quality dated February 10, 2016, the undersigned, desiring to seek remission of the civil penalties, does hereby waive 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 Air Quality within thirty (30) days of receipt of the notice of assessment. No new evidence in support of a remission request will be allowed after thirty (30) days from the receipt of the notice of assessment.

This the _____ day of _____, 20__

Signature

By

Print Name

Address

Telephone ()



PAT MCCRORY
Governor

DONALD R. VAN DER VAART
Secretary

SHEILA C. HOLMAN
Director

CERTIFIED MAIL RETURN RECEIPT REQUESTED
7010 1870 0001 3322 4568

June 2, 2016

Mr. Vance Brewer Marsh, Registered Agent
1621 Zarzamora St.
Hope Mills, NC 28348

SUBJECT: Request for Remission of Civil Penalty Pursuant to NCGS 143-215.114A(e)

File No.: DAQ 2015-035
Violator: Vance Brewer (VB) Marsh
County: Cumberland

Dear Mr. Marsh:

Pursuant to authority delegated to me by NCGS 143-215.114A.(g), I have considered the information submitted in support of your request for remission in accordance with NCGS 143-215.114A.(e), and have not found grounds to modify your assessment of \$1,863 (Civil Penalty of \$1,500 plus Investigative Costs of \$363). However, I will allow you to pay the penalty in installments. If you choose this option, please contact Amy Vanderkop at 919-707-8432 to arrange for a payment plan.

Should you choose to pay the full penalty, you may send a check or money order to the North Carolina Department of Environmental Quality (NCDEQ). Please submit payment within thirty (30) days of receipt of this letter to the attention of:

Enforcement Group - Payment
Department of Environmental Quality
Division of Air Quality
1641 Mail Service Center
Raleigh, North Carolina 27699-1641

Please be advised, that it is the policy for NCDEQ to charge and collect a processing fee of \$25.00 for checks on which payment has been refused by the bank because of insufficient funds or because of an invalid bank account.

If payment is not received within thirty (30) days of receipt of this letter, in accordance with NCGS 143-215.114A.(e), your request for remission of the civil penalty with supporting documents and my recommendation to deny the request with supporting documentation will be delivered to the North Carolina Environmental Management Commission's (EMC) Civil Penalty Remission Committee (Committee) for final agency decision.

Mr. Marsh
June 2, 2016
Page 2

If you desire to make an oral presentation to the Committee on why your request for remission meets one or more of the five statutory factors you were asked to address, you must complete and return the enclosed form within thirty (30) days of receipt of this letter. Please mail the completed form to:

Enforcement Group - EMC Request
Department of Environmental Quality
Division of Air Quality
1641 Mail Service Center
Raleigh, North Carolina 27699-1641

If you request to orally present your case to the EMC, you will be notified by certified mail of the date, time, and place that your oral presentation can be made. Otherwise, the final decision on your request for remission will be made by the Committee based on the written record.

Thank you for your cooperation in this matter. If you have any questions about this letter, please contact Thaochi Vu at 919-707-8433.

Sincerely,



Sheila C. Holman, Director
Division of Air Quality, NCDEQ

Enclosure: Request for Oral Presentation

cc: Steven F. Vozzo, Supervisor Fayetteville Regional Office
Enforcement File (DAQ 2015-035)

COUNTY OF Cumberland

DAQ Case Number: 2015-035

IN THE MATTER OF ASSESSMENT
OF CIVIL PENALTIES AGAINST:
Vance Brewer (VB) Marsh)
)
)
)**REQUEST FOR ORAL PRESENTATION**

I hereby request to make an oral presentation before the Environmental Management Commission's (EMC) Committee on Civil Penalty Remissions in the matter of the case noted above. In making this request, I assert that I understand all of the following statements:

- Making a presentation will require the presence of myself 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 to three (3) minutes in length.

The North Carolina State Bar's Authorized Practice of Law Committee 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 Remission 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 government 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, then you do not need legal representation before the Committee; 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 you are a corporation, partnership or municipality, 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. Non-lawyers may present facts but must not offer legal representation or legal opinion.

If you choose to request an oral presentation please make sure that signatures on the previously submitted Remission Request form 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 on Civil Penalty Remissions 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 (____) _____



PAT MCCRORY
Governor

DONALD R. VAN DER VAART
Secretary

SHEILA C. HOLMAN
Director

July 19, 2016

Mr. Vance Brewer Marsh, Registered Agent
Vance Brewer (VB) Marsh
1621 Zarzamora St.
Hope Mills, NC 28348

SUBJECT: Request for Remission of Civil Penalty Pursuant to NCGS 143-215.114A(e)

File No.: DAQ 2015-035
Violator: Vance Brewer (VB) Marsh
County: Cumberland

Dear Mr. Marsh:

Pursuant to authority delegated to me by NCGS 143-215.114A.(g), I have considered the information submitted in support of your request for remission in accordance with NCGS 143-215.114A.(e), and have not found grounds to modify your assessment of \$1,863 (Civil Penalty of \$1,500 plus Investigative Costs of \$363). However, I will allow you to pay the penalty in installments. If you choose this option, please contact Amy Vanderkop at 919-707-8432 to arrange for a payment plan.

Should you choose to pay the full penalty, you may send a check or money order to the North Carolina Department of Environmental Quality (NCDEQ). Please submit payment within thirty (30) days of receipt of this letter to the attention of:

Enforcement Group - Payment
Department of Environmental Quality
Division of Air Quality
1641 Mail Service Center
Raleigh, North Carolina 27699-1641

Please be advised, that it is the policy for NCDEQ to charge and collect a processing fee of \$25.00 for checks on which payment has been refused by the bank because of insufficient funds or because of an invalid bank account.

If payment is not received within thirty (30) days of receipt of this letter, in accordance with NCGS 143-215.114A.(e), your request for remission of the civil penalty with supporting documents and my recommendation to deny the request with supporting documentation will be delivered to the North Carolina Environmental Management Commission's (EMC) Civil Penalty Remission Committee (Committee) for final agency decision.

Mr. Marsh
June 2, 2016
Page 2

If you desire to make an oral presentation to the Committee on why your request for remission meets one or more of the five statutory factors you were asked to address, you must complete and return the enclosed form within thirty (30) days of receipt of this letter. Please mail the completed form to:

Enforcement Group - EMC Request
Department of Environmental Quality
Division of Air Quality
1641 Mail Service Center
Raleigh, North Carolina 27699-1641

If you request to orally present your case to the EMC, you will be notified by certified mail of the date, time, and place that your oral presentation can be made. Otherwise, the final decision on your request for remission will be made by the Committee based on the written record.

Thank you for your cooperation in this matter. If you have any questions about this letter, please contact Thaochi Vu at 919-707-8433.

Sincerely,

A handwritten signature in black ink, appearing to read "Sheila C. Holman".

Sheila C. Holman, Director
Division of Air Quality, NCDEQ

Enclosure: Request for Oral Presentation

cc: Steven F. Vozzo, Supervisor Fayetteville Regional Office
Enforcement File (DAQ 2015-035)

COUNTY OF Cumberland

DAQ Case Number: 2015-035

IN THE MATTER OF ASSESSMENT
OF CIVIL PENALTIES AGAINST:
Vance Brewer (VB) Marsh)
)
)
)**REQUEST FOR ORAL PRESENTATION**

I hereby request to make an oral presentation before the Environmental Management Commission's (EMC) Committee on Civil Penalty Remissions in the matter of the case noted above. In making this request, I assert that I understand all of the following statements:

- Making a presentation will require the presence of myself 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 to three (3) minutes in length.

The North Carolina State Bar's Authorized Practice of Law Committee 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 Remission 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 government 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, then you do not need legal representation before the Committee; 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 you are a corporation, partnership or municipality, 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. Non-lawyers may present facts but must not offer legal representation or legal opinion.

If you choose to request an oral presentation please make sure that signatures on the previously submitted Remission Request form 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 on Civil Penalty Remissions 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 (____) _____

NC Department of Environment and Natural Resources
Division of Air Quality

TELEPHONE LOG

Date: 5/24/16 Time: 10:13 am / pm

Name: Amy Vandertop Case #: 2015-035

Conversation with: _____ Telephone #: (910) 703-9211

(VB)
Business: Vance Brewer marsh County: _____

(verify address)

Summary:

he does want to seek remission,

not file a contested case.

He doesn't understand violation

and would like Supervisor to

write him a letter he could

read and talk to him on phone.

Vanderkop, Amy

From: Carter, Heather
Sent: Monday, May 23, 2016 12:54 PM
To: Pjetraj, Michael
Cc: Vanderkop, Amy; Spiller, Asher (Aspiller@ncdoj.gov); Vozzo, Steven
Subject: RE: VB Marsh

Michael,

Mr. Marsh came into the FRO on 9 May 2016, and during his conversation with Steven he stated that the following is a good phone number to reach him: 910-703-9211.

Note that the voice messaging system is not set up on this phone line, and when/if someone does answer it will probably be Ms. **Stella Oenning**. Mr. Marsh may be nearby and able to speak with you at the time you call, but we have also left messages with Ms. Oenning to have him return our call, which he has.

From: Pjetraj, Michael
Sent: Friday, May 20, 2016 5:10 PM
To: Carter, Heather <Heather.Carter@ncdenr.gov>; Vozzo, Steven <steven.vozzo@ncdenr.gov>
Cc: Vanderkop, Amy <amy.vanderkop@ncdenr.gov>; Spiller, Asher (Aspiller@ncdoj.gov) <Aspiller@ncdoj.gov>
Subject: VB Marsh

Steven & Heather,

Mr. Marsh received the CPA on 4/28/16. We received a reply from him on 5/20/16, within 30 days. The reply included a signed & partially filled remission request, as well as a handwritten request for an administrative hearing.

Since he has to choose one of the two paths, I have tried to contact him at the following numbers which I found in the files:

910-723-0677 – Person answered the phone with an expletive about Mr. Marsh

910-703-9211 – Verizon Wireless message that the person is not available & then a disconnect

910-885-2679 – Continuous busy signal

910-339-1779 – Message “Call cannot be completed as dialed”

If you have any additional numbers, please forward them.

Amy, please send a letter to him Monday morning stating that he must choose either remission or contested case, not both, and to call us by Friday 5/27.

If we are not able to contact Mr. Marsh, and/or he does not respond with a single path by 5/28/16, I will request that we move forward with remission since he signed the form which clearly states “...the undersigned, desiring to seek remission of the civil penalties, does hereby waive right to an administrative hearing...”

Michael Pjetraj, P.E.
Stationary Source Compliance Branch Supervisor
Division of Air Quality
North Carolina Department of Environmental Quality

919-707-8497 office
michael.pjetraj@ncdenr.gov

Vanderkop, Amy

From: Vanderkop, Amy
Sent: Tuesday, May 24, 2016 8:15 AM
To: Vozzo, Steven
Subject: Vance Brewer Marsh case (Cumberland) 2015-035
Attachments: Vance Brewer Marsh.pdf

Steve,

Here is the paperwork Mr. Marsh submitted. As you know, we are currently trying to ascertain which option he truly wants to pursue – remission or contested case. So this case may be heard next week. I wanted to give you a heads up.

Thanks,
Amy

Amy Vanderkop

Administrative Assistant
Division of Air Quality, Stationary Source Compliance Branch
North Carolina Department of Environmental Quality

919 707 8432 office
amy.vanderkop@ncdenr.gov

217 West Jones Street
1641 Mail Service Center
Raleigh, NC 27699-1641



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North Carolina Public Records Law and may be disclosed to third parties*



PAT MCCRORY
Governor

DONALD R. VAN DER VAART
Secretary

SHEILA C. HOLMAN
Director

May 24, 2016

Mr. Vance Brewer Marsh
1627 Zarzamora St.
Hope Mills, NC 28348

SUBJECT: Civil Penalty Assessment for Violation(s)
2D .1900 Open Burning
File No.: DAQ 2015-035
Violator: Vance Brewer (VB) Marsh
County: Cumberland

Dear Mr. Marsh:

On February 10, 2016 you were assessed a Civil Penalty by the Division of Air Quality. On May 17, 2016 you submitted paperwork (the Request for Remission of Civil Penalties; Waiver of Right to an Administrative Hearing and Stipulation of Facts) to request a remission. However, you also wrote on the letter that you wanted to contest the case. Only one option can be pursued.

You have until Friday, May 27th to call me at 919-707-8432 and choose to either seek remission from the Director or contest the case in court. If I don't hear from you, we will process your request for remission since that is the form you completed and submitted to the Division of Air Quality.

Thank you in advance to your prompt attention to this matter.

Sincerely,

Amy Vanderkop, Administrative Assistant
Division of Air Quality, NCDEQ

Attachments: Original Assessment Document

cc: Enforcement File (DAQ 2015-035)



PAT MCCRORY
Governor

DONALD R. VAN DER VAART
Secretary

SHEILA C. HOLMAN
Director

CERTIFIED MAIL RETURN RECEIPT REQUESTED
7014 2120 0003 9404 8267

February 10, 2016

Mr. Vance Brewer Marsh, Registered Agent
1627 Zarzamora St.
Hope Mills, NC 28348

SUBJECT: Civil Penalty Assessment for Violation(s)
2D .1900 Open Burning
File No.: DAQ 2015-035
Violator: Vance Brewer (VB) Marsh
County: Cumberland

Dear Mr. Marsh:

This letter transmits notice of civil penalty assessed against Vance Brewer (VB) Marsh in the amount of \$1,500 and \$363 investigative costs, for a total of \$1,863.

Enclosed is a copy of the assessment document explaining this penalty. This action was taken under the authority vested in me by the delegation pursuant to North Carolina General Statutes (NCGS) 143-215.114A(d). Any new or continuing violation(s) may be the subject of a new enforcement action, including additional penalty.

You must take one of the three actions outlined below within thirty (30) days from the date of receipt of this letter. Please be advised that if you fail to exercise one of the following options within thirty (30) days, you will lose your right to appeal or contest this case and your case will be forwarded to the Attorney General's Office for collection.

1. Submit payment of the penalty:

Payment should be made directly to the order of the North Carolina Department of Environmental Quality (NCDEQ). When submitting payment, please reference your DAQ case number on your check to insure proper posting. Please do not include the attached waiver form when submitting payment. Payment of the penalty will not foreclose further enforcement action for any continuing or new violation(s). Please submit payment to the attention of:

Enforcement Group - Payment
Department of Environmental Quality
Division of Air Quality
1641 Mail Service Center
Raleigh, NC 27699-1641

Please be advised, that it is the policy for NCDEQ to charge and collect a processing fee of \$25.00 for checks on which payment has been refused by the bank because of insufficient funds or because of an invalid bank account.

OR

2. Submit a written request for remission 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 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 civil penalty should be remitted, and submit it to 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) were wrongfully applied to the detriment of the violator;
- (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 has 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. **If you choose this option, do not send in payment at this time.** The Director of the Division of Air Quality (DAQ) will review your evidence and inform you of his/her 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 DAQ also requests that you complete and submit the enclosed *"Justification for Remission Request."* Both forms should be submitted to the following address:

Enforcement Group - Remission
Department of Environmental Quality
Division of Air Quality
1641 Mail Service Center
Raleigh, North Carolina 27699-1641

JUSTIFICATION FOR REMISSION REQUEST

DAQ Case Number: 2015-035

County: Cumberland

Violator: Vance Brewer (VB) Marsh

Facility ID:

Amount Assessed: \$1,863 (\$1,500 in penalty and \$363 in investigative costs)

Please use this form when requesting remission of this civil penalty. You must also complete the "Request For Remission, Waiver of Right to an Administrative Hearing, and Stipulation of Facts" form to request remission of this civil penalty. You should attach any documents that you believe support your request and are necessary for the Director to consider in determining your request for remission. Please be aware that a request for remission is limited to consideration of the five factors listed below as they may relate to the reasonableness of the amount of the civil penalty assessed. Requesting remission is not the proper procedure for contesting whether the violation(s) occurred or the accuracy of any of the factual statements contained in the civil penalty assessment document. Pursuant to N.C.G.S. 143B-282.1(c), remission of a civil penalty may be granted only when one or more of the following five factors applies. Please check each factor that you believe applies to your case and provide a detailed explanation, including copies of supporting documents, as to why the factor applies (attach additional pages as needed).

- ☐ (a) one or more of the civil penalty assessment factors in N.C.G.S 143B-282.1(b) were wrongfully applied to the detriment of the petitioner (the assessment factors are listed in the civil penalty assessment document);
- ☐ (b) the violator promptly abated continuing environmental damage resulting from the violation (i.e., explain the steps that you took to correct the violation and prevent future occurrences);
- ☐ (c) the violation was inadvertent or a result of an accident (i.e., explain why the violation was unavoidable or something you could not prevent or prepare for);
- ☐ (d) the violator had not been assessed civil penalties for any previous violations;
- ☐ (e) payment of the civil penalty will prevent payment for the remaining necessary remedial actions (i.e., explain how payment of the civil penalty will prevent you from performing the activities necessary to achieve compliance).

EXPLANATION:

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>V. Arnold</i> <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p>	
		<p>B. Received by (Printed Name) <i>4-28-16</i></p>	<p>C. Date of Delivery <i>4-28-16</i></p>
<p>1. Article Addressed to:</p> <p style="text-align: center;">DAQ 2015-035 CPA 02/10/2016</p> <p style="text-align: center;">Mr. Vance Brewer Marsh 1627 Zarzamora St. Hope Mills, NC 28348</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>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Priority Mail Express™ <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> Collect on Delivery</p>	
<p>2. Article Number (Transfer from service label)</p>		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
		<p style="text-align: center;">7014 2120 0003 9404 8267</p>	
<p>PS Form 3811, July 2013</p>		<p style="text-align: center;">Domestic Return Receipt</p>	

NC Department of Environment and Natural Resources
Division of Air Quality

TELEPHONE LOG

Date: 4/25/16

Time: 9:45 am / pm

Name: Amy V.

Case #: 2015-035
2015-036

Conversation with: F.R.O. Heather Carter Telephone #: _____

Business: Vance Brever marsh County: _____

(verify address)

Summary:

I will mail her the
CPAs for both cases and
she + Sheriff will find + hand deliver

HARD TO LOCATE VIOLATOR

Vanderkop, Amy

From: Wilburn, Danielle <dwilburn@ncdoj.gov>
Sent: Wednesday, April 06, 2016 3:34 PM
To: Vanderkop, Amy
Cc: Bernier, James; Pjetraj, Michael; Vozzo, Steven; Caudill, Craig
Subject: RE: Lexis/Nexis Verification - Vance Brewer Marsh
Attachments: MJ Marsh Farms Inc.pdf; vance_marshall.pdf

Hi Amy,

283 06

Please see the attached information. Lexis shows his current address is 5284 Butler Nursery Road in Fayetteville. I am also attaching the Secretary of State's page for this company, which gives you two other addresses to try: 3030 H. Bullard Road in Hope Mills and 7890 NC Highway 87 S. in Fayetteville.

Also, it is worth noting that when you are attempting to serve a registered entity in NC, in some circumstances it would be appropriate to serve the entity through the Secretary of State for a \$10.00 fee. Please see the website below with further information regarding that process.

<https://www.sosnc.com/sop/ThePage.aspx>

Also, I don't mind answering these inquiries for you, however going forward please shoot these requests over to Craig first and then if he can't find anything he will contact our office for a deeper search. Let me know if you have any questions about any of this information. Thank you!

Danielle B. Wilburn, NCCP
Paralegal to James Bernier, Jr.
Environmental Division
NC Department of Justice
P.O. Box 629
Raleigh, NC 27602
Phone: (919) 716-6978
Fax: (919) 716-6767
dwilburn@ncdoj.gov

From: Vanderkop, Amy [mailto:amy.vanderkop@ncdenr.gov]
Sent: Tuesday, April 05, 2016 2:01 PM
To: Wilburn, Danielle
Cc: Bernier, James; Pjetraj, Michael; Vozzo, Steven
Subject: Lexis/Nexis Verification - Vance Brewer Marsh

Danielle,

I've been trying to get two Civil Penalties served to:

Vance Brewer Marsh, Registered Agent
MJ Marsh Farms, Inc
1627 Zazamore St.
Hope Mills, NC 28348

The Sheriff was unable to deliver them and said that the violator is dead and the business has closed. Can you check your systems to see if the violator is truly dead (and provide documentation)? I think the Sheriff is mistaken by which "Vance Marsh" died. I have located Vance Allen Marsh's obituary from last year: <http://www.sullivanshighland.com/obits/obituary.php?id=552470>.

If you find Vance Brewer Marsh, can you provide the current address on file?

Thanks for your help,
Amy

Amy Vanderkop

Administrative Assistant
Division of Air Quality, Stationary Source Compliance Branch
North Carolina Department of Environmental Quality

919 707 8432 office
amy.vanderkop@ncdenr.gov

217 West Jones Street
1641 Mail Service Center
Raleigh, NC 27699-1641



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North Carolina Public Records Law and may be disclosed to third parties*



Elaine F. Marshall
Secretary

North Carolina

DEPARTMENT OF THE
SECRETARY OF STATE

PO Box 29622 Raleigh, NC 27626-0622 (919)807-2000

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Corporate Names

Legal: M. J. Marsh Farms, Inc.

Business Corporation Information

SosId: 0518181
Status: Current-Active
Annual Report Status: Current
Citizenship: Domestic
Date Formed: 12/30/1999
Fiscal Month: December
State of Incorporation: NC
Registered Agent: Marsh, Vance B

Corporate Addresses

Principal Office: 3030 H Bullard Rd
Hope Mills, NC 28348
Reg Office: 3030 H Bullard Rd
Hope Mills, NC 28348
Reg Mailing: 3030 H Bullard Rd
Hope Mills, NC 28348
Mailing: 7890 NC Highway 87 S
Fayetteville, NC 28306

Officers

President: Michael J Marsh
3030 H Bullard Rd
Hope Mills NC 28348
Secretary / Treas: VANCE B MARSH
3030 H Bullard Rd
Hope Mills NC 28348

Stock

Class: COMMON
Shares: 100000
No Par Value: Yes

1 OF 1 RECORD(S)

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Date:4/6/2016
Report processed by:
NC-Department of Justice

Full Name	Address	County	Phone
MARSH, VANCE BREWER	5284 BUTLER NURSERY RD FAYETTEVILLE, NC 28306-7695 CUMBERLAND COUNTY	CUMBERLAND	(910) 339-1779

ADDITIONAL PERSONAL INFORMATION

SSN	DOB	Gender	LexID(sm)
246-56-XXXX	2/1939 (Age:77)		001609175747

Subject Summary**Name Variations**

- 1: BREWER, VANCE
- 2: BREWER LIFE, MARSH VANCE
- 3: BREWER MARSH, VANCE
- 4: MARSH, V B
- 5: MARSH, VANCE
- 6: MARSH, VANCE A
- 7: MARSH, VANCE B
- 8: MARSH, VANCE B SR
- 9: MARSH, VANCE BREWER
- 10: MARSH, VANCE V
- 11: MARSHBARN, V B
- 12: VANCE, MARSH

SSNs Summary

No.	SSN	State Iss.	Date Iss.	Warnings
1:	246-56-XXXX	North Carolina	1955-1956	

Most frequent SSN attributed to subject:

DOBs**Reported DOBs:**

2/1939
1940
1939

Possible E-Mail Addresses

HOTTLIFECHICK@AOL.COM
V.MARSH@AOL.COM

Address Summary - 23 records found

No.	Address
1:	5284 BUTLER NURSERY RD FAYETTEVILLE, NC 28306-7695 CUMBERLAND COUNTY

Vanderkop, Amy

From: Vanderkop, Amy
Sent: Tuesday, April 05, 2016 2:01 PM
To: 'Wilburn, Danielle'
Cc: Bernier, James (jbernier@ncdoj.gov); Pjetraj, Michael; Vozzo, Steven
Subject: Lexis/Nexis Verification - Vance Brewer Marsh

Danielle,

I've been trying to get two Civil Penalties served to:

Vance Brewer Marsh, Registered Agent
MJ Marsh Farms, Inc
1627 Zazamore St.
Hope Mills, NC 28348

The Sheriff was unable to deliver them and said that the violator is dead and the business has closed. Can you check your systems to see if the violator is truly dead (and provide documentation)? I think the Sheriff is mistaken by which "Vance Marsh" died. I have located Vance Allen Marsh's obituary from last year: <http://www.sullivanshighland.com/obits/obituary.php?id=552470>.

If you find Vance Brewer Marsh, can you provide the current address on file?

Thanks for your help,
Amy

Amy Vanderkop
Administrative Assistant
Division of Air Quality, Stationary Source Compliance Branch
North Carolina Department of Environmental Quality

919 707 8432 office
amy.vanderkop@ncdenr.gov

217 West Jones Street
1641 Mail Service Center
Raleigh, NC 27699-1641



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[Contact Us](#)

Mr. Vance Allen Marsh

Born: Thu., Apr. 12, 1962

Died: Fri., May 29, 2015

Visitation

11:45 AM to 12:45 PM, Wed., Jun. 03, 2015

Location: Cape Fear Baptist Church

Funeral Service

1:00 PM Wed., Jun. 03, 2015

Location: Cape Fear Baptist Church


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Piano Brothers

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Mr. Vance Allen Marsh, 53, of Hope Mills in the Grays Creek Community, passed away on Friday, May 29, 2015.



He was born on April 12, 1962, in Robeson County, NC.

He was a graduate of South View High School and Chowan College. He enjoyed playing chess every weekend with friends. He also

loved playing high school and college basketball.

He is survived by his parents Vance Brewer Marsh and Katherine Carter Marsh, of Grays Creek, NC; two sisters Janet Smith, of Hope Mills, NC and Kathy Redlin, of Myrtle Beach, SC; one brother Michael Marsh, of Grays Creek, NC; daughter Ethelyn Churchwell, of White Oak, NC; and son Jacob; and several nieces, nephews and a host of friends.

A visitation will be held from 11:45 a.m. until 12:45 p.m. prior to services. Funeral services will follow at 1:00 p.m. Wednesday, June 3, 2015 at Cape Fear Baptist Church, in Grays Creek with Rev. David Canady officiating. Burial will follow in the church cemetery.

Online condolences may be sent to sullivanshighland.com.

Services are entrusted to Sullivan's Highland Funeral Service & Crematory, of Fayetteville, NC.



Click to send flowers using our local area
florist

Free delivery to our funeral home & savings on fees



View/Sign the Condolence
Book

Vanderkop, Amy

From: Vanderkop, Amy
Sent: Wednesday, April 13, 2016 9:12 AM
To: Vozzo, Steven
Cc: Carter, Heather
Subject: RE: Lexis/Nexis Verification - Vance Brewer Marsh

At this point, I just need to figure out WHERE he actually is. Hand delivery would be great if it's going to take a few tries to locate/get him. Plus there are 2 CPAs to deliver.

Please keep me informed on what you all want me to do.

Thanks,
Amy

From: Vozzo, Steven
Sent: Wednesday, April 13, 2016 8:47 AM
To: Vanderkop, Amy <amy.vanderkop@ncdenr.gov>
Cc: Carter, Heather <Heather.Carter@ncdenr.gov>
Subject: RE: Lexis/Nexis Verification - Vance Brewer Marsh

Amy –
Thanks for digging on this one.
Let me check with Heather. VB has moved about over the years.
He was living at 1627 Zarzamora Street where the burns were occurring. And I believe we had to hand deliver our NRE as well.
He also has another place on NC-87 where he has lived and burned.
For this case, do you want us to try to hand deliver since we might have to scout him out? I do not think this would be a dangerous situation.
Again, I am ccing Heather C and will get her to weigh in.
Thanks again,
Steven

Steven Vozzo
Regional Air Quality Supervisor
Division of Air Quality - Fayetteville Regional Office
NC Department of Environmental Quality

910 433 3361 office
Steven.Vozzo@ncdenr.gov

225 Green Street, Suite 714
Fayetteville NC 28301



Nothing Compares

Email correspondence to and from this address is subject to the North Carolina Public Records Law and may be disclosed to third parties.

From: Vanderkop, Amy
Sent: Tuesday, April 12, 2016 8:48 AM
To: Vozzo, Steven <steven.vozzo@ncdenr.gov>
Subject: FW: Lexis/Nexis Verification - Vance Brewer Marsh

Please see the email below. I was thinking I would try to send the Sheriff to 5284 Butler Nursery Road in Fayetteville. Are you familiar with this address? Do you think that is the right thing for me to do?

Thanks for your assistance with these cases!
Amy

From: Wilburn, Danielle [<mailto:dwilburn@ncdoj.gov>]
Sent: Wednesday, April 06, 2016 3:34 PM
To: Vanderkop, Amy <amy.vanderkop@ncdenr.gov>
Cc: Bernier, James <jbernier@ncdoj.gov>; Pjetraj, Michael <michael.pjetraj@ncdenr.gov>; Vozzo, Steven <steven.vozzo@ncdenr.gov>; Caudill, Craig <craig.caudill@ncdenr.gov>
Subject: RE: Lexis/Nexis Verification - Vance Brewer Marsh

Hi Amy,

2 8306

Please see the attached information. Lexis shows his current address is 5284 Butler Nursery Road in Fayetteville. I am also attaching the Secretary of State's page for this company, which gives you two other addresses to try: 3030 H. Bullard Road in Hope Mills and 7890 NC Highway 87 S. in Fayetteville.

Also, it is worth noting that when you are attempting to serve a registered entity in NC, in some circumstances it would be appropriate to serve the entity through the Secretary of State for a \$10.00 fee. Please see the website below with further information regarding that process.

<https://www.sosnc.com/sop/ThePage.aspx>

Also, I don't mind answering these inquiries for you, however going forward please shoot these requests over to Craig first and then if he can't find anything he will contact our office for a deeper search. Let me know if you have any questions about any of this information. Thank you!

Danielle B. Wilburn, NCCP
Paralegal to James Bernier, Jr.
Environmental Division
NC Department of Justice
P.O. Box 629
Raleigh, NC 27602
Phone: (919) 716-6978
Fax: (919) 716-6767
dwilburn@ncdoj.gov

From: Vanderkop, Amy [<mailto:amy.vanderkop@ncdenr.gov>]
Sent: Tuesday, April 05, 2016 2:01 PM
To: Wilburn, Danielle

Cc: Bernier, James; Pjetraj, Michael; Vozzo, Steven
Subject: Lexis/Nexis Verification - Vance Brewer Marsh

Danielle,

I've been trying to get two Civil Penalties served to:

Vance Brewer Marsh, Registered Agent
MJ Marsh Farms, Inc
1627 Zazamore St.
Hope Mills, NC 28348

The Sheriff was unable to deliver them and said that the violator is dead and the business has closed. Can you check your systems to see if the violator is truly dead (and provide documentation)? I think the Sheriff is mistaken by which "Vance Marsh" died. I have located Vance Allen Marsh's obituary from last year: <http://www.sullivanhighland.com/obits/obituary.php?id=552470>.

If you find Vance Brewer Marsh, can you provide the current address on file?

Thanks for your help,
Amy

Amy Vanderkop
Administrative Assistant
Division of Air Quality, Stationary Source Compliance Branch
North Carolina Department of Environmental Quality

919 707 8432 office
amy.vanderkop@ncdenr.gov

217 West Jones Street
1641 Mail Service Center
Raleigh, NC 27699-1641



Nothing Compares

*Email correspondence to and from this address is subject to the
North Carolina Public Records Law and may be disclosed to third parties*



PAT MCCRORY
Governor

DONALD R. VAN DER VAART
Secretary

SHEILA C. HOLMAN
Director

March 18, 2016

Cumberland County Sheriff's Dept.
131 Dick St.
Fayetteville, NC 28301

RECEIVED

APR 05 2016

747380

Enclosed, please find a Return of Service for a Civil Penalty Assessment against

Mr. Vance Marsh, Registered Agent
Vance Brewer (VB) Marsh (910) 723-0677
1627 Zarzamora St.
Hope Mills, NC 28348

To avoid any further delays in the process of this document the Division of Air Quality would like to have the enclosed documents served by your department. The county tax offices have been called to verify the addresses.

****It is most important to return the form filled out in detail as to how the documents were served.****

Attached please find a check in the amount of \$30.00 for your service. We thank you in advance for your service and attention to this matter. If you have any questions please do not hesitate to call me at 919-707-8432.

Sincerely,

Amy Vanderkop

Amy Vanderkop, Administrative Assistant
Division of Air Quality, NCDEQ

2015 MAR 24 11:01 AM

cc: Enforcement File (DAQ 2015-035)

10-210

RETURN OF SERVICE

I certify that this NOTICE OF SERVICE was received on the 28 day of March, 2016 and together with the document(s) was served as follows:

On _____ the _____ day of _____, 2016 at the following location,

Address Delivered To: _____

RECEIVED

APR 05 2016

_____ document(s) were served on the following person,

Person Delivered To:

unserved. def is deceased and
business is closed

By:

_____ delivering a copy to the above named individual personally

_____ leaving a copy at the dwelling house or usual place of abode of the above named individual with a person of suitable age and discretion residing therein.

_____ leaving a copy at the place of business of the above named individual, where said individual is the owner or operator of a business or corporation, at the following address.

Documents Served By:

Eall Butler, Sheriff

R. Myer 0066, Deputy

If not served on the above named individual, state reason:

The Civil Penalty Assessment (CPA) letter for DAQ 2015-035, was sent to the Sheriff's office with a check for \$30.00 to cover the delivery of the letter.

Return To: **DEQ/Division of Air Quality**
Enforcement Group-ROS
1641 Mail Service Center
Raleigh, North Carolina 27699-1641



PAT MCCRORY
Governor

DONALD R. VAN DER VAART
Secretary

SHEILA C. HOLMAN
Director

March 18, 2016

Mr. Vance Marsh, Registered Agent
Vance Brewer (VB) Marsh
1627 Zarzamora St.
Hope Mills, NC 28348

SUBJECT: Delivery of Civil Penalty Assessment for Violation(s)
2D .1900 Open Burning
File No.: DAQ 2015-035
Violator: Vance Brewer (VB) Marsh
County: Cumberland

Dear Mr. Marsh:

Please be advised that our attempts to have this document delivered via certified mail have failed therefore in an effort to ensure delivery of this to you we have sought help from other resources.

Please understand that you have 30 days from delivery of this document to respond in order to avoid further legal action.

If you have questions you may contact me at 919-707-8432, and I thank you in advance for your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink that reads 'Amy Vanderkop'. The signature is written in a cursive, flowing style.

Amy Vanderkop, Administrative Assistant
Division of Air Quality, NCDEQ

cc: Enforcement File (DAQ 2015-035)



Air Quality
ENVIRONMENTAL QUALITY

PAT MCCRORY
Governor

DONALD R. VAN DER VAART
Secretary

SHEILA C. HOLMAN
Director

CERTIFIED MAIL RETURN RECEIPT REQUESTED
7014 2120 0003 9404 8182

February 10, 2016

Mr. Vance Marsh, Registered Agent
1627 Zarzamora St.
Hope Mills, NC 28348

SUBJECT: Civil Penalty Assessment for Violation(s)
2D .1900 Open Burning
File No.: DAQ 2015-035
Violator: Vance Brewer (VB) Marsh
County: Cumberland

Dear Mr. Marsh:

This letter transmits notice of civil penalty assessed against Vance Brewer (VB) Marsh in the amount of \$1,500 and \$363 investigative costs, for a total of \$1,863.

Enclosed is a copy of the assessment document explaining this penalty. This action was taken under the authority vested in me by the delegation pursuant to North Carolina General Statutes (NCGS) 143-215.114A(d). Any new or continuing violation(s) may be the subject of a new enforcement action, including additional penalty.

You must take one of the three actions outlined below within thirty (30) days from the date of receipt of this letter. Please be advised that if you fail to exercise one of the following options within thirty (30) days, you will lose your right to appeal or contest this case and your case will be forwarded to the Attorney General's Office for collection.

1. Submit payment of the penalty:

Payment should be made directly to the order of the North Carolina Department of Environmental Quality (NCDEQ). When submitting payment, please reference your DAQ case number on your check to insure proper posting. Please do not include the attached waiver form when submitting payment. Payment of the penalty will not foreclose further enforcement action for any continuing or new violation(s). Please submit payment to the attention of:

Enforcement Group - Payment
Department of Environmental Quality
Division of Air Quality
1641 Mail Service Center
Raleigh, NC 27699-1641



PAT MCCRORY
Governor

DONALD R. VAN DER VAART
Secretary

SHEILA C. HOLMAN
Director

March 18, 2016

Cumberland County Sheriff's Dept.
131 Dick St.
Fayetteville, NC 28301

Enclosed, please find a Return of Service for a Civil Penalty Assessment against

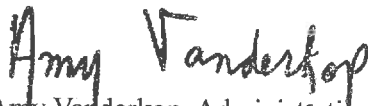
Mr. Vance Marsh, Registered Agent
Vance Brewer (VB) Marsh (910) 723-0677
1627 Zarzamora St.
Hope Mills, NC 28348

To avoid any further delays in the process of this document the Division of Air Quality would like to have the enclosed documents served by your department. The county tax offices have been called to verify the addresses.

****It is most important to return the form filled out in detail as to how the documents were served.****

Attached please find a check in the amount of \$30.00 for your service. We thank you in advance for your service and attention to this matter. If you have any questions please do not hesitate to call me at 919-707-8432.

Sincerely,


Amy Vanderkop, Administrative Assistant
Division of Air Quality, NCDEQ

cc: Enforcement File (DAQ 2015-035)

RETURN OF SERVICE

I certify that this NOTICE OF SERVICE was received on the ____ day of _____, 2016 and together with the document(s) was served as follows:

On _____ the ____ day of _____, 2016 at the following location,

Address Delivered To: _____

_____ document(s) were served on the following person,

Person Delivered To: _____

By: _____ delivering a copy to the above named individual personally
_____ leaving a copy at the dwelling house or usual place of abode
of the above named individual with a person of suitable age
and discretion residing therein.
_____ leaving a copy at the place of business of the above named
individual, where said individual is the owner or operator of a
business or corporation, at the following address.

Documents Served By:

_____, Sheriff

_____, Deputy

If not served on the above named individual, state reason:

The Civil Penalty Assessment (CPA) letter for DAQ 2015-035, was sent to the Sheriff's office with a check for \$30.00 to cover the delivery of the letter.

**Return To: DEQ/Division of Air Quality
Enforcement Group-ROS
1641 Mail Service Center
Raleigh, North Carolina 27699-1641**



PAT MCCRORY
Governor

DONALD R. VAN DER VAART
Secretary

SHEILA C. HOLMAN
Director

March 18, 2016

Mr. Vance Marsh, Registered Agent
Vance Brewer (VB) Marsh
1627 Zarzamora St.
Hope Mills, NC 28348

SUBJECT: Delivery of Civil Penalty Assessment for Violation(s)
2D .1900 Open Burning
File No.: DAQ 2015-035
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Please understand that you have 30 days from delivery of this document to respond in order to avoid further legal action.

If you have questions you may contact me at 919-707-8432, and I thank you in advance for your prompt attention to this matter.

Sincerely,

Amy Vanderkop, Administrative Assistant
Division of Air Quality, NCDEQ

cc: Enforcement File (DAQ 2015-035)



PAT MCCRORY
Governor

DONALD R. VAN DER VAART
Secretary

SHEILA C. HOLMAN
Director

CERTIFIED MAIL RETURN RECEIPT REQUESTED
7014 2120 0003 9404 8182

February 10, 2016

Mr. Vance Marsh, Registered Agent
1627 Zarzamora St.
Hope Mills, NC 28348

SUBJECT: Civil Penalty Assessment for Violation(s)
2D .1900 Open Burning
File No.: DAQ 2015-035
Violator: Vance Brewer (VB) Marsh
County: Cumberland

Dear Mr. Marsh:

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You must take one of the three actions outlined below within thirty (30) days from the date of receipt of this letter. Please be advised that if you fail to exercise one of the following options within thirty (30) days, you will lose your right to appeal or contest this case and your case will be forwarded to the Attorney General's Office for collection.

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Enforcement Group - Payment
Department of Environmental Quality
Division of Air Quality
1641 Mail Service Center
Raleigh, NC 27699-1641

Enforcement New Case Data Sheet

DAQ 2015-035

Case Sent to RCO: 12/29/2015 Case Received RCO: 12/29/2015

Return Receipt:

Violator: Vance Brewer (VB) Marsh
 Contact: Mr. Vance Marsh, Registered Agent
 1627 Zarzamora St.
 Hope Mills, NC 28348


CPA Date: 2/10/16

Violation(s)	Occur	Number Assessed	Violation Begin Date	NOV Date	Penalty Code	Penalty Amount	Overage Amount	Overage Code
2D .1900 Open Burning	1	1	07/23/2015	10/08/2015	2.40B	\$1500		

Total Assessed: \$1500

Investigation Costs: \$363

Total Amount Due: \$1863

Region: FRO
 County: Cumberland
 CountyPrem:
 Entity Type: Non-Plant - Individual
 Permit Class:
 Track Type: Fast
 Enforcement Officer: 

SENDER: COMPLETE THIS SECTION

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

1. Article Addressed to:
MR. VANCE BREWER (VB) MARSH
1627 ZARZAMORE STREET
HOPE MILLS NC 28348

COMPLETE THIS SECTION ON DELIVERY

A. Signature
x VB Marsh ☐ Agent
☒ Addressee

B. Received by (Printed Name) **VB MARSH** C. Date of Delivery **10-17-15**

D. Is delivery address different from item 1? ☐ Yes
 If YES, enter delivery address below: ☒ No

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number
 (Transfer from service label)

7007 0710 0000 3904 0284

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

**Department of Environment and Natural Resources
Division of Air Quality**

**Fayetteville Regional Office
225 Green Street, Suite 714
Fayetteville, NC 28301
(910) 433-3300 Phone (910) 485-7467 Fax**

29 December 2015

MEMORANDUM

TO: Amy Vanderkop

THROUGH: Steven Vozzo, Regional Supervisor

FROM: Heather Carter, Compliance Coordinator

WRITTEN BY: Pam Vivian, Environmental Specialist

SUBJECT: **Fast Track Enforcement Case**
 Vance Brewer (VB) Marsh
 Hope Mills, NC, Cumberland County 6/26-00000
 Case No. 2015-035

Responsible party or Contact name and mailing address:

Mr. Vance Brewer (VB) Marsh
1627 Zarzamora St
Hope Mills, NC 28348

Type and number of violations:

One violation of 15A NCAC 2D .1900, "Open Burning"

Materials or equipment involved in violation:

Twelve piles of charred non-vegetative materials mixed with a small amount of vegetative materials located on Mr. Marsh's personal residential property and on the property immediately adjacent that included, but was not limited to, 40+ tires, mattress springs, plastics, furniture, clothing, household garbage, metals, and other unidentifiable non-vegetative debris.

Date of Violation Discovery:

23 July 2015

Date of NOV:

October 8, 2015. Certified Letter green card was received on October 14, 2015.

Investigative Costs for action:

\$363

Recommendation of Regional Office:

Assess as a residential. Prior Knowledge. Penalty Tree section 2.4 OB, burning of >20 tires.

Other Information:

Mr. Vance Brewer (VB) Marsh is the registered agent for M. J. Marsh Farms, Inc, and has a history (documented since the late 1990's) of causing and allowing illegal open burning on property he either lives on or manages. Other family members own all the property he is involved with, but he manages the properties.

Multiple Cumberland County agencies were involved with this property and they were the people who recognized the illegal burning and contacted FRO DAQ to investigate. Due to the extensive history with Mr. Marsh, the FRO was in contact with RCO and the AGO. These discussions led to the delay in issuing the NOV/NRE. There are two related open burning assessment recommendations being submitted – one against Vance Brewer Marsh and the second again M.J. Marsh Farms Inc. Different fires are being attributed to each case. Additionally the cost of investigation is also separate since they were investigated on different dates.

Mr. VB Marsh called to arrange an in-person meeting with Ms. Vivian and Ms. Carter to respond to the NRE's he received. During the meeting on 28 October 2015, Mr. Marsh admitted that he has burned tires and other non-vegetative debris in the past and did burn some of the non-vegetative materials around his residence. He acknowledged that he is the person who rents the mobile homes to the "tenants" on family property adjacent to his residence (and he reportedly has the power turned on in his name at these locations). Mr. Marsh also stated that he knew about the "tenants" burning tires at 1611/1621 Zarzamora St, and that he allowed it. He also stated that he knows he should have made them stop burning these materials on this property. He was unable to provide contact information for the "tenant" that was renting the mobile home at 1611 Zarzamora St since the tenant is no longer living at that location. The tenant at 1639 Zarzamora St did speak with Ms. Vivian and stated he did not burn any debris that the burn piles were there when he moved in.

Mr. Marsh stated the following resolutions during the meeting on 28 Oct 2015:

- 1- He will quit burning period,
- 2- He will tell tenants they cannot burn non-vegetative materials,
- 3- He will change the rental agreements to include "no open burning allowed" language.

ADDENDUM A: COST OF THE ENFORCEMENT ACTION

COST OF THE INVESTIGATION:

Investigator	Hours	Hourly Salary	Subtotal
Pam Vivian – 23 July 15	6.0	\$32.05	\$192.30

Transportation	Investigators	Miles	Cost at \$ 0.30 per mile
Official State Vehicle 23 July 15	Pam Vivian	25.0	\$7.50

COST OF PREPARATION OF THE ENFORCEMENT ACTION:

Preparer	Hours	Hourly Salary	Subtotal
Pam Vivian	2.0	\$32.05	\$64.10

REGIONAL OFFICE COSTS (TOTAL): **\$263**

ADMINISTRATIVE COST: **\$100**

TOTAL INVESTIGATIVE COST: **\$363**

ADDENDUM B: SUPPORTING DOCUMENTATION

1. The Division of Air Quality, Fayetteville Regional Office Complaint Investigation Report for the 23 July 2015 open burning investigation, including photographs and GIS screen shots with pile locations.
2. Notice of Violation/Notice of Recommendation for Enforcement (NOV/NRE) issued to Mr. Vance Brewer (VB) Marsh, dated 8 October 2015, with return receipt dated 14 October 2015.
3. Additional Information:
 - Previous NOVs
 - 01/14/08- NOV- allowing open burning of tires on MJ Marsh Farms property
 - 09/14/10- NOV- burning non-vegetative materials for waste disposal
 - 06/13/12- NOV- burning non-vegetative materials for waste disposal
 - 11/20/12- NOV- open burning non-vegetative materials on MJ Marsh Farms property
 - Cumberland County Sheriff's Office report dated 07/23/2015.

Civil Penalty Assessment Briefing Sheet - Fast Track Cases

Case #: 2015-035, 036 Violator Vance Brewer (VB) Marsh and M.J. Marsh Farms, Inc.
RO Contact FRO

Description of Violator

Type of Firm: Individual Company Contractor Other _____

Process/Products: OB of tires, synthetic materials, non-vegetative materials, household garbage – Mr. VB Marsh is affiliated with each of the following properties describe below, and as father to the property owners, and as the secretary/treasurer of MJ Marsh Farms, Inc. He has not complied with State and County laws over the years that resulted from various violations at several property locations.

Description of Violation

Discovery Date: 7/23, 7/24, 7/28 of 2015 Discovered by: Inspection Complaint Other _____
Nature of violation:

DAQ FRO received complaint from Cumberland County Sheriff's Department for open burning and the County Sheriff's Dept. also came on site to help DAQ with open burning investigation while they investigated animal cruelty control issue (horse)

Investigated on 7/23/2015 for VB Marsh (individual)

- At 1627 Zarzamore St., observed a total of 12 piles that consisted of 40+ tires, mattress box springs, plastics, furniture, clothing, household garbage, metals, paper, and other unidentified non-vegetative materials had been burned for waste disposal
- At 1621 Zarzamore St., observed a total of 5 piles consisted of burnt remnants of numerous tires.
- 01/14/08 – NOV for allowing illegal open burning of tires on MJ Marsh Farms property, different location sent to MJ Marsh Farm, Inc
- 09/14/10 – NOV for burning non-vegetative material for waste disposal – different location sent to VB
- 06/13/12 – NOV for burning non-vegetative materials for waste disposal – different location sent to VB
- 11/20/2012 – NOV for illegal open burning of non-vegetative materials on MJ Marsh Farms property, different location sent to MJ Marsh Farm, Inc
Attn VB

Investigated on 7/24 and 7/28/2015 for MJ Marsh Farms, Inc.

- At 1639 Zarzamore St., observed 2 piles that consisted illegal open burning of household garbage, and non-vegetative materials.
- At 1611 Zarzamore St., observed 1 pile that consisted evidence of illegal burning of 4 tires, tire rims and aerosol cans.
- 01/14/08 – NOV for allowing illegal open burning of tires on MJ Marsh Farms property, different location

11/20/2012 – NOV for illegal open burning of non-vegetative materials on MJ Marsh Farms property, different location

Property ownership

1627 – Janet Marsh, Mr. VB Marsh lives here.
1621 – Michael Marsh

1639 – MJ Marsh Farms, Inc.
1611 – MJ Marsh Farms, Inc.

NOV/NRE was sent out to both parties on 10/8/2015. NOV to Michael Marsh (the son), property owner of 1621; NOV to Janet Marsh (daughter), property owner of 1627.

Compliance History / Prior Violations (see details above)

Violation type, date, & amount assessed: _____

Assessment Factors

- Degree/Extent of Harm: _____
- Willfulness or negligence: _____
- Effectiveness of corrective action: _____

Company Response

No written reply, but Mr. VB Marsh came to DAQ on 10/28/2015 and discussed the illegal open burning on various properties with DAQ FRO staff, and admitted to allowing the illegal open burning by others on his family land that he manages. He took responsibility for all the illegal open burning at all the properties.

Recommended Penalty – Amount and Rationale

Economic Benefit to the violator (not applicable if left blank): _____

Enforcement Guideline section: NW / NRE 1

Region recommends various sections under penalty tree.

VB Marsh – 2.4OB ~~\$1500~~ → 40+ fines
MJ Marsh Farms, Inc. – 2.2OB \$200 ✓