

AGENDA ITEM: 17-04

DAQ CIVIL PENALTY ASSESSMENT CASE SUMMARY

Case Number: DAQ 2016-001 **Region:** Washington Regional Office **County:** Pitt

Violator: Brandon Lee

Case Summary

- On September 22, 2015, DAQ staff received a complaint stating that Mr. Brandon Lee was burning synthetic materials at 6179 Stantonsburg Road in Farmville, Pitt County.
- On September 22, 2015, DAQ staff along with Pitt County Fire Marshal, Allen Everette, investigated the complaint and observed burned remains of mattresses, furniture, and a significant amount of household garbage.
- A Notice of Violation/Notice of Recommendation for Enforcement (NOV/NRE) dated September 29, 2015, was sent to Mr. Brandon Lee for the above violation and was finally delivered via Sheriff on January 26, 2016. No written response to the NOV/NRE was received.
- On May 13, 2016, Sheila Holman, Director of DAQ, issued a civil penalty assessment in the amount of \$750.00 plus \$342.00 investigative costs, for the above noted violation. This certified letter was delivered on June 11, 2016 via Sheriff.
- The DAQ received a request for remission from Kim Brady on behalf of Brandon Lee (currently in prison at the time) dated May 25, 2016. The request included a justification for remission request and a waiver of rights to an administrative hearing and stipulation of facts.
- On August 16, 2016, Sheila C. Holman, Director of DAQ, reviewed the information contained in the remission and found no grounds to modify the assessment.
- The DAQ has not received a request for an oral presentation to the EMC from the violator.



PAT MCCRORY
Governor
DONALD R. VAN DER VAART
Secretary
SHEILA C. HOLMAN
Air Quality Director

December 2, 2015

Mr. Brandon Lee
6179 Stantonsburg Road
Farmville, NC 27828-9016

SUBJECT: Delivery of Notice of Violation/Notice of Recommended Enforcement

Dear Mr. Lee:

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

If you have an explanation for this violation that you wish to present, or if you believe the findings stated in this letter are not correct, please reply within two (2) weeks after receipt of this letter.

If you have any questions or concerns regarding this matter, feel free to contact Mr. Doug Byrd or me at (252) 946-6481.

Sincerely,

for
Robert Fisher
Regional Air Quality Supervisor

RPF/fdb



North Carolina Department of Environmental Quality

Pat McCrory
Governor

Donald R. van der Vaart
Secretary

September 29, 2015

**CERTIFIED MAIL 7015 0640 0007 2358 9342
RETURN RECEIPT REQUESTED**

Mr. Brandon Lee
6179 Stantonsburg Road
Farmville, NC 27828-9016

**SUBJECT: Notice of Violation - Notice of Recommended Enforcement
North Carolina Administrative Code, Title 15A, Chapter 2,
Subchapter 2D .1900 - OPEN BURNING
Brandon Lee--6179 Stantonsburg Road
Farmville, Pitt County, North Carolina**

Dear Mr. Lee:

On September 22, 2015, Mr. Petr Susi, of this Office, investigated a report from the Pitt County Fire Marshall concerning an open burning incident at 6179 Stantonsburg Road, in Pitt County, NC. The incident took place on or about September 21, 2015. During the investigation, Mr. Susi observed two (2) large burn sites containing the remains of burned furniture, mattresses, a large amount of household garbage and other unidentified synthetic material.

North Carolina Administrative Code (NCAC), Title 15A, 2D.1900 does not allow the open burning of "Refuse", "Salvageable items" and "Synthetic material" for waste disposal. The only materials that may be burned legally are yard trimmings, leaves and branches that originate on the premises of private residences and are burned on those premises between 8:00 AM and 6:00 PM and public pickup is not available. Local regulations may also apply. Mr. Susi spoke with Tiffany Lee on September 22, 2015, and explained from the regulations why burning this material is not allowed.

It should be noted that the violation(s) cited in this letter and any additional documented violations of any air quality regulation may be subject to the assessment of civil penalties per North Carolina General Statute 143-215.114A.

This office is considering sending a recommendation for enforcement action to the Director of the Division of Air Quality. Our records show this is your second substantiated violation of North Carolina's Open Burn Regulations. If you have an explanation for this violation that you wish to present, or if you believe the findings stated in this letter are not correct, please reply **within two (2) weeks after receipt of this letter.** Your explanation will be reviewed and if enforcement action is still deemed appropriate, your explanation will be forwarded to the Director with the enforcement package for her consideration.

943 Washington Square Mall, Washington North Carolina 27889
Phone: 252-946-6481 / Fax: 252-975-3716 / Internet: www.ncdenr.gov

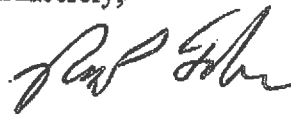
An Equal Opportunity / Affirmative Action Employer - Made in part by recycled paper

Mr. Brandon Lee
September 29, 2015
Page 2 of 2

Mr. Lee, it is in your best interest to become knowledgeable with the North Carolina regulations concerning "Open Burning" and to abide by those regulations. A brochure and a copy of the North Carolina's open burning regulations are enclosed with this letter.

I appreciate your help in keeping the air in eastern North Carolina as clean as possible. If you have any questions or concerns regarding this matter, feel free to contact Mr. Peter Susi or me at (252) 946-6481.

Sincerely,



Robert P. Fisher,
Regional Air Quality Supervisor
Division of Air Quality, NCDENR

RPF/ps

Enclosure: Open burning brochure

cc: Washington Regional Office Files
Pitt County Fire Marshall --- electronic copy
Pitt County Solid Waste and Recycling Director --- electronic copy

5542

394504

RETURN OF SERVICE

I certify that this NOTICE OF SERVICE was received on 2016, the 19 day of Jan, 2016 and together with the document(s) was served as follows:

On 2016, the 26 day of Jan, 2016, was delivered to:

Name Brandon Lee

Address 6179 Stantonsburg Rd, Farmville NC

By: A 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 above address.

Documents Served By:

RNEIRS Pitt County Sheriff

and/or GR Teal-8922, Deputy

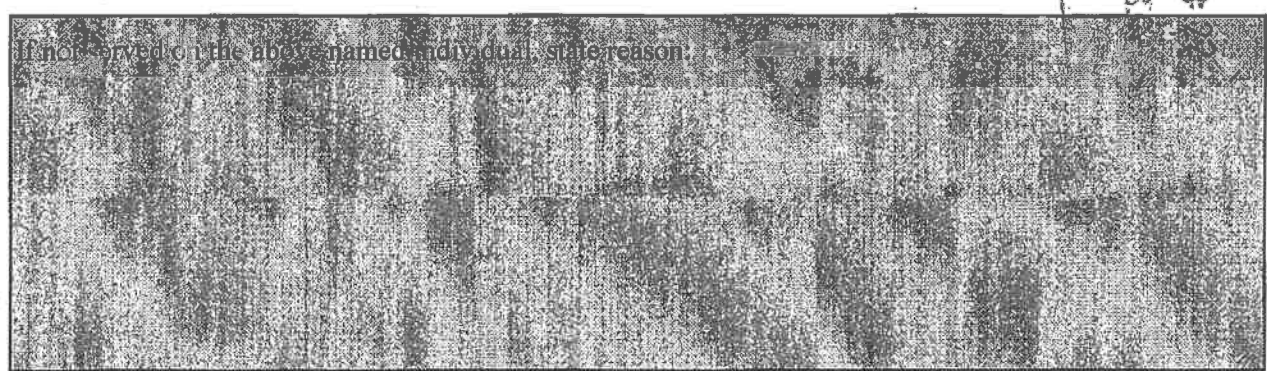
2016 JAN 19 PM 2:40

Received
Pitt Co
Sheriff's Office

2016 JAN 28 AM 8:30

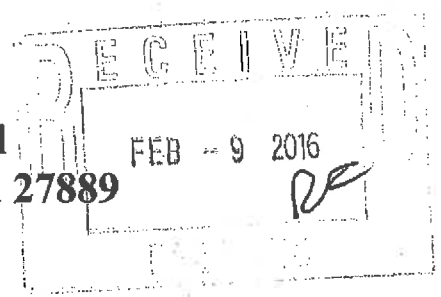
PITT COUNTY, C.S.

FILED



The Notice of Violation/Notice of Recommended Enforcement letter for Mr. Brandon Lee, dated September 29, 2015, was sent to the Sheriff's office.

Return To: DEQ/Division of Air Quality
943 Washington Square Mall
Washington, North Carolina 27889
Attn: Doug Byrd



CH# 1019794

Complaint Investigation Report

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

County: Pitt
Region: WARO
Suspect: Brandon Lee
Facility ID#
Record # 17101

Regional Investigator: Susi, Peter
Regional Co-investigator:
Partner Agency: Allen Everette, Pitt County Fire
Marshal
Date Complaint Received: 09/22/2015
Received By: Fisher, Robert
Date assigned: 09/22/2015

Suspect: Brandon Lee, Tiffany Lee
Suspect Contact: Brandon Lee
Physical Location: 6179 Stantonsburg Rd. - Farmville

Mailing Address: 6179 Stantonsburg Rd.
City/State/Zip: Farmville NC 27828-9016
Telephone: (252) 258-1736
Alternate Telephone:

Investigation date: 09/22/2015
Follow-up date: 09/24/2015
Report submit date: 09/24/2015

Complainant: Gina Partridge
Complainant Address:
City/State/Zip: NC
Telephone (H): (252) 375-0462
Telephone (W):
Call Back Required? No Response Requested

Complaint type: OB - Residential
Complaint description: resident burning couches and
furniture.

Referral to DAQ: Fire Dept./Marshal

Situation Dangerous:
Occurring Now: Yes

Violation documented: Yes
NCFS Permit:

Signature: 

Report Date: 9-24-2015

Comments/Directions: Allen Everette called to forward a complaint from Ms. Partridge. In the complaint Ms. Partridge alleges that Mr. Lee is hauling in material from his landscaping and handyman business: TKO Landscaping and Lawn Care. TKO can be found on Facebook.

9/23/15 Ms. Partridge called and left a message on Rob Fisher's phone about the burning.

Directions: Take HWY 264 / Pactolus HWY to the Greenville airport. Turn left (South) onto HWY 11. Turn right onto Stantonsburg Rd. Drive past the hospital. Stantonsburg Rd. will go left at the Wilco HESS gas station. Stay on Stantonsburg crossing back over HWY 264 on an overpass. 6179 Stantonsburg Rd. will be several miles on your left.

Summary of investigation: On September 22, 2015, I, Peter Susi (Senior Environmental Technician for the Division of Air Quality, DAQ) was assigned to investigate an open burning complaint made against Brandon Lee. Mr. Lee lives at 6179 Stantonsburg Road, Farmville in Pitt County North Carolina. I called Allen Everette, the Pitt County Fire Marshal, and he agreed to assist with the investigation.

We arrived at approximately 3:00pm and knocked on the door. A woman named Tiffany Lee answered. We identified ourselves and explained the purpose of our visit. Tiffany stated that she and her brother Brandon

lived in the house but the property was owned by their father who lived in Virginia. One burn pile was visible in the yard and Tiffany confessed the two had burn mattresses and some furniture. The burn pile (15x15 feet) contained the remains of this material along with a lot of household garbage. At that point Mr. Everette noticed a second burn pile (20x20 feet) smoldering behind an out building. This pile contained a large amount of trash and synthetic material.

I explained to Ms. Lee from the rules why this type of burning is not allowed. When questioned, Ms. Lee said she could take the garbage to the county drop off station located a few miles from the house. She said they would not burn any more. I reminded her that this was the second time I had been called to investigate an open burn on this property in less than five (5) years. I gave her my contact information and we left the area.

On September 24, 2015 I called the complainant Ms. Partridge to hear her version of events. Ms. Partridge confirmed what I already knew but added that Mr. Lee runs a landscaping and home remodel business called TKO Landscaping. She alleges that Mr. Lee is hauling in waste generated from his business and burning it on his residential property. I explained to Ms. Partridge that Mr. Lee is allowed to haul commercial yard waste four (4) times a year from one property to another and burn it. However he is not allowed to haul and burn construction related material. I agreed to speak with Mr. Lee about this practice.

On September 24, 2015, I called John Demary and Steve Cannon of Pitt County Solid Waste. Both men had just returned from the Lee residence. John reports they told Brandon he has a week to clean up the garbage or be fined by the county.

Evidence Collected: Pictures

..\\..\\PICTURES 2015\\74 Pitt\\Open Burning\\Brandon Lee

Suspects Business: TKO Landscaping and Lawn Care (found on Facebook)

Suspects History: Brandon Lee was issued a Notice of Violation (NOV) on December 27, 2013 for burning a trailer on his property.

Conclusion: This complaint has been substantiated. Brandon Lee and his Sister Tiffany Lee are in violation of North Carolina's Open Burn Rule 15A NCAC 02D. 1903 paragraph (b) (1), subparagraph (C): Non-vegetative materials, such as household garbage, lumber, or any other synthetic materials are not to be burned.

Recommendations: I recommend that Brandon Lee and his sister Tiffany Lee be issued a Notice of Violation / Notice of Recommended Enforcement (NOV /NRE) along with information about North Carolina's Open Burn Rule.

ADDENDUM A: Cost of
Enforcement Action

I. Cost of the Investigation:

Investigator	Hours	Hourly Salary	Subtotal
Peter Susi	3	\$21.92	\$65.76
		Subtotal:	\$65.76

Serving Agency	Document Served	Service Fee	Subtotal
Pitt County Sheriff's Office	NOV/NRE	\$30.00	\$30.00

Mileage	Investigator(s)	Miles Driven	(\$/mile)
State Vehicle	Peter Susi	71	\$21.30

Investigation Cost Total: **\$117.06**

II. Cost of Preparation of the Enforcement Action:

Prepared by / Reviewed by	Hours	Hourly Salary	Subtotal
Franklin Doug Byrd	3	\$26.58	\$79.74
Robert Fisher	1	\$45.72	\$45.72

Enforcement Action
Preparation Cost Total: **\$125.46**

III. Total Cost of the Enforcement Action:

Investigative Cost Total:	\$117.06
	+
Enforcement Action Preparation Cost Total:	\$125.46
	+
Administrative Fee:	\$100.00
	=
Final Total Cost of this Action:	\$342.52
Rounded down to:	\$342.00

Aggravating Factors:

1. On September 22, 2015, WaRO received a citizen complaint via the Pitt County Fire Marshal that stated that Brandon Lee was burning synthetic materials at 6179 Stantonsburg Road in Farmville, Pitt County, NC.
2. Mr. Peter Susi, of DAQ WaRO, and Pitt County Fire Marshal Allen Everette investigated the complaint on September 22, 2015 and observed a large burn pile containing the remains of mattresses, furniture and a significant amount of household garbage.
3. A NOV/NRE was sent to Mr. Brandon Lee via Certified Mail on September 29, 2015. It was returned unclaimed on October 21, 2015.
4. WaRO has had no further contact with Mr. Brandon Lee. The NOV/NRE, dated September 29, 2015, was served by the Pitt County Sheriff on January 26, 2016.
5. Mr. Brandon Lee has a past history with DAQ. Mr. Lee was issued a Notice of Violation on December 27, 2013 for burning a trailer on the same property.

Mitigating Factors:

1. During the September 22, 2015 complaint investigation, Ms. Tiffany Lee was cooperative. She admitted that she and Brandon Lee had been burning mattresses and furniture and stated that they would take their garbage to the drop off station and not burn anymore.
2. Pitt County Solid Waste has had a similar investigation occurring during this time period at the same property and with Mr. Brandon Lee. Mr. Lee appears to have complied with PCSW requests to clean up the property.



20150922: My second visit (in less than five years) to 6179 Stantonburg Rd., Farmville, located in Pitt County NC. Mr. Allen Everette, the Pitt County Fire Marshal, joined me in the investigation.



20150922: There were two burn piles on the property. This one was still on fire. Both contained a variety of synthetic materials and household garbage.



20150922: During the investigation it was determined that Mr. Brandon Lee was responsible for burning the material seen in the photographs.

Peter Susi

DIVISION OF AIR QUALITY - CIVIL PENALTY ASSESSMENT

Violator: Brandon Lee

County: Pitt

Case Number: 2016-001

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 synthetic materials.
No written response received to NOV/NRE.

- 2) The duration and gravity of the violation;

Burn occurred on one day.

- 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 - may have saved tipping fees and hauling costs for proper disposal.

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

Violation was done with knowledge, given 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

2013 NOV for burning a trailer.

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

Normal cost of investigation and processing incurred.

5/13/16
Date

Sheila C. Holman
Sheila C. Holman



PAT MCCRORY
Governor

DONALD R. VAN DER VAART
Secretary

SHEILA C. HOLMAN
Director

May 18, 2016

Pitt County Sheriff's Office
PO Box 528
Greenville, NC 27835

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

Mr. Brandon Lee (252) 258-1736
6179 Stantonsburg Rd.
Farmville, NC 27828

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 2016-001)

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 2016-001, 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

May 18, 2016

Mr. Brandon Lee
6179 Stantonsburg Rd.
Farmville, NC 27828

SUBJECT: Delivery of Civil Penalty Assessment for Violation(s)

2D .1900 Open Burning
File No.: DAQ 2016-001
Violator: Brandon Lee
County: Pitt

Dear Mr. Lee:

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,

Amy Vanderkop, Administrative Assistant
Division of Air Quality, NCDEQ

cc: Enforcement File (DAQ 2016-001)



PAT MCCRORY
Governor

DONALD R. VAN DER VAART
Secretary

SHEILA C. HOLMAN
Director

Delivery by Sheriff

May 13, 2016

Mr. Brandon Lee
6179 Stantonsburg Rd.
Farmville, NC 27828

SUBJECT: Civil Penalty Assessment for Violation(s)

2D .1900 Open Burning
File No.: DAQ 2016-001
Violator: Brandon Lee
County: Pitt

Dear Mr. Lee:

This letter transmits notice of civil penalty assessed against Brandon Lee in the amount of \$750 and \$342 investigative costs, for a total of \$1,092.

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 •

Mr. Lee

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: Robert P. Fisher, Supervisor Washington Regional Office
Enforcement File (DAQ 2016-001)

STATE OF NORTH CAROLINA

NORTH CAROLINA
DEPARTMENT OF ENVIRONMENT
AND NATURAL RESOURCES

COUNTY OF PITT

FILE NO. DAQ 2016-001

IN THE MATTER OF:

BRANDON LEE

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 September 22, 2015, the Division of Air Quality Washington Regional Office (WaRO) received a complaint stating that Mr. Brandon Lee was burning synthetic materials at 6179 Stantonsburg Road in Farmville, Pitt County.
- B. On September 22, 2015, Peter Susi, of WaRO, and Pitt County Fire Marshal Allen Everette investigated the complaint and observed the burned remains of mattresses, furniture and a significant amount of household garbage. Ms. Tiffany Lee stated that there had been mattresses and furniture burned on the property.
- C. On September 29, 2015, a Notice of Violation/Notice of Recommended Enforcement was issued to Mr. Brandon Lee via Certified Mail for violation of the open burning regulations and included an opportunity to respond within two (2) weeks of receipt.
- D. The Notice of Violation/Notice of Recommended Enforcement was returned unclaimed and was served to Mr. Brandon Lee on January 26, 2016, by the Pitt County Sheriff.
- E. WaRO has received no response from Mr. Brandon Lee.
- F. WaRO has one (1) record of prior violation for Mr. Brandon Lee. Mr. Lee was issued a Notice of Violation on December 27, 2013, for burning a trailer.
- G. The cost of investigation or inspection in this matter totaled \$342.00.

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

II. CONCLUSIONS OF LAW:

- A. Brandon Lee was in violation of 15A NCAC 2D .1900 on September 22, 2015, for causing, allowing, or permitting the open burning of prohibited materials.
- B. G.S. 143-215.114A provides that a civil penalty of not more than twenty five thousand dollars 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 G.S. 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:

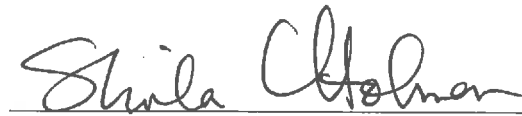
Brandon Lee is hereby assessed a civil penalty of:

\$ <u>750.00</u>	For one (1) violation of 15A North Carolina Administrative Code 2D .1900 "OPEN BURNING" on September 22, 2015.
\$ <u>750.00</u>	TOTAL CIVIL PENALTY , which is <u>3</u> percent of the maximum penalty authorized by G.S. 143-215.114A.
\$ <u>342.00</u>	Investigation costs.
\$ <u>1092.00</u>	TOTAL AMOUNT DUE

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;
- 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.

5/13/16
Date



Sheila C. Holman, Director
Division of Air Quality

STATE OF NORTH CAROLINA

NORTH CAROLINA
ENVIRONMENTAL MANAGEMENT
COMMISSION

County of Pitt

FILE NO. DAQ 2016-001

IN THE MATTER OF ASSESSMENT
OF CIVIL PENALTIES AGAINST
Brandon Lee

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

Having been assessed civil penalties totaling \$1,092 for violation(s) of:

2D .1900 Open Burning

as set forth in the assessment document of the Director, Division of Air Quality dated May 13, 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 () _____

JUSTIFICATION FOR REMISSION REQUEST

DAQ Case Number: 2016-001

County: Pitt

Violator: Brandon Lee

Facility ID:

Amount Assessed: \$1,092 (\$750 in penalty and \$342 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:

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 June the 11 day of June, 2016 at the following location,

Address Delivered To:

6179 Stanborough Rd
Farmville, NC 27828

402776 8922

Notice of Service document(s) were served on the following person,

Person Delivered To:

Kimberly Brady

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. Kimberly Brady

☐ 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:

Deir Elks, Sheriff
R. Fulbright 5980, Deputy

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

The Civil Penalty Assessment (CPA) letter for DAQ 2016-001, 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**

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

Brandon Lee
DAQ 2016-001
Pitt County

EXPLANATION: On 5/13/16, the Division of Air Quality, assessed a total penalty of \$1,092 (Civil Penalty of \$750 plus investigative costs of \$342) against Brandon Lee, for:

2D .1900 Open Burning

On 7/12/16, Brandon Lee requested remission and waived the right to an administrative hearing by stipulating the facts were as alleged in the assessment document.

RECOMMENDATION: a. ✓ SCA 8/16/16 The Division of Air Quality opposes any remission or mitigation of the civil penalty and recommends the initial assessment in the amount of \$1,092 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.



PAT MCCRORY
Governor

DONALD R. VAN DER VAART
Secretary

SHEILA C. HOLMAN
Director

October 21, 2016

Pitt County Sheriff's Office
PO Box 528
Greenville NC 27823

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


Mr. Brandon Lee
6179 Stantonsburg Rd. (252) 558-3315
Farmville, NC 27828

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 2016-001)

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 Request for Remission of a Civil Penalty Assessment for DAQ 2016-001, 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

October 21, 2016

Mr. Brandon Lee
6179 Stantonsburg Rd.
Farmville, NC 27828

SUBJECT: Delivery of Request for Remission of a Civil Penalty Assessment for Violation(s)
2D .1900 Open Burning
File No.: DAQ 2016-001
Violator: Brandon Lee
County: Pitt

Dear Mr. Lee:

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,

Amy Vanderkop, Administrative Assistant
Division of Air Quality, NCDEQ

cc: Enforcement File (DAQ 2016-001)



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 8861

September 12, 2016

Mr. Brandon Lee
6179 Stantonsburg Rd.
Farmville, NC 27828

SUBJECT: Delivery of Request for Remission of a Civil Penalty Assessment for Violation(s)
2D .1900 Open Burning
File No.: DAQ 2016-001
Violator: Brandon Lee
County: Pitt

Dear Mr. Lee:

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,

Amy Vanderkop, Administrative Assistant
Division of Air Quality, NCDEQ

cc: Enforcement File (DAQ 2016-001)



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 8830

August 17, 2016

Mr. Brandon Lee
c/o Kim Brady
6179 Stantonsburg Rd.
Farmville, NC 27828

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

File No.: DAQ 2016-001

Violator: Brandon Lee

County: Pitt

Dear Mr. Lee:

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 \$1,092 (Civil Penalty of \$750 plus Investigative Costs of \$342). 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.

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: Robert P. Fisher, Supervisor Washington Regional Office
Enforcement File (DAQ 2016-001)

COUNTY OF Pitt

DAQ Case Number: 2016-001

IN THE MATTER OF ASSESSMENT
OF CIVIL PENALTIES AGAINST:
Brandon Lee)
)
)
)**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

CERTIFIED MAIL RETURN RECEIPT REQUESTED
7014 2120 0003 9404 8830

August 17, 2016

Mr. Brandon Lee
c/o Kim Brady
6179 Stantonsburg Rd.
Farmville, NC 27828

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

File No.: DAQ 2016-001

Violator: Brandon Lee

County: Pitt

Dear Mr. Lee:

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 \$1,092 (Civil Penalty of \$750 plus Investigative Costs of \$342). 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

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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. Lee
August 17, 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: Robert P. Fisher, Supervisor Washington Regional Office
Enforcement File (DAQ 2016-001)

COUNTY OF Pitt

DAQ Case Number: 2016-001

IN THE MATTER OF ASSESSMENT
OF CIVIL PENALTIES AGAINST:
Brandon Lee)
)
)
)**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 (____)_____

RETURN OF SERVICE

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

On 28 the 28 day of 11-22, 2016 at the following location,

Address Delivered To: 6179 STANTONSBURG Rd
FARMVILLE NC

Request for Remission document(s) were served on the following person,

Person Delivered To: BRANDON LEE

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:

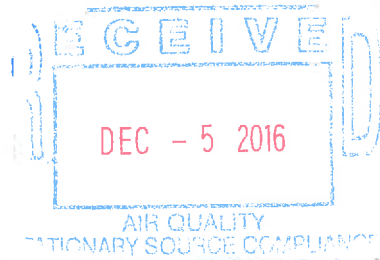
Neil Elks, Sheriff

[Signature] 6647, Deputy

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

The Request for Remission of a Civil Penalty Assessment for DAQ 2016-001, 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**



To whom it may concern :

~~In the~~

Brandon Lee has been in prison this year so far. He is due to be released on Aug 13th 2016. I was given this from the sheriff's department. On the day of September 22, 2015. Brandon Lee and I were helping his sister clean up after Orkin fumed the house for bed bugs. Brandon was loading up the sofa and loveseat that had the bed bugs to take off. The Orkin guy said no destroy it so nobody ~~get~~ picks it up and uses it, so bed bugs wouldn't effect them. So he put it on the pile. I know he had the trailer issue on Dec-27-2012 not 13. Please contact me at 252-258-1360 and let know what I or Brandon (when I need to do to fix this.

Thank you
Kim Brady
Kim Brady

STATE OF NORTH CAROLINA

FILED

NORTH CAROLINA

2016 JUL 12 PM 12:32 ENVIRONMENTAL MANAGEMENT
COMMISSION

County of Pitt

OFFICE OF ADMIN HEARINGS FILE NO. DAQ 2016-001

IN THE MATTER OF ASSESSMENT
OF CIVIL PENALTIES AGAINST
Brandon Lee) REQUEST FOR REMISSION OF CIVIL
) PENALTIES; WAIVER OF RIGHT TO
) AN ADMINISTRATIVE HEARING
) AND STIPULATION OF FACTS

Having been assessed civil penalties totaling \$1,092 for violation(s) of:

2D .1900 Open Burning

as set forth in the assessment document of the Director, Division of Air Quality dated May 13, 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 25th day of May, 2016Kim Brady in Co
Brandon Lee

Signature

By

Kim Brady

Print Name

Address

6179 Stantonburg Rd
Farmville, NC
27828

Telephone

(252) 258-1360

MISCELLANEOUS DOCUMENTS

(252) 558-3315

Kim

NC Department of Environment and Natural Resources
Division of Air Quality

TELEPHONE LOG

Date: 9/12/16

Time: 9:45 am / pm

Name: Amy Vanderkop

Case #: 2016-001
(252) 558-3315

Conversation with: Brandon Lee

Telephone #: (252) 258-1360

Business: Brandon Lee

County: _____

(verify address)

Summary:

Told him I sent Remission Results

via certified mail but he

didn't accept.

Will send again + he will

sign for it.

Vanderkop, Amy

From: Blackwelder, Page
Sent: Monday, August 01, 2016 10:37 AM
To: Vanderkop, Amy
Cc: Erwin, Maria
Subject: RE: Brandon Lee case (DAQ 2016-001)

Hi Amy,

I apologize for not answering you sooner. We haven't received anything relating to a Petition from or on behalf of Brandon Lee. I'll let you know if/when we do receive something. Thx.

Page

From: Vanderkop, Amy
Sent: Monday, August 01, 2016 9:06 AM
To: Erwin, Maria <maria.erwin@oah.nc.gov>; Blackwelder, Page <page.blackwelder@ncdenr.gov>
Subject: RE: Brandon Lee case (DAQ 2016-001)

Can I get a copy of the Petition for Contested Case Hearing (the 'correct' one) that Ms. Brady filed on behalf of Brandon Lee? This will provide the documentation I need to prove that the case shouldn't be handled as a Remission case (based on the original paperwork she submitted).

If she didn't submit the required paperwork to you, then I need to put it on the agenda next week to be reviewed by the Director for remission.

Thanks for all your help!
Amy

From: Erwin, Maria
Sent: Monday, July 18, 2016 2:37 PM
To: Vanderkop, Amy <amy.vanderkop@ncdenr.gov>; Blackwelder, Page <page.blackwelder@ncdenr.gov>
Subject: RE: Brandon Lee case (DAQ 2016-001)

I have received correspondence from Ms. Brady and I "think" I have talked to her and I "think" I sent her a blank Petition for Contested Case Hearing, but OAH has not received a Petition for Contested Case Hearing from her or on behalf of Mr. Lee at this time.

Thanks

Maria G. Erwin
Deputy Clerk
Office of Administrative Hearings
919-431-3044
maria.erwin@oah.nc.gov

E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law N.C.G.S. Chapter 132 and may be disclosed to third parties

From: Vanderkop, Amy
Sent: Monday, July 18, 2016 2:31 PM
To: Blackwelder, Page <page.blackwelder@ncdenr.gov>
Cc: Erwin, Maria <maria.erwin@oah.nc.gov>
Subject: Brandon Lee case (DAQ 2016-001)

Hi Page,

I'm checking to see if one of my Air Quality violators was able to file a contested case. The case is against Brandon Lee who is in jail until mid-August. Kim Brady is acting on his behalf. She's been extremely confused about the process despite the fact that I've talked to her a couple times. She wanted to file a contested case but erroneously submitted the remission paperwork (see attachment) to the OAH/Maria instead of completing a petition for an administrative hearing. I'm not sure that she filed all the appropriate paperwork on time with the OAH, I'm assuming it is too late. Can someone please let me know the status of this case?

If she's unable to contest the case, I will accept the paperwork for her to seek remission with the Director.

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



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*

*Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized
state official.*

NC Department of Environment and Natural Resources
Division of Air Quality

TELEPHONE LOG

Date: 7/13/16

Time: 2:50 am (pm)

Name: Amy Vanderkop

Case #: 2016-001

Conversation with: Kim Brady

Telephone #: (252) 258-1360

Business: Brandon Lee

County: _____

(verify address)

Summary:

I explained to her that the
paperwork ^{+ sent to OAH} she completed (waiver) was
to seek remission, not contest the
case. ~~She~~ I told her I didn't
know if it was too late to
contest with OAH. She will call
them.

Vanderkop, Amy

From: Hudnell, Carolyn <CHudnell@ncdoj.gov>
Sent: Wednesday, July 13, 2016 12:56 PM
To: Vanderkop, Amy
Subject: FW: Request for Remission of Civil Penalties...
Attachments: image0004.pdf

Hi Amy,

I am forwarding you this document that was received by Maria Erwin at the Office of Administrative Hearings.

Thank you,
Carolyn Hudnell
Administrative Assistant



Environmental Division
919-716-6941 (Direct)
919-716-6767 (Fax)

E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law N.C.G.S. Chapter 132 and may be disclosed to third parties.

From: Erwin, Maria [mailto:maria.erwin@oah.nc.gov]
Sent: Wednesday, July 13, 2016 12:21 PM
To: Hudnell, Carolyn
Subject: Request for Remission of Civil Penalties...

Hi Carolyn,

Can you please forward this where it needs to go, I don't think this is for OAH.

Thanks! Have a Great day!

Maria G. Erwin
Deputy Clerk
Office of Administrative Hearings
919-431-3044
maria.erwin@oah.nc.gov

E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law N.C.G.S. Chapter 132 and may be disclosed to third parties

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

Enforcement New Case Data Sheet

DAQ 2016-001

Case Sent to RCO: 02/22/2016 Case Received RCO: 02/23/2016 3/28

Return Receipt: Delivery by Sheriff

Violator: Brandon Lee

Contact: Mr. Brandon Lee

6179 Stantonburg Rd.
Farmville, NC 27828

CPA Date: 5/13/16

Violation(s)	Occur	Number Assessed	Violation Begin Date	NOV Date	Penalty Code	Penalty Amount	Overage Amount	Overage Code
2D .1900 Open Burning	1	1	09/21/2015	09/28/2015	2.20B	\$750	\$250	prior knowledge

Total Assessed: \$750

Investigation Costs: \$342

Total Amount Due: \$1,092

Region: WARO

County: Pitt

CountyPrem:

Entity Type: Non-Plant - Business/Contracto

Permit Class:

Track Type: Fast

Enforcement Officer: TV

**Department of Environmental Quality
Division of Air Quality**

MEMORANDUM

DATE: February 22, 2016

TO: Michael Pjetraj/SSCB Supervisor

THROUGH: Amy Vanderkop/Computing Support Technician II

FROM: Robert Fisher – WaRO Regional Supervisor

WRITTEN BY: Doug Byrd, Environmental Specialist

SUBJECT: Case No. 2016-001
Fast Track Enforcement Case
Brandon Lee
6179 Stantonsburg Road
Farmville, Pitt County, North Carolina

Responsible party or Contact name and mailing address:

Brandon Lee
6179 Stantonsburg Road
Farmville, NC 27828-9016

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

Description: Open burning of mattresses, furniture, and a significant amount of household garbage.



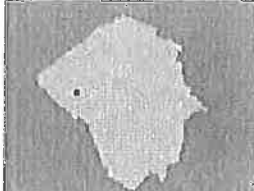

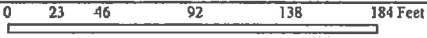
Date of Violation: September 22, 2015

Date of NOV/NRE: September 29, 2015 / Sheriff delivered January 19, 2016

Investigative Costs: \$342.00

Recommendation: Washington Regional Office recommends that Brandon Lee be assessed in accordance with Open Burning Category 2.2OB (Individual), burning synthetic material where the amount did not exceed 2 truckloads.

Package Delay: The NOV/NRE was delayed in delivery until January 19, 2016.

 Pitt County Government Greenville, North Carolina www.pittcountync.gov 																																																																									
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<p>Disclaimer: This tax record is prepared for the inventory of real property within Pitt County and is compiled from recorded deeds, plats, tax maps, surveys, and other public records. Users of this data are hereby notified that the aforementioned public primary information sources should be consulted for verification. Pitt County assumes no legal responsibility for the information contained herein.</p> <p>Copyright © 2015, Pitt County, North Carolina.</p>	 <p>PLEASE NOTE: Parcel ownership information updated nightly. Map printed 2/22/2016.</p>																																																																								



PAT MCCRORY
Governor

402776

DONALD R. VAN DER VAART
Secretary

SHEILA C. HOLMAN
Director

8922

May 18, 2016

Pitt County Sheriff's Office
PO Box 528
Greenville, NC 27835

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

Mr. Brandon Lee (252) 258-1736
6179 Stantonsburg Rd.
Farmville, NC 27828

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

cc: Enforcement File (DAQ 2016-001)

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PAT MCCRORY
Governor

DONALD R. VAN DER VAART
Secretary

SHEILA C. HOLMAN
Director

October 21, 2016

Pitt County Sheriff's Office
PO Box 528
Greenville NC 27823

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


Mr. Brandon Lee
6179 Stantonsburg Rd. (252) 558-3315
Farmville, NC 27828

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 2016-001)



PAT MCCRORY
Governor

DONALD R. VAN DER VAART
Secretary

SHEILA C. HOLMAN
Director

October 21, 2016

Mr. Brandon Lee
6179 Stantonsburg Rd.
Farmville, NC 27828

SUBJECT: Delivery of Request for Remission of a Civil Penalty Assessment for Violation(s)
2D .1900 Open Burning
File No.: DAQ 2016-001
Violator: Brandon Lee
County: Pitt

Dear Mr. Lee:

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,

Amy Vanderkop, Administrative Assistant
Division of Air Quality, NCDEQ

cc: Enforcement File (DAQ 2016-001)

Civil Penalty Assessment Briefing Sheet - Fast Track Cases

Case #: 2016-001 Violator Brandon Lee RO Contact WaRO

Description of Violator

Type of Firm: Individual Company Contractor Other _____

Process/Products: open burning of mattresses, furniture, and a significant amount of household garbage

Description of Violation

Discovery Date: 9/22/2015 Discovered by: Inspection Complaint Other _____

Nature of violation:

On 9/22/2015, DAQ together with Pitt County Fire Marshall, investigated a complaint against Brandon Lee for hauling in and burning waste that he collected from his business, TKO Landscaping and Lawn Care. The burning took place on 9/21. During the investigation, DAQ staff observed 2 large burn sites (15x15ft and 20x20ft- still smoldering) containing the remains of burned furniture, mattresses, a large amount of household garbage, and other unidentified synthetic materials.

Tiffany Lee was at the site, and stated that she and her brother, Brandon Lee, both live at this address, but the property is owned by their father, living in Virginia. DAQ staff explained to Ms. Tiffany that this type of burning is not allowed, and she stated that she could take the garbage to the county drop off station located a few miles from the house, and would not burn any more.

Pitt County Solid Waste also made a visit to the site 9/24/2015 and ordered Mr. Brandon Lee to clean up the garbage or be fined by the county. It appears that Mr. Lee has complied with the PCSW requests to clean up the property.

NOV/NRE was sent out to the facility on 09/29/2015. Delivered via sheriff on 1/19/2016.

Compliance History / Prior Violations

Violation type, date, & amount assessed: _____

12/27/2013 – NOV for burning a trailer at the same property – no assessment listed under NOV 5 OB guidelines for first offense

Assessment Factors

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

Company Response

No response

Recommended Penalty – Amount and Rationale

Economic Benefit to the violator (not applicable if left blank): = 500 x 1.5 (prior knowledge)

Region recommends 2.2 OB under penalty tree. \$750