ROY COOPER
Governor
MICHAEL S. REGAN
Secretary
LINDA CULPEPPER
Director

NORTH CAROLINA
Environmental Quality

July 31, 2019

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Zimmer Development Company
Attn: Mr. Jeffery L. Zimmer
111 Princess Street
Wilmington, NC 28401
Return Receipt #
7017 2620 0000 9759 6968

Western Carolina University
Attn: Mr. Joe Walker, PE
Associate Vice Chancellor of Facilities Management
3476 Old Cullowhee Road
Cullowhee, NC 28723
Return Receipt #
7017 2620 0000 9759 6975

SUBJECT: **NOTICE OF VIOLATION and**
RECOMMENDATION FOR ENFORCEMENT
WCU Millennial Campus Apartments
NOV-2019-PC-0550
Stream Standard Violation - Turbidity
Jackson County
Response deadline: August 15, 2019

Dear Mr. Zimmer and Mr. Walker:

On July 17, 2019, Tim Fox from the Asheville Regional Office of the Division of Water Resources (DWR) conducted a site inspection off Killian Road in Cullowhee for the project known as WCU Millennial Apartments (Jackson County Parcel Identification Number 7549-83-7905). The site inspection was in response to a report from Jackson County of turbidity in Long Branch and Cullowhee Creek.

During the site inspection, turbidity samples were collected in Long Branch, classified C. Background samples were taken upstream of the confluence with the two tributaries for

reference. Samples were taken to determine if turbidity levels were exceeding stream standards. The stream standard for turbidity on Long Branch is 50 Nephelometric Turbidity Units (NTUs).

Additional turbidity samples, including samples from an unnamed tributary to Long Branch, were collected by DWR staff on July 23, 2019, during an on-site meeting with representatives from the Division of Energy, Mineral, and Land Resources (DEMLR), Zimmer Development Company, Western Carolina University, Civil Design Concepts, West River Construction, and ClearWater Environmental Consultants.

As of the July 23, 2019 site meeting, sediment impacts to two unnamed tributaries to Long Branch and Long Branch were being removed per the sediment removal plan approved on July 3, 2019. Sediment impacts remained in the two tributaries and additional remediation work was scheduled. These sediment impacts were outlined in the NOV-2019-PC-0470 dated June 19, 2019.

As a result of the site inspection and file review, the following violations were identified:

VIOLATIONS

I. **Stream Standard Violation - Turbidity 15A NCAC 02B .0211 (21) –** On July 17 and 23, 2019, DWR obtained water samples from Long Branch and an unnamed tributary to analyze for turbidity. Please reference Figure 2 of the Sediment Removal Plan submitted by ClearWater Environmental Consultants. The sample results were as follows:

July 17, 2019

Sample #1	**45 NTUs**	**Long Branch – Downstream of confluence with eastern tributary**
Sample #2	**240 NTUs**	**Long Branch – At confluence with eastern tributary**
Sample #3	**18 NTUs**	**Long Branch – Upstream of confluence with eastern tributary**
Sample #4	**700 NTUs**	**Long Branch – At confluence with western tributary**
Sample #5	**16 NTUs**	**Long Branch – Upstream of confluence with western tributary**

July 23, 2019

Sample #1	**650 NTUs**	**Long Branch – Downstream of confluence with eastern tributary**
Sample #2	**1,000 NTUs**	**Long Branch – At confluence with eastern tributary**
Sample #3	**380 NTUs**	**Long Branch – Upstream of confluence with eastern tributary**
Sample #3a	**1,000 NTUs**	**Eastern Tributary – Eastern Tributary above Blackhawk Road**
Sample #4	**850 NTUs**	**Long Branch – At confluence with western tributary**
Sample #5	**450 NTUs**	**Long Branch – Upstream of confluence with western tributary**
Sample #6	**310 NTUs**	**Long Branch – Upstream of Limits of Disturbance**

REQUIRED RESPONSE

Accordingly, you are directed to respond to this letter in writing by **August 15, 2019.** Your response should be sent to this office at the footer address or via email to kevin.mitchell@ncdenr.gov and include the following:

1. The site must be stabilized immediately and/ or proper erosion control measures installed to prevent ongoing and continuing sedimentation and turbidity impacts. Please coordinate these efforts with the Division of Energy, Mineral and Land Resources. Contact our office immediately if additional sediment or turbidity from your site is discharged to streams and/or wetlands.

2. Provide a response detailing your plan to stabilize the site to prevent and eliminate future water quality standard violations.

Thank you for your attention to this matter. This Office is considering sending a recommendation for enforcement to the Director of the Division of Water Resources regarding these issues and any future/continued violations that may be encountered. Your above-mentioned response to this correspondence will be considered in this process. **This office requires that the violations, as detailed above, be abated immediately. These violations and any future violations are subject to a civil penalty assessment of up to $25,000.00 per day for each violation.**

Should you have any questions regarding these matters, please contact Kevin Mitchell at (828) 296-4650 or kevin.mitchell@ncdenr.gov.

Sincerely,

Zan Price

Zan Price, P.E., Assistant Regional Supervisor
Water Quality Regional Operations
Asheville Regional Office

cc: David Brown – USACE (email copy)
Andrea Leslie – NCWRC (email copy)
Stan Aiken – NCDEMLR (email copy)
Steve Beasley – Jackson County (email copy)
Tiffany Qualls – Jackson County (email copy)
Greg Hoffman, PE Civil Design Concepts (email copy)
Clement Riddle – ClearWater Environmental (email copy)
Andy Brogdon – West River Construction (email copy)
Karen Higgins – 401 & Buffer Permitting Unit
ARO File Copy

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