

**NORTH CAROLINA
ENVIRONMENTAL MANAGEMENT COMMISSION**

COUNTY OF RANDOLPH

IN THE MATTER OF)	
NORTH CAROLINA)	SPECIAL ORDER BY CONSENT
PERMITS)	EMC SOC WQ S19-011 Ad, I
WQCS00280 & WQ0003090)	
)	
HELD BY THE)	
TOWN OF LIBERTY)	

Pursuant to provisions of North Carolina General Statutes (G.S.) [143-215.2](#) and [143-215.67](#), this Special Order by Consent (SOC) is entered into by the Town of Liberty, hereinafter referred to as the Town, and the North Carolina Environmental Management Commission, an agency of the State of North Carolina created by [G.S. 143B-282](#), and hereinafter referred to as the Commission:

1. The Town and the Commission hereby stipulate the following:
 - (a) The Town holds North Carolina non-discharge Permit No. WQ0003090 for the management and operation of an existing non-discharge wastewater treatment facility (WWTF) which employs wastewater irrigation for final disposal of the treated wastewater. The high flows that reach the WWTF result from inflow and infiltration (I&I) to the collection system, and the WWTF periodically receives flows in excess of the volumes it can manage and contain. The Town reported 38 bypasses of nontreated or partially treated wastewater from treatment units within the WWTF between January 2018 and March 2023, with approximately 15,729,175 gallons of the wastewater reaching the North Prong Rocky River, which is classified a WS-III (water supply) water of the State within the Cape Fear River Basin (Attachment A).
 - (b) The Town holds North Carolina non-discharge Permit No. WQCS00280 for management and operation of an existing wastewater collection system but is unable to consistently comply with sanitary sewer overflow (SSO) prohibitions stipulated in Condition I.2. of the permit, due primarily to the introduction of large volumes of extraneous flow resulting from I&I throughout the collection system. The Town reported 122 SSOs between January 2018 and March 2023, with approximately 435,167 gallons of untreated wastewater reaching unnamed tributaries to the Rocky River, which are classified WS-III (water supply) waters of the State within the Cape Fear River Basin, during the majority of those incidents (Attachment B).
 - (c) Attachments A and B to this Order list the SSOs from the Town’s collection system and unpermitted bypasses from the Town’s WWTF between January 2018 and March 2023.
 - (d) The unpermitted discharges of untreated and partially treated wastewater from the Town’s collection and treatment systems to surface waters constitutes causing and contributing to the pollution of the waters of the State named above, and the Town is within the jurisdiction of the Commission as set forth in [G.S. Chapter 143, Article 21](#).
 - (e) The Town completed a study of its collection system in 2019 which identified and categorized sources of I&I and established a priority list of actions (repair, rehabilitation, and/or replacement of collection system infrastructure) the Town shall undertake to reduce volumes of I&I.

- (f) The Town has secured, through grants and funding, finances for evaluating, planning, designing, and improving the wastewater collection system which, once complete and properly operated, will be sufficient to adequately convey all wastewater collected throughout the Town to the WWTF and reduce to the greatest practical extent the I&I flow it currently receives. Attachment C to this Order includes a list of funding sources and projects for the Town's collection system improvements.
- (g) Since this Special Order is by Consent, neither party will file a petition for a contested case or for judicial review concerning its terms.
2. The Town, desiring to comply with the permits identified in Paragraphs 1(a) and 1(b) above, hereby agrees to do the following:
- (a) Undertake the following activities in accordance with the indicated time schedule:
- (1) Provide the Winston-Salem Regional Office with quarterly progress reports regarding improvements made to the collection system infrastructure. Reports are due within 30 days following the end of each calendar quarter. **The first report is due April 30, 2021**, for the January through March quarter (1st quarter), and the Town shall continue to submit quarterly reports throughout the life of this Order. **(ONGOING)**
 - (2) **On or before January 1, 2021**, commence construction on the project awarded to the town in December 2019 and funded by the Golden Leaf Foundation (GLF) for \$493,778. This project shall target repair of six of the worst defects identified through the Town's I&I study and includes rehabilitation of approximately 3,231 linear feet of sewer main repair, and replacement of all manholes and laterals within those system areas. **(MET)**
 - (3) **On or before April 30, 2021**, commence construction on the project awarded to the Town in March 2019 and funded by the Community Development Block Grant (CDBG) for Infrastructure for \$2,000,000. This project shall include replacement and/or rehabilitation of approximately 15,900 linear feet of 8-inch vitrified clay sewer lines, 72 brick constructed manholes and their related appurtenances, and 150 lateral line replacements in the southwest quadrant of the Town. **(MET)**
 - (4) **On or before June 1, 2021**, complete the GFL grant-funded project noted in 2(a)(2) above. **(MET)**
 - (5) **On or before July 29, 2022**, complete the CDBG-funded project noted in 2(a)(3) above. **(MET)**
 - (6) Commence work on the Pre-Construction Planning project, approved by the Division of Water Infrastructure (DWI) in March 2023 and funded by DWI's American Rescue Plan Act (ARPA) grant for \$400,000, with the following three goals:
 - a. **On or before June 30, 2024**, evaluate the existing Liberty WWTF, including any needed repairs or rehabilitation, and evaluate existing and potential future spray irrigation sites for their ability to meet the Town's need in the next 20 years and beyond. **(ONGOING)**
 - b. **On or before August 31, 2024**, evaluate any discharge locations which could be permitted through the National Pollutant Discharge Elimination System (NPDES), wastewater treatment technologies, and sewer pumping conveyance requirements for the potential construction of an active Wastewater Treatment Plant (WWTP). **(ONGOING)**

Violation Description	Stipulated Penalty
Any reportable bypass from the WQ0003090 WWTF	<ul style="list-style-type: none"> • \$250 per bypass greater than 1,000 gallons and less than or equal to 100,000 gallons • \$500 per bypass greater than 100,000 gallons
Any reportable SSO from the WQCS00280 collection system	<ul style="list-style-type: none"> • \$250 per SSO greater than 1,000 gallons and less than or equal to 100,000 gallons • \$500 per SSO greater than 100,000 gallons
Failure to meet a schedule date	\$100 per day for the first 7 days, \$500 per day thereafter
Failure to meet quarterly report deadlines	\$1,000.00 per report
Failure to complete any project as described	\$1,000.00 per project

- (d) The Town shall make checks payable to the North Carolina Department of Environmental Quality and forwarded to the Director of DWR at 1617 Mail Service Center, Raleigh, North Carolina 27699-1617.
4. The Town and the Commission agree that stipulated penalties are not due if the Town satisfies the Division of Water Resources that the following solely caused the noncompliance:
- (a) An act of God;
 - (b) An act of war;
 - (c) An intentional act or omission of a third party, but this defense shall not be available if the act or omission is that of an employee or agent of the defendant or if the act or omission occurs in connection with a contractual relationship with the Town;
 - (d) An extraordinary event beyond the Town's control. The Commission does not consider contractor delays or failure to obtain funding as events beyond the Permittee's control; or
 - (e) Any combination of the above causes.

Failure within 30 days of receipt of written demand to pay the penalties or challenge them by a contested case petition pursuant to [G.S. 150B-23](#), will be grounds for a collection action which the Commission hereby authorizes the Attorney General to initiate. The only issue in such an action will be whether the 30 days have elapsed.

5. Pursuant to the provisions of [G.S. 143-215.67\(b\)](#), the Commission allows the Town to accept **71,500 GPD** of additional wastewater via permitted sewer extensions to the wastewater treatment system, while the Town is making improvements to the collection system.

The nature of the additional flows is such that the waste characteristics do not exceed those generally associated with domestic waste or are pretreated to domestic strengths. The Town may accept waste of greater than normal domestic strength, if the Town can demonstrate to the satisfaction of the Director of DWR that additional waste will not adversely affect the treatment efficiency of the treatment system or result in the violation of any permit limitations. The Town shall control all new and proposed industrial waste tributaries to the system using all necessary mechanisms, including but not limited to the adoption and implementation of industrial waste control and pretreatment ordinances. The Town shall not accept any wastewater that will add toxic pollutants in quantities not generally associated with domestic wastewater characteristics unless the Town can support the acceptance of the additional wastewater through appropriate analysis to the satisfaction of the Director of DWR.

6. This Order and any terms or conditions contained herein, hereby supersede any and all previous Orders, Enforcement Compliance Schedule Letters, terms, conditions, and limitations contained therein issued in connection with Permit Nos. WQ0003090 and WQCS00280.
7. Any violation of the terms of this Order may terminate Paragraph 5 of this Order, and the Town shall not connect any authorized additional waste not previously connected to the system until the Town has completed and placed in operation the necessary sewer collection system improvements.
8. Noncompliance with the terms of this Order is subject to enforcement action in addition to the above stipulated penalties, including injunctive relief pursuant to [G.S. 143-215.6C](#).
9. The Commission may modify this Order its discretion, provided the Commission is satisfied that the Town has made good faith efforts to secure funding, complete all construction, and achieve compliance within the dates specified.
10. This Order shall become effective in accordance with state law. The Commission expects the Town, upon signature of this Order, to comply with all schedule dates, terms, and conditions of this document.
11. This Order shall expire **December 31, 2026**.

FOR THE TOWN OF LIBERTY

_____ Date _____
Scott Kidd
Town Manager

FOR THE NORTH CAROLINA ENVIRONMENTAL MANAGEMENT COMMISSION

_____ Date _____
Richard E. Rogers, Jr., Director
Division of Water Resources
for Chairman of the Commission