

SANFORD LAW OFFICE, PLLC

Jo Anne Sanford, Attorney at Law

December 1, 2023

Ms. A. Shonta Dunston, Chief Clerk
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, North Carolina 27699-4325

Via Electronic Filing

Re: Carolina Water Service, Inc. of North Carolina (Emergency Operator
of Outer Banks/Kinnakeet Associates, LLC Sewer System)
Docket No. W-1125, Subs 9 and 10
Notification of Sewer Moratorium Recission by the North Carolina
Department of Environmental Quality

Dear Ms. Dunston:

On July 22, 2022, the North Carolina Utilities Commission ("Commission") entered an Order in Docket No. W 1125, Subs 9 and 10 ("Order") with respect to Kinnakeet Shores Wastewater Treatment Plant ("WWTP"), which is owned by Outer Banks/Kinnakeet Associates, LLC ("OBKA"). The Order declared an emergency and directed the Public Staff to identify an emergency operator. This Order arose out of a hearing held on same day, in which homeowners' representatives appeared and joined the Public Staff to raise serious concerns about the existing Department of Environmental Quality ("DEQ") moratorium as well as "... the viability of the system and the threat of future failure of the WWTP that would affect residential sewer service and have a negative environmental impact." (*Commission Order of July 22, 2022, page 2, re. testimony of Homeowners' Association President Pat Weston*). The condition of the system was grave, prompting the following recitation by the Commission of the testimony of Public Staff witness Charles Junis¹:

¹ Director, Public Staff Water, Wastewater, and Telecommunications Division.

He testified that most crucial parts of the WWTP are not functioning at all or are not functioning properly, that many system components are being used to improperly store sludge, that the latest repair to the system failed within three days of installation of a replacement part, and that the system is releasing untreated wastewater directly into a storage/infiltration pond which is very likely impacting a nearby recreational pond. Witness Junis testified that the dilapidated condition of the WWTP posed a danger to operators and inspectors as well as a liability to the customers served by the WWTP. Witness Junis testified that the residents of Kinnakeet Shores are experiencing an actual loss of adequate service because of the condition of the WWTP and in his expert opinion, a real emergency exists necessitating the appointment of an emergency operator. Witness Junis also presented evidence that the Division of Water Resources (DWR) of the North Carolina Department of Environmental Quality (DEQ) has determined that the WWTP is non-compliant with the applicable permits. Specifically, the evidence presented by the Public Staff shows that on July 19, 2022, DWR found that wastewater is being pumped into the WWTP, that the WWTP is not treating the wastewater, and that effluent discharged from the WWTP will not meet permit limits.

The Public Staff also presented evidence that DEQ caused to be filed on May 5, 2022, in Dare County Superior Court a Complaint and Motion for Injunctive Relief, alleging, among other things, chronic neglect and mismanagement of the WWTP and requesting, among other things, that the Court direct OBKA to take specific and significant corrective action to comply with its permits. (*Commission Order, page 2*)

On August 3, 2022, the Commission appointed CWSNC Emergency Operator, and from then to now the Company has worked diligently, in productive cooperation with the Public Staff and DEQ, to make a host of corrections, changes, and improvements to this system. The Company is pleased to transmit to the Commission the attached letter of November 28, 2023, from DEQ Assistant Regional Supervisor Robert Tankard, which states that the conditions necessitating the imposition of the sewer moratorium on October 13, 2021, have been remediated. This has come about due to the work of CWSNC, and Mr. Tankard encourages the Company to continue its efforts to maintain and improve the wastewater treatment plant.

CWSNC State President Donald Denton wishes to convey his appreciation for the guidance and assistance of the Company's state regulators at the

Public Staff and DEQ, and to commend the diligent efforts of his Operations team in the remediation of the many problems at the Kinnakeet plant.

Sincerely,

Electronically Submitted

/s/Jo Anne Sanford

Attorney for Carolina Water Service, Inc.
of North Carolina (Emergency Operator)
North Carolina State Bar # 6831

c: Christopher J. Ayers, Executive Director, Public Staff
Robert Tankard, Assistant Regional Supervisor, Division of Water
Resources, Department of Environmental Quality
Gina Holt, Manager, Legal Division, Public Staff
Elizabeth Culpepper, Staff Attorney, Public Staff
Charles Junis, Public Staff Director, Water, Sewer, and
Telecommunications Division
Edward S. Finley

ROY COOPER
Governor

ELIZABETH S. BISER
Secretary

RICHARD E. ROGERS, JR.
Director



November 28, 2023

Tony Konsul
Carolina Water Service Inc. of North Carolina
4944 Parkway Plaza Blvd. Suite 375
Charlotte, North Carolina 28224-0908

Subject: Notification of Sewer Moratorium Rescission
Permit No. WQ0002284
Kinnakeet Shores WWTP
Dare County

Dear Mr. Konsul:

On October 13, 2021, a sewer moratorium (with no new sewer taps, sewer extensions or additional flow) was placed on the Kinnakeet Shores' WWTP per the authority of North Carolina General Statute 143-215.67. Prior to that date, inspections conducted by the Division of Water Resources revealed severe deficiencies existed in areas of the operation and maintenance of the WWTP. As a result, the final effluent being discharged from the WWTP was undertreated, not meeting limits established in the permit, and threatening water quality. A determination was made that the WWTP could not adequately treat additional waste, and therefore the moratorium was imposed upon any new flow being introduced to the WWTP.

Since the time the moratorium was imposed, the Kinnakeet Shores' WWTP has been assigned an emergency operator, Carolina Water Service Inc. of North Carolina, by the North Carolina Utilities Commission. Inspections of the facility, as well as self-monitoring data reported by Carolina Water, have documented significant facility improvements and efforts in meeting permit conditions. Current performance at the WWTP indicates the conditions necessitating the imposition of the moratorium have been remediated, and the WWTP now has both the hydraulic and operational capacity to accommodate additional flow.



North Carolina Department of Environmental Quality Division of Water Resources
Washington Regional Office - 943 Washington Square Mall - Washington, North Carolina, 27889
252-946-6481

OFFICIAL COPY

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In light of these findings, the Division of Water Resources hereby removes the moratorium placed on the Kinnakeet Shores' WWTP. Carolina Water is encouraged to continue its efforts to maintain and improve the wastewater treatment plant as it endeavors to provide quality wastewater treatment services. Please be aware that should flow at the wastewater treatment plant exceed applicable design capacity thresholds as stated in 15A NCAC 02T.0118, or if the facility experiences an inability to treat additional waste, a moratorium could again be imposed.

If you have any questions about this letter, please contact me at 252-948-3921 or at robert.tankard@deq.nc.gov.

Sincerely,

Robert Tankard

Robert Tankard
Assistant Regional Supervisor
Division of Water Resources
Water Quality Regional Operations Section

Attachment

cc: Richard Rodgers, Director, DWR
Nathaniel Thornburg, Non-Discharge Permitting Supervisor
Charles Junis, NC Utilities Commission
Laserfiche
Dare County Inspections
Dare County Health Department



CERTIFICATE OF SERVICE

On behalf of **Carolina Water Service, Inc. of North Carolina** (Emergency Operator of the Outer Banks/Kinnakeet Associate, LLC sewer system), I hereby certify that I have served a copy of the foregoing **Notification of Sewer Moratorium Recission by the North Carolina Department of Environmental Quality**, in accordance with North Carolina Utilities Commission Rule R1-39, either by United States mail, first class postage pre-paid; by hand delivery; or by means of electronic delivery upon agreement of the receiving party.

This the 1st day of December, 2023.

Electronically Submitted

/s/Jo Anne Sanford

State Bar No. 6831

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**Attorney for Carolina Water Service,
Inc. of North Carolina (Emergency
Operator)**