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North Carolina National Pollutant Discharge Elimination System Permit Program: Southern Environmental Law Center Request that U.S. EPA Withdraw Approval

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The Southern Environmental Law Center (“SELC”) filed the following before the Administrator of the United States Environmental Protection Agency (“EPA”):

Petition to Withdraw North Carolina’s National Pollutant Discharge Elimination System Permit Program (“NC Program”).

SELC filed the Petition on behalf of the following organizations:

- Cape Fear River Watch.
- Environmental Justice Community Action Network.
- Haw River Assembly.
- Mountain True.

The Petition was filed pursuant to 40 C.F.R. § 123.64(b) to commence proceedings to determine whether to withdraw approval of the NC Program. The permit program was previously delegated under the Clean Water Act to the State of North Carolina.

North Carolina is one of the 47 states that have been authorized by EPA to implement the National Pollutant Discharge Elimination System (“NPDES”) Program. Once EPA approves a state program, the state assumes NPDES permitting authority.

SELC argues that the North Carolina General Assembly (“Legislature”) has caused the state to violate the requirements of the federal Clean Water Act and the Memorandum of Agreement (“MOA”) between the state and EPA that governs how North Carolina must administer its NPDES Program.

This is based on the following assertions:

- Legislature has blocked the North Carolina Department of Environmental Quality (“DEQ”) from effectively implementing its NPDES Program.
- Amended state laws governing the appointment and composition of the State’s Environmental Management Commission (“EMC”) and Rules Review Commission (“RRC”) such that they have been “effectively captured by a supermajority of the Legislature that is hostile to environmentally protective regulation.

- The referenced Commissions are blocking DEQ's development and use of numeric water quality standards for PFAS and 1, for dioxane, impeding its implementation of the narrative standards.
- Enactment of legislation that gives the Office of Administrative Hearings ("OAH") final decision-making authority over NPDES Permits "thereby stripping DEQ and EMC of the roles assigned to them by the MOA and threatening DEQ's ability to issue protective permits."
- Enacted laws prescribing specific permit conditions for discharges from fish farms and wastewater dischargers into small creeks and stream "unlawfully usurping the State's environmental agency's authority to evaluate permit applications and issues permits tailored to the discharger and receiving water body."
- Enacting a budget that has underfunded DEQ for over a decade, resulting in a backlog of expired NPDES permits and a "lack of agency capacity to adequately develop and enforce protective NPDES permits."

A copy of the Petition can be downloaded [here](#).