

**IN THE TENNESSEE REGULATORY AUTHORITY  
AT NASHVILLE, TENNESSEE**

**IN RE:**

**PETITION OF TENNESSEE  
WASTEWATER SYSTEMS, INC. TO  
AMEND ITS CERTIFICATE OF  
CONVENIENCE AND NECESSITY**

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**DOCKET NO. 15-00025**

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**MOTION TO TAKE ADMINISTRATIVE NOTICE**

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The Consumer Advocate and Protection Division of the Office of the Attorney General (“Consumer Advocate”), pursuant to Tennessee Code Annotated, § 4-5-313(6) and § 65-2-109(2) & (4), hereby moves the Tennessee Regulatory Authority (“TRA”) to take administrative notice of TRA Docket 14-00006, and in particular the *Order Approving Petition to Amend Certificate of Public Convenience and Necessity* dated September 3, 2014, *Data Response* dated May 1, 2015, and the Docket Sheet (attached).

WHEREFORE, the Consumer Advocate requests the Hearing Officer to approve its motion to take administrative notice of the foregoing.

RESPECTFULLY SUBMITTED,



VANCE L. BROEMEL (BPR #11421)

Senior Counsel

Office of the Attorney General

Consumer Advocate and Protection Division

P.O. Box 20207

Nashville, Tennessee 37202-0207

(615) 741-8733

Dated: May 13, 2015.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served via U.S. Mail or electronic mail upon:

Henry Walker, Esq.  
Bradley Arant Boult Cummings, LLP  
1600 Division Street, Suite 700  
Nashville, TN 37203  
615-252-2363

This the 13<sup>th</sup> day of May, 2015.



Vance L. Broemel  
Senior Counsel



851 Aviation Parkway  
Smyrna, TN 37167

Filled Electronically  
05/01/15

Date: April 30, 2015

Sharla Dillon  
Tennessee Regulatory Authority  
502 Deaderick Street, 4<sup>th</sup> Floor  
Nashville, TN 37243

re: Docket No 14-00006 Data Request

Please find enclosed the final permit dated April 30, 2015 in reference to the "Scales Project". We have no other information to report at this time.

Sincerely,

Charles Hyatt



Docket  
14-00006

STATE OF TENNESSEE  
DEPARTMENT OF ENVIRONMENT AND CONSERVATION  
DIVISION OF WATER RESOURCES

William R. Snodgrass - Tennessee Tower  
312 Rosa L. Parks Avenue, 11<sup>th</sup> Floor  
Nashville, Tennessee 37243-1102

April 30, 2015

Mr. Charles R. Hyatt, CEO  
Adenus Group, LLC  
e-copy: Charles.Hyatt@adenus.com  
849 Aviation Parkway  
Smyrna, TN 37167

**Re: State Operating Permit No. SOP-14010  
TN Wastewater Systems - Clovercroft Wells Treatment Facility  
Nolensville, Williamson County, Tennessee**

Dear Mr. Hyatt:

In accordance with the provisions of the Tennessee Water Quality Control Act, Tennessee Code Annotated (T.C.A.), Sections 69-3-101 through 69-3-120, the Division of Water Resources hereby issues the enclosed State Operating Permit. The continuance and/or reissuance of this Permit is contingent upon your meeting the conditions and requirements as stated therein.

Please be advised that a petition for permit appeal may be filed, pursuant to T.C.A. Section 69-3-105, subsection (i), by the permit applicant or by any aggrieved person who participated in the public comment period or gave testimony at a formal public hearing whose appeal is based upon any of the issues that were provided to the commissioner in writing during the public comment period or in testimony at a formal public hearing on the permit application. Additionally, for those permits for which the department gives public notice of a draft permit, any permit applicant or aggrieved person may base a permit appeal on any material change to conditions in the final permit from those in the draft, unless the material change has been subject to additional opportunity for public comment. Any petition for permit appeal under this subsection (i) shall be filed with the technical secretary of the Water Resources Board within thirty (30) days after public notice of the commissioner's decision to issue or deny the permit. A copy of the filing should also be sent to TDEC's Office of General Counsel.

If you have questions, please contact the Nashville Environmental Field Office at 1-888-891-TDEC; or, at this office, please contact Mr. Hari Akunuri at (615) 532-0650 or by E-mail at [Hari.Akunuri@tn.gov](mailto:Hari.Akunuri@tn.gov).

Sincerely,

Brad C. Harris, P.E.  
Manager, Land-based Systems

Enclosure

cc/ec: Land-based Systems File  
Nashville Environmental Field Office  
Mr. Nicky Wells, P.E., Vice President, Land Development, Turnberry Homes, LLC, [nicky.wells@turnberryhomes.com](mailto:nicky.wells@turnberryhomes.com)  
Ms. Michelle Ramsey, Utilities Division, Tennessee Regulatory Authority, [michelle.ramsey@tn.gov](mailto:michelle.ramsey@tn.gov)  
Mr. Brian Carter, Maintenance Manager, Adenus Operations LLC, [brian.carter@adenus.com](mailto:brian.carter@adenus.com)

STATE OF TENNESSEE  
DEPARTMENT OF ENVIRONMENT AND CONSERVATION  
DIVISION OF WATER RESOURCES  
William R. Snodgrass - Tennessee Tower  
312 Rosa L. Parks Avenue, 11th Floor  
Nashville, Tennessee 37243-1102

**Permit No. SOP-14010**

**PERMIT**  
**For the operation of Wastewater Treatment Facilities**

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In accordance with the provision of Tennessee Code Annotated section 69-3-108 and Regulations promulgated pursuant thereto:

**PERMISSION IS HEREBY GRANTED TO**

TN Wastewater Systems - Clovercroft Wells Treatment Facility  
Nolensville, Williamson County, Tennessee

**FOR THE OPERATION OF**

Septic tanks, effluent collection system, recirculating media filter and fenced drip irrigation system located at latitude 35.93373 and longitude -86.69478 in Williamson County, Tennessee to serve approximately 86 homes in the Clovercroft Wells Treatment Facility. The design capacity of the system is 0.0258 MGD.

This permit is issued as a result of the application filed on July 29, 2014, in the office of the Tennessee Division of Water Resources. This permit is contingent on the submission and department approval of construction plans, specifications and other data in accordance with rules of the department. Updated plans and specifications must be approved before any further construction activity.

**This permit shall become effective on: June 1, 2015**

**This permit shall expire on: May 31, 2020**

**Issuance date: May 1, 2015**



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for Tisha Calabrese Benton  
Director

**A. GENERAL REQUIREMENTS**

The treatment system shall be monitored by the permittee as specified below:

<u>Parameter</u>	<u>Sample Type</u>	<u>Daily Maximum</u>	<u>Monthly Average</u>	<u>Measurement Frequency</u>
Flow *	Totalizer			Daily
BOD <sub>5</sub>	Grab	45 mg/l	N/A	Once/Year
Ammonia as N	Grab	Report	N/A	Once /Quarter

\* Report average daily flow for each calendar month.

Sampling requirements in the table above apply to effluent being discharged to the drip irrigation plots.

This permit allows the operation of a wastewater drip irrigation system. There shall be no discharge of wastewater to any surface stream or any location where it is likely to enter surface waters. There shall be no discharge of wastewater to any open throat sinkhole. In addition, the drip irrigation system shall be operated in a manner preventing the creation of a health hazard or a nuisance.

Instances of ponding or pools under dry weather conditions shall be promptly investigated and remedied. Instances of ponding or pools, or any wastewater runoff shall be noted on the monthly operation report. The report shall include details regarding the location(s), determined cause(s), the actions taken to eliminate the ponding or pools, or any wastewater runoff, and the dates the corrective actions were made. Any wastewater runoff due to improper operation must be reported in writing to the Division of Water Resources, Nashville Environmental Field Office within 5 days of discovery by the permittee.

All drip fields shall be fenced sufficiently to prevent or impede unauthorized entry as well as to protect the facility from vandalism. Fencing shall be a minimum of four feet in height. Fencing shall be constructed of durable materials. Gates shall be designed and constructed in a manner to prevent or impede unauthorized entry. All designs are subject to division approval. Fence shall be installed prior to beginning of operation.

All drip lines shall be buried and maintained 6 to 10 inches below the ground surface.

The site shall be inspected by the certified operator or his/her designee, at a minimum, once per fourteen days (default) OR in accordance with an operating and maintenance inspection schedule in the permit administrative file record. The default inspection frequency will apply if an operating and maintenance inspection schedule is not submitted to be a part of the permit administrative file record. The operating and maintenance inspection schedule shall at a

minimum evaluate the following via onsite visits or telemetry monitoring or a combination of the two:

- the condition of the treatment facility security controls (doors, fencing, gates, etc.),
- the condition of the drip area security controls (doors, fencing, gates, etc.),
- the condition of the site signage,
- the operational status of the mechanical parts of the treatment system (pumps, filters, telemetry equipment, etc.)
- the condition of the UV bulbs (if applicable)

Submission of the schedule, or revisions to the schedule, may be submitted to the division electronically. The schedule shall be submitted on or before the effective date of the permit. The permittee is responsible for maintaining evidence that the schedule, or revisions, have been submitted to the division.

## **B. MONITORING PROCEDURES**

### **1. Representative Sampling**

Samples and measurements taken in compliance with the monitoring requirements specified above shall be representative of the volume and nature of the monitored discharge, and shall be taken at the following location(s):

Effluent to drip irrigation plots.

### **2. Test Procedures**

Unless otherwise noted in the permit, all pollutant parameters shall be determined according to methods prescribed in Title 40, CFR, Part 136.

## **C. DEFINITIONS**

The "daily maximum concentration" is a limitation on the average concentration, in milligrams per liter, of the discharge during any calendar day.

The "**monthly average concentration**", other than for *E. coli* bacteria, is the arithmetic mean of all the composite or grab samples collected in a one-calendar month period.

A "grab sample" is a single influent or effluent sample collected at a particular time.

For the purpose of this permit, "**continuous monitoring**" means collection of samples using a probe and a recorder with at least one data point per dosing cycle.

A "quarter" is defined as any one of the following three-month periods: January 1 through March 31, April 1 through June 30, July 1 through September 30, and/or October 1 through December 31.

#### **D. REPORTING**

##### **1. Monitoring Results**

Monitoring results shall be recorded monthly OR in accordance with the operating and maintenance inspection schedule in the permit administrative file record and submitted quarterly. The quarterly report shall detail the following:

Submittals shall be postmarked no later than 15 days after the completion of the reporting period. A copy should be retained for the permittee's files. Operation reports and any communication regarding compliance with the conditions of this permit must be sent to:

Division of Water Resources  
Nashville Environmental Field Office  
711 R.S. Gass Boulevard  
Nashville, TN 37243

The first operation report is due on the 15<sup>th</sup> of the month following the quarter containing the permit effective date. Until the construction of the treatment system is complete and the treatment system is placed into operation, operational reports shall report "monitoring not required".

##### **2. Additional Monitoring by Permittee**

If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit, using approved analytical methods as specified in 0400-40-05-.07(2)(h)2, the results of such monitoring shall be included in the calculation and reporting of the values required in the Quarterly Operation Report. Such increased frequency shall also be indicated.

##### **3. Falsifying Reports**

Knowingly making any false statement on any report required by this permit may result in the imposition of criminal penalties as provided for in Section 69-3-115 of the Tennessee Water Quality Control Act.

##### **4. Signatory Requirement**

All reports or information submitted to the commissioner shall be signed and certified by the persons identified in Rules 0400-40-05-.05(6)(a-c).

## **E. SCHEDULE OF COMPLIANCE**

Full operational level shall be attained after the construction of the treatment system is complete and the treatment system is placed into operation.

## **PART II**

### **A. GENERAL PROVISIONS**

#### **1. Duty to Reapply**

The permittee is not authorized to discharge after the expiration date of this permit. In order to receive authorization to discharge beyond the expiration date, the permittee shall submit such information and forms as are required to the Director of Water Resources (the "Director") no later than 180 days prior to the expiration date.

#### **2. Right of Entry**

The permittee shall allow the Director, or authorized representatives, upon the notification of permittee and presentation of credentials:

a. To enter upon the permittee's premises where an effluent source is located or where records are required to be kept under the terms and conditions of this permit, and at reasonable times to copy these records;

b. To inspect at reasonable times any monitoring equipment or method or any collection, treatment, pollution management, or discharge facilities required under this permit; and

c. To sample at reasonable times any discharge of pollutants.

#### **3. Availability of Reports**

All reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Division of Water Resources.

#### **4. Proper Operation and Maintenance**

The permittee shall at all times properly operate and maintain all facilities and systems (and related appurtenances) for collection and treatment which are installed or used by the permittee to achieve compliance with the terms and conditions of this permit. Proper operation and maintenance also includes adequate laboratory and process controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to

achieve compliance with the conditions of the permit. Backup continuous pH and flow monitoring equipment are not required.

The monitoring frequency stated in this permit shall not be construed as specifying a minimum level of operator attention to the facility. It is anticipated that visits to the treatment facility by the operator will occur at intervals frequent enough to assure proper operation and maintenance, but in no case less than one visit every fourteen days OR in accordance with an operating and maintenance inspection schedule in the permit administrative file record. If monitoring reports, division's inspection reports, or other information indicates a problem with the facility, the permittee may be subject to enforcement action and/or the permit may be modified to include increased parameter monitoring, increased monitoring frequency or other requirements as deemed necessary by the division to correct the problem. The permittee shall ensure that the certified operator is in charge of the facility and observes the operation of the system frequently enough to ensure its proper operation and maintenance regardless of the monitoring frequency stated in the permit

Dilution water shall not be added to comply with effluent requirements.

The drip dispersal area shall not be used for vehicular traffic or vehicular parking. Dozers, trucks, tractors, and other heavy vehicles shall not be allowed to run over the drip dispersal area lines or other parts of the system.

#### 5. Property Rights

The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State, or local laws or regulations.

#### 6. Severability

The provisions of this permit are severable. If any provision of this permit due to any circumstance, is held invalid, then the application of such provision to other circumstances and to the remainder of this permit shall not be affected thereby.

#### 7. Other Information

If the permittee becomes aware that he failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, then he shall promptly submit such facts or information.

## **B. CHANGES AFFECTING THE PERMIT**

### **1. Planned Changes**

The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility.

### **2. Permit Modification, Revocation, or Termination**

a. This permit may be modified, revoked and reissued, or terminated for cause as described in section 69-3-108 (h) The Tennessee Water Quality Control Act as amended.

b. The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.

### **3. Change of Ownership**

This permit may be transferred to another person by the permittee if:

a. The permittee notifies the Director of the proposed transfer at least 30 days in advance of the proposed transfer date;

b. The notice includes a written agreement between the existing and new permittees containing a specified date for transfer of permit responsibility, coverage, and liability between them; and

c. The Director, within 30 days, does not notify the current permittee and the new permittee of his intent to modify, revoke or reissue, or terminate the permit and to require that a new application be filed rather than agreeing to the transfer of the permit.

### **4. Change of Mailing Address**

The permittee shall promptly provide to the Director written notice of any change of mailing address. In the absence of such notice the original address of the permittee will be assumed to be correct.

## **C. NONCOMPLIANCE**

### **1. Effect of Noncompliance**

Any permit noncompliance constitutes a violation of applicable State laws and is grounds for enforcement action, permit termination, permit modification, or denial of permit reissuance.

2. Reporting of Noncompliance

a. 24-Hour Reporting

In the case of any noncompliance which could cause a threat to public drinking supplies, or any other discharge which could constitute a threat to human health or the environment, the required notice of non-compliance shall be provided to the appropriate Division environmental assistance center within 24 hours from the time the permittee becomes aware of the circumstances. (The environmental field office should be contacted for names and phone numbers of emergency response personnel.)

A written submission must be provided within five days of the time the permittee becomes aware of the circumstances unless this requirement is waived by the Director on a case-by-case basis. The permittee shall provide the Director with the following information:

- i. A description of the discharge and cause of noncompliance;
- ii. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
- iii. The steps being taken to reduce, eliminate, and prevent recurrence of the non complying discharge.

b. Scheduled Reporting

For instances of noncompliance which are not reported under subparagraph 2.a. above, the permittee shall report the noncompliance on the Quarterly Operation Report. The report shall contain all information concerning the steps taken, or planned, to reduce, eliminate, and prevent recurrence of the violation and the anticipated time the violation is expected to continue.

3. Overflow

a. "**Overflow**" means the unintended discharge to land or waters of Tennessee of wastes from any portion of the collection, transmission, or treatment system other than through permitted outfalls.

b. Overflows are prohibited.

c. The permittee shall operate the collection system so as to avoid overflows. No new or additional flows shall be added upstream of any point in the collection system, which experiences chronic overflows (greater than 5 events per year) or would otherwise overload any portion of the system.

d. Unless there is specific enforcement action to the contrary, the permittee is relieved of this requirement after: 1) an authorized representative of the Commissioner of the

Department of Environment and Conservation has approved an engineering report and construction plans and specifications prepared in accordance with accepted engineering practices for correction of the problem; 2) the correction work is underway; and 3) the cumulative, peak-design, flows potentially added from new connections and line extensions upstream of any chronic overflow point are less than or proportional to the amount of inflow and infiltration removal documented upstream of that point. The inflow and infiltration reduction must be measured by the permittee using practices that are customary in the environmental engineering field and reported in an attachment to a Monthly Operating Report submitted to the local TDEC Environmental Field Office on a quarterly basis. The data measurement period shall be sufficient to account for seasonal rainfall patterns and seasonal groundwater table elevations.

e. In the event that more than 5 overflows have occurred from a single point in the collection system for reasons that may not warrant the self-imposed moratorium or completion of the actions identified in this paragraph, the permittee may request a meeting with the Division of Water Resources EFO staff to petition for a waiver based on mitigating evidence.

#### 4. Upset

a. "*Upset*" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

b. An upset shall constitute an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the permittee demonstrates, through properly signed, contemporaneous operating logs, or other relevant evidence that:

i. An upset occurred and that the permittee can identify the cause(s) of the upset;

ii. The permitted facility was at the time being operated in a prudent and workman-like manner and in compliance with proper operation and maintenance procedures;

iii. The permittee submitted information required under "Reporting of Noncompliance" within 24-hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five days); and

iv. The permittee complied with any remedial measures required under "Adverse Impact."

#### 5. Adverse Impact

The permittee shall take all reasonable steps to minimize any adverse impact to the waters of Tennessee resulting from noncompliance with this permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge. It shall not be a defense for the permittee in an enforcement action that it would have

been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

## 6. Bypass

a. **"Bypass"** is the intentional diversion of wastewater away from any portion of a treatment facility. **"Severe property damage"** means substantial physical damage to property, damage to the treatment facilities which would cause them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

b. Bypasses are prohibited unless all of the following 3 conditions are met:

i. The bypass is unavoidable to prevent loss of life, personal injury, or severe property damage;

ii. There are no feasible alternatives to bypass, such as the construction and use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass, which occurred during normal periods of equipment downtime or preventative maintenance;

iii. The permittee submits notice of an unanticipated bypass to the Division of Water Resources in the appropriate Environmental Field Office within 24 hours of becoming aware of the bypass (if this information is provided orally, a written submission must be provided within five days). When the need for the bypass is foreseeable, prior notification shall be submitted to the director, if possible, at least 10 days before the date of the bypass.

c. Bypasses not exceeding permit limitations are allowed **only** if the bypass is necessary for essential maintenance to assure efficient operation. All other bypasses are prohibited. Allowable bypasses not exceeding limitations are not subject to the reporting requirements of 6.b.iii, above.

## 7. Washout

a. For domestic wastewater plants only, a "washout" shall be defined as loss of Mixed Liquor Suspended Solids (MLSS) of 30.00% or more. This refers to the MLSS in the aeration basin(s) only. This does not include MLSS decrease due to solids wasting to the sludge disposal system. A washout can be caused by improper operation or from peak flows due to infiltration and inflow.

b. A washout is prohibited. If a washout occurs the permittee must report the incident to the Division of Water Resources in the appropriate Environmental Field Office within 24 hours by telephone. A written submission must be provided within five days. The washout must be noted on the discharge monitoring report. Each day of a washout is a separate violation.

**D. LIABILITIES**

1. Civil and Criminal Liability

Nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance. Notwithstanding this permit, the permittee shall remain liable for any damages sustained by the State of Tennessee, including but not limited to fish kills and losses of aquatic life and/or wildlife, as a result of the discharge of wastewater to any surface or subsurface waters. Additionally, notwithstanding this Permit, it shall be the responsibility of the permittee to conduct its wastewater treatment and/or discharge activities in a manner such that public or private nuisances or health hazards will not be created.

2. Liability Under State Law

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law.

**PART III  
OTHER REQUIREMENTS**

**A. CERTIFIED OPERATOR**

The waste treatment facilities shall be operated under the supervision of a Biological Natural System certified wastewater treatment operator and collection system shall be operated under the supervision of a the grade I certified collection system operator in accordance with the Water Environmental Health Act of 1984.

**B. PLACEMENT OF SIGNS**

The permittee shall place a sign at the entrance if the drip area if fenced or all reasonable approaches to the drip irrigation lot. The sign should be clearly visible to the public. The minimum sign size should be two feet by two feet (2' x 2') with one inch (1") letters. The sign should be made of durable material

**RECLAIMED WASTEWATER  
DRIP IRRIGATION  
(PERMITTEE'S NAME)  
(PERMITTEE'S PHONE NUMBER)  
TENNESSEE DIVISION OF WATER  
RESOURCES  
Nashville Environmental Field Office  
PHONE NUMBER: 1-888-891-8332**

No later than sixty (60) days from the effective date of the permit, the permittee shall have the above sign(s) on display in the location specified. New facilities must have the signs installed upon commencing operation.

**C. ADDITION OF WASTE LOADS**

The permittee may not add wasteloads to the existing treatment system without the knowledge and approval of the division.

**D. SEPTIC TANK OPERATION**

The proper operation of this treatment system depends, largely, on the efficient use of the septic tank. The solids that accumulate in the tank shall be removed at a frequency that is sufficient to insure that the treatment plant will comply with the discharge requirements of this permit.

**E. SEPTAGE MANAGEMENT PRACTICES**

The permittee must comply with the provisions of Rule 0400-48-01-.22. If the septage is transported to another POTW for disposal, the permittee shall note the amount of septage wasted in gallons and name of the facility the hauler intends to use for disposal of the septage on the monthly operation report. Sludge or any other material removed by any treatment works must be disposed of in a manner which prevents its entrance into or pollution of any surface or subsurface waters. Additionally, the disposal of such sludge or other material must be in compliance with the Tennessee Solid Waste Disposal Act, TCA 68-31-101 et seq. and Tennessee Hazardous Waste Management Act, TCA 68-46-101 et seq.

**F. OWNERSHIP OF THE TREATMENT FACILITIES**

a. The permittee shall own the treatment facilities (and the land upon which they are constructed) including the land to be utilized for drip or spray irrigation. A perpetual easement (properly recorded) may be accepted in lieu of ownership. If the permittee elects to make the treated wastewater available for reuse (irrigation of a golf course for example) a backup dedicated land application site must be provided or a perpetual easement must be obtained for the property where reuse is to take place. The perpetual easement must allow year-round application of the wastewater except where the permittee has provided (and the division has approved) storage facilities for periods when reuse is not available. Evidence of ownership of the treatment facility land application site(s) and/or a copy of the perpetual easement(s) must be furnished to the division for approval prior to construction of the wastewater collection and treatment system.

b. Where the treatment facility serves private homes, condominiums, apartments, retirement homes, nursing homes, trailer parks, or any other place where the individuals being served have property ownership, rental agreements, or other agreements that would prevent their being displaced in the event of abandonment or noncompliance of the sewerage system, ownership of the treatment facilities must be by a municipality, a public utility, a wastewater authority, or a

privately owned public utility (having a Certificate of Convenience and Necessity from the Tennessee Regulatory Authority), or another public agency.

Attachment 1  
STATE OF TENNESSEE  
**DEPARTMENT OF ENVIRONMENT AND CONSERVATION**  
**DIVISION OF WATER RESOURCES-WATER SUPPLY BRANCH**  
William R. Snodgrass Tennessee Tower  
312 Rosa L. Parks Avenue  
Nashville, Tennessee 37243

MEMORANDUM

TO: Hari Akunuri, DWR-CO

FROM: Allen Rather, DWR- Ground Water Management Section

DATE: 7/29/2014

SUBJECT: LCSS/SFDS (Class V Injection) Approval  
Clovercroft Wells Treatment Facility  
Nolensville, Williamson County, Tennessee  
UIC File WIL 0000145 SOP- 14010

The Division of Water Resources has reviewed the submittal of an Application for Authorization to Operate a Class V Underground Injection Well (Large Capacity Septic System/Subsurface Fluid Disposal System) utilizing drip dispersal for the waste water at the Clovercroft Wells Treatment Facility located at Nolensville, Williamson County, Tennessee. This Division approves the application dated 4/17/2014.

If at any time the Division learns that a ground water discharge system may be in violation of The Tennessee Water Quality Control Act, the Division shall:

- a. require the injector to apply for an individual permit;
- b. order the injector to take such actions including, where required, closure of the injection well as may be necessary to prevent the violation; or
- c. take enforcement action.

All groundwater discharge activities must operate in such a manner that they do not present a hazard to groundwater.

In accordance with Underground Injection Control (UIC) Rule 1200-4-6-.14 (3) "The owner of a Class V well shall be responsible for notifying the Department of change in ownership." This notification must be made to this Division within thirty (30) days of the change in ownership.

Also note that according to Underground Injection Control (UIC) Rule 1200-4-6-.14 (8)(d) "Upon completion of the well, the owner or operator must certify to the Department that the well has been completed in accordance with the approved construction plan, and must submit any other additional information required". The certification must be submitted to the UIC Program within thirty (30) days upon the completion/closure of the Class V well.

This Division will require a minimum of seven (7) working days advance notice before the construction on the drip system is to begin to allow for a witness from this Division to be present.

No drip emitters are to discharge directly into an open throat or crevice in the subsurface. All drip lines are to be installed on contour.

Our concurrence with your approach does not imply that this procedure is exempt from future changes or restrictions in the Underground Injection Control (UIC) Regulations, or any additional requirements set forth by the Division in order to protect the groundwater of Tennessee.

A copy of this authorization must be kept on site until the development has been completed and must be made available to inspection personnel.

Should you have any questions or comments please feel free to contact me at (615) 532-5819 or [allen.rather@tn.gov](mailto:allen.rather@tn.gov).

c: file



agency, the Tennessee Public Service Commission.<sup>2</sup> Since that time, through various other dockets, TWSI has been granted approval to expand its service territory to include other designated areas in Tennessee. The Utility's principal office is located in Smyrna, Tennessee. On January 22, 2014, TWSI filed in this docket its *Petition* and Pre-filed Direct Testimony of Matt Pickney requesting further expansion of its CCN to include The Scales Project in Williamson County, Tennessee.

**LEGAL STANDARD FOR GRANTING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY**

No public utility is permitted to begin construction or operation of a new utility facility or service without first obtaining a CCN from the Authority, as set forth in Tenn. Code Ann. § 65-4-201(a), which states:

(a) No public utility shall establish or begin the construction of, or operate any line, plant, or system, or route in or into a municipality or other territory already receiving a like service from another public utility, or establish service therein, without first having obtained from the authority, after written application and hearing, a certificate that the present or future public convenience and necessity require or will require such construction, establishment, and operation, and no person or corporation not at the time a public utility shall commence the construction of any plant, line, system or route to be operated as a public utility, or the operation of which would constitute the same, or the owner or operator thereof, a public utility as defined by law, without having first obtained, in like manner, a similar certificate. . . .<sup>3</sup>

The Authority's permanent rules for public wastewater utilities became effective on June 12, 2006. In order to obtain a CCN to provide wastewater service, TRA Rule 1220-4-13-.04(1)(b) requires that a public wastewater utility satisfy the following requirements:

(b) Any public wastewater utility requesting a Certificate of Public Convenience and Necessity (CCN) authorizing such public utility to construct and/or operate a wastewater system or to expand the area in

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<sup>2</sup> See *In re: [Petition of Tennessee Wastewater Systems Inc.] to Operate as a Public Utility Providing Sewage Collection, Treatment, and Disposal for a Proposed Development in Maury County*, TRA Docket No. 93-09040. (TWSI was formerly known as On-Site Systems, Inc., as shown on the TDEC permit filed in the docket file.)

<sup>3</sup> Tenn. Code Ann. § 65-4-201(a) (Supp. 2013).

which such a system is operated, shall file an application in compliance with Rule 1220-1-1-.03 and this rule. All applicants shall demonstrate to the Authority that they are registered with the Secretary of State, have obtained the financial security required under 1220-4-13-.07, and possess sufficient managerial, financial, and technical abilities to provide the wastewater services for which they have applied. Each application shall justify existing public need and include the required financial security consistent with Tenn. Code Ann. § 65-4-201 and these rules.<sup>4</sup>

### **THE PETITION AND SUPPORTING DOCUMENTATION**

In its *Petition*, TWSI seeks to provide wastewater service to approximately 80 residential lots situated on a parcel of land encompassing approximately 171 acres.<sup>5</sup> TWSI describes the proposed wastewater system, which will take approximately 60 days to construct, as being composed of a watertight effluent collection, fixed film treatment, and subsurface drip dispersal system with an estimated 24,000 gallon capacity.<sup>6</sup> TWSI asserts that while no contracts have yet been executed, it is the intention of the developer, Turnberry Homes, to transfer ownership of the wastewater collection, treatment, and dispersal system, along with a permanent easement to the property that the system occupies, to TWSI.<sup>7</sup> In support, TWSI filed a sample draft contract with exhibits showing the terms and conditions that would be contained in any contract executed between it and a developer, such as Turnberry Homes.<sup>8</sup>

As evidence of the public need for wastewater service in the requested service area, TWSI included with its *Petition* a letter from Nicky Wells, President of Land Development for Turnberry Homes, LLC, which requests that TWSI provide service to The Scales Project, identified as Map 059, parcel 092.00, in the Williamson County Tax Maps.<sup>9</sup> TWSI also attached letters from other area wastewater service providers, Charles Strasser, General Manager of the

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<sup>4</sup> TRA Rule 1220-4-13-.04(1)(b).

<sup>5</sup> *Petition*, p. 1 (January 22, 2014); *see also* Transcript of Proceedings, p. 6 (August 11, 2014).

<sup>6</sup> *Id.*

<sup>7</sup> *Petition*, p. 1 (January 22, 2014); *and see* TWSI Response to Data Request, Response No. 8 (April 21, 2014).

<sup>8</sup> TWSI Response to Data Request, Response No. 7 and Attachment "B" (April 21, 2014).

<sup>9</sup> *Petition* (unnumbered attachments), Undated Letter of Nicky Wells to Charles Hyatt, President TWSI (January 22, 2014).

Nolensville/College Grove Utility District, and Rogers Anderson, Mayor of Williamson County, Tennessee, in which those entities decline to serve and do not intend in the foreseeable future to provide wastewater/sewer service to The Scales Project development.<sup>10</sup>

On April 21, 2014, TWSI filed a copy of its Tennessee Department of Environment and Conservation (“TDEC”) Application for State Operation Permit (“SOP”) dated April 11, 2014.<sup>11</sup> With that filing, TWSI indicated that TDEC will issue a SOP only after all of its conditions have been satisfied and, among those conditions, the Utility must first obtain a CCN from the TRA for the service territory.<sup>12</sup> TWSI further asserted that until it received TRA approval and obtained a CCN for The Scales Project, binding contracts between the developer, Turnberry Homes, and TWSI and any company that would be retained to construct the wastewater system would not be finalized or executed.<sup>13</sup> Further, until the contracts are executed, making TWSI the designated sewer utility for the subdivision, a plat would not be recorded or approved by Williamson County, Tennessee.<sup>14</sup> In addition, TWSI noted that its estimated value of the wastewater system materials, components, and related property easement for The Scales Project is \$450,000, but that finalization of the design plan is needed before a detailed cost breakdown of the contribution in aid of construction could be provided.<sup>15</sup>

### **PUBLIC HEARING**

A hearing on the *Petition* was held during the regularly scheduled Authority Conference on August 11, 2014, for which public notice had been issued on August 1, 2014. No person sought intervention in these proceedings either before or during the hearing. Mr. Matt Pickney,

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<sup>10</sup> *Petition* (unnumbered attachments), Letter of Charles Strasser, Nolensville/College Grove Utility District dated January 15, 2014 and Letter of Rogers Anderson dated January 8, 2014.

<sup>11</sup> *TWSI Response to Data Request*, Response No. 1 and Attachment “A” (April 21, 2014).

<sup>12</sup> *TWSI Response to Data Request*, Response No. 1 (April 21, 2014).

<sup>13</sup> *Petition*, p. 1 (January 22, 2014); and see *TWSI Response to Data Request*, Response No. 10 (April 21, 2014).

<sup>14</sup> *Id.*

<sup>15</sup> *TWSI Response to Data Request*, Response Nos. 5 and 6 (April 21, 2014).

Operations Manager of TWSI, testified and was subject to examination by the panel, and his Pre-filed Direct Testimony was entered into the record without objection. During his testimony, Mr. Pickney stated that TDEC had scheduled a public hearing on August 18, 2014, to consider the status of TWSI's SOP Application.<sup>16</sup> Mr. Pickney's testimony, along with the Utility's supplemental filings made in response to the Authority's requests for information, asserted and was provided to show that TWSI possesses the managerial, technical and financial ability to provide wastewater services to The Scales Project.

#### **FINDINGS AND CONCLUSIONS**

Upon completion of the hearing and after due consideration, the panel found that, contingent upon TWSI filing of certain supplemental documents, TWSI has sufficiently demonstrated that it possesses the managerial, financial, and technical abilities necessary to operate and provide wastewater service, and that a public need exists for such service in the designated area, as required under Tenn. Code Ann. § 65-4-201(a) and TRA Rule 1220-4-13-.04(1)(b). In order to satisfy the contingent approval given, TWSI must file the following supplemental documents: the deed and/or easement to the wastewater system and the land upon which it sits; the final copy of the SOP issued by TDEC; all final and properly executed contracts between TWSI, the builder of the wastewater system, and Turnberry Homes; a copy of the final plat recorded and approved by Williamson County; and, a detailed cost itemization of the wastewater system, land, and property, transferred to TWSI as Contribution in Aid of Construction.

Further, while TWSI appears qualified to provide service at The Scales Project, in light of the TDEC enforcement actions instituted against TWSI as a result of deficient conditions, maintenance problems, and major repairs required at its Maple Green and Cedar Hill wastewater

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<sup>16</sup> Transcript of Proceedings, p. 6 (August 11, 2014).

facilities located in Robertson County, Tennessee, the panel noted its concern in further expanding TWSI's CCN at this time.<sup>17</sup> As such, the panel directed TRA Staff to continue working with TWSI and TDEC to closely monitor these situations and any others that might arise. In addition, the panel further found it appropriate that TWSI file detailed monthly reports that describe and explain all repairs and improvements made at its Maple Green and Cedar Hill wastewater facilities, the monetary amounts expended, and the manner in which those repairs are to be funded. Further, in the event other compliance issues arise concerning these or any other TWSI facilities, the panel further determined that the Utility should timely notify the Authority and provide similar information concerning all repairs and improvements to those facilities. In conclusion, the panel strongly encouraged TWSI to prioritize its available resources to repair these troubled systems as quickly and efficiently as possible.

Therefore, consistent with its findings noted above, the panel voted unanimously to grant the *Petition*, contingent upon satisfactory receipt of the documents described, and further to require TWSI to file detailed monthly reports concerning its Maple Green and Cedar Hill facilities and any other facilities found by TDEC to be in violation of or non-compliance with its standards and requirements.

**IT IS THEREFORE ORDERED THAT:**

1. The *Petition of Tennessee Wastewater Systems, Inc. to Amend its Certificate of Convenience and Necessity* to expand its service area to include The Scales Project in Williamson County, Tennessee, as shown in the maps filed with the *Petition*, is approved contingent upon the satisfactory filing of the following documents by Tennessee Wastewater Systems, Inc.:

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<sup>17</sup> See *TWSI Responses to Data Requests* (April 29, 2014, July 31, 2014, and August 1, 2014).

- a) Deed and/or easements for the wastewater system and all of the land occupied by the wastewater system;
- b) Final copy of the State Operating Permit issued by the Tennessee Department of Environment and Conservation to Tennessee Wastewater Systems, Inc. for The Scales Project;
- c) All final and properly executed contract(s) between Tennessee Wastewater Systems, Inc., the builder of the wastewater system, and Turnberry Homes;
- d) Copy of the final signed plat recorded and approved by Williamson County; and,
- e) A detailed cost itemization of the complete wastewater system, materials, components, and associated land and easements, transferred from the builder and Turnberry Homes to Tennessee Wastewater Systems, Inc.

2. Beginning September 1, 2014, Tennessee Wastewater Systems, Inc. shall file on the 1<sup>st</sup> of each month until completion and full compliance have been achieved, detailed monthly reports that describe and explain all repairs and improvements that are (1) planned, (2) in progress, and (3) completed at its Maple Green and Cedar Hill wastewater facilities, the monetary amounts expended, and the manner in which those repairs are to be funded.

- a) For repairs that are planned or in progress, Tennessee Wastewater Systems, Inc. shall include a projected completion date and an estimated cost to complete the repairs.

- b) For repairs and improvements that have been completed, Tennessee Wastewater Systems, Inc. shall include the completion date and actual cost of the project.
- c) In the event that other compliance issues arise, whether cited by the Tennessee Department of Environment and Conservation or any other regulatory entity or agency, concerning any of its wastewater systems, Tennessee Wastewater Systems, Inc. shall provide the Authority, on a timely basis, similar information concerning its plans for repairing those systems.

3) The rates for wastewater service shall be as listed in the Tariff and rate schedules filed in this docket on January 22, 2014.

4) Any party aggrieved by the decision of the Authority may file a petition for reconsideration with the Authority within fifteen (15) days from the date of this Order.

5) Any party aggrieved by the decision of the Authority may file a petition for review in the Tennessee Court of Appeals, Middle Section, within sixty (60) days from the date of this Order.

**Chairman Herbert H. Hilliard, Vice Chairman David F. Jones, and Director James M. Allison concur.**

**ATTEST:**

  
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**Earl R. Taylor, Executive Director**

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**Tennessee Regulatory Authority Docket 1400006**


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<b>Status:</b> Closed	<b>Type:</b> <i>Utilities/Telecom -- Amendment</i>
<b>Section:</b> Section6	<b>Panel:</b> Allison,DJones,Hilliard

IN RE: PETITION OF TENNESSEE WASTEWATER SYSTEMS, INC. TO AMEND THEIR CERTIFICATE OF CONVENIENCE AND NECESSITY TO SERVICE A PORTION OF WILLIAMSON COUNTY IN TENNESSEE, CURRENTLY KNOWN AS THE SCALES PROJECT.

<b>Date Filed</b>	<b>Caption</b>	<b>Company Filing</b>	<b>Size</b>
<a href="#">05/01/15</a>	Data Response.	Tennessee Wastewater Systems, Inc.	594kb
<a href="#">04/06/15</a>	Monthly Updtate 31-March 2015.	Tennessee Wastewater Systems, Inc.	56kb
<a href="#">03/03/15</a>	Monthly Update.	Tennessee Wastewater Systems, Inc.	27kb
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