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May 31, 2005

TRA DOCKET ROOM

IN RE: Petition of King's Chapel Capacity, LLC)
for Certificate of Convenience and)
Necessity to Serve an Area in Williamson,) Docket No. 04-00335
County, Tennessee Known as Ashby Community)

**RESPONSE OF TENNESSEE WASTEWATER SYSTEMS TO MOTION OF
KING'S CHAPEL TO RE-CONVENE PROCEEDINGS**

In a Motion filed May 24, 2005, King's Chapel Capacity, LLC ("King's Chapel") requested that the Tennessee Regulatory Authority ("TRA" or "Authority") re-convene this proceeding to consider the application of King's Chapel to obtain a certificate of convenience and necessity to provide sewer service to the "Ashby Community" in Williamson County, Tennessee. Tennessee Wastewater Systems, Inc. ("TWS") opposes the Motion because the TRA's conditions for re-opening this docket have not yet been met.

By unanimous vote on February 3, 2005, the TRA affirmed the decision of Hearing Officer Jean A. Stone to hold this certificate application proceeding in abeyance pending the resolution of two other cases: (1) a decision by the Tennessee Department of Environment and Conservation ("TDEC") to award or refuse to award a state operating permit to King's Chapel to serve the Ashby Community, and (2) a decision on Count III of a Complaint filed by TWS in Williamson County Chancery Court asking the Court to declare that TWS is the owner of a nearly completed sewer system constructed by TWS to serve the Ashby Community.

¹ The "Ashby Community" refers to a 200-lot subdivision located near Arrington, Tennessee, and is the subject of a pending application, No **SOP-04056**, at the Tennessee Department of Environment and Conservation

On May 23, 2005, Chancellor Russ Heldman of the Williamson County Chancery Court entered an order dismissing Count III of the Complaint and declaring that, “there is no set of facts upon which the Court can find that TWS is the owner of the wastewater system.” The remainder of the suit concerning the amount owed by King’s Chapel to TWS for construction of the system will be tried later this summer. TWS disagrees with the Chancellor’s decision on the ownership issue and has filed an interlocutory appeal.

While the Chancery Court has ruled, TDEC has not. On January 26, 2005, TDEC announced that it was “ceasing processing the permit application filed by King’s Chapel” pending “a final ruling in the litigation” to determine the system’s owner. (A copy of this letter has been previously filed in this docket.) In light of Chancellor Heldman’s ruling on Count III, TDEC will presumably resume consideration of the application from King’s Chapel and will eventually determine whether King’s Chapel has met the state’s permitting requirements. Based on its own experience with TDEC’s permitting procedures and the fact that King’s Chapel has not previously obtained a TDEC operating permit, TWS believes that there is a possibility that King’s Chapel will not be awarded a state permit and that, even if a permit is eventually granted, it will be several weeks, if not months, before a final decision is made. In any event, no decision has been made at this time.²

The Motion by King’s Chapel to re-institute these proceedings states that, “all the conditions of the Hearing Officer’s Order [holding these proceedings in abeyance] have been satisfied.” Motion, at 1.³ That is not true. The agency’s ruling is clear: This docket is to remain

² In a Notice of Filing issued on May 27, 2005, the Hearing Officer requested that the parties file with the Authority any additional information the parties are aware of concerning the state operating permits as well as any further information regarding any final action taken on the part of TDEC. In response to the Notice, TWS submits that it is not aware of any information on these subjects beyond what has already been filed in the docket.

³ Regarding the proceedings at TDEC, the Motion filed by King’s Chapel acknowledges that TDEC has suspended action on the permit application filed by King’s Chapel. The Motion also states, however, that TDEC has decided

suspended until after both the Chancery Court "and" TDEC have ruled.⁴ That has not yet occurred. The Motion of King's Chapel to re-convene these proceedings is inconsistent with the Authority's Order and, therefore, must be denied.

Respectfully submitted,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

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"to terminate the state operating permit" of TWS Motion, at 1 That is incorrect The permit of TWS has not been terminated, it has only been suspended, pending the outcome of the Williamson County lawsuit See Letter from Edward Polk to Robert Pickney, January 26, 2005, previously filed in this docket

⁴ See the Order of the Hearing Officer issued December 17, 2004, at p 7 The Hearing Officer made a point of underlining the word "and" in her Order to emphasize that both the Court and TDEC must rule before the TRA can address the merits of this certificate application

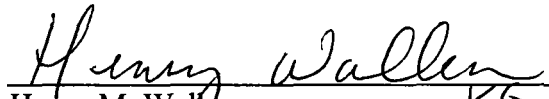
CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing is being forwarded via U.S. mail, postage prepaid, to:

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on this the 31st day of May 2005.


Henry M. Walker KG