

IN THE TENNESSEE PUBLIC UTILITY COMMISSION
AT NASHVILLE, TENNESSEE

IN RE:)	
)	
TENNESSEE WASTEWATER)	
SYSTEMS, INC.'S NOTICE OF)	DOCKET NO. 05-00293
INTENT TO SERVE STONEY)	
BROOK SUBDIVISION)	

PETITION TO INTERVENE

Herbert H. Slatery III, Attorney General and Reporter for the State of Tennessee, by and through the Consumer Advocate Unit of the Office of the Attorney General (Consumer Advocate), pursuant to Tenn. Code Ann. § 65-4-118, respectfully petitions the Tennessee Public Utility Commission (TPUC or Commission) to grant the Consumer Advocate's intervention into this proceeding because consumers' interests, rights, duties or privileges may be determined or affected by the *Tennessee Wastewater Systems, Inc.'s Notice of Intent to Serve Stoney Brook Subdivision (Notice)* filed in this TPUC Docket by Tennessee Wastewater Systems, Inc. (TWSI or Company). For cause, the Consumer Advocate would show as follows:

1. The Consumer Advocate is authorized by Tenn. Code Ann. § 65-4-118 to represent the interests of Tennessee consumers of public utilities services by initiating and intervening as a party in any matter or proceeding before the Commission in accordance with the Uniform Administrative Procedures Act, Tenn. Code Ann. § 4-5-101 *et seq.*, and Commission rules.

2. The Company is a public utility regulated by the Commission and provides wastewater service to approximately 3,000 customers in Tennessee. The Company's principal office is located in 851 Aviation Parkway, Smyrna, Tennessee 37167.

3. On October 24, 2019, TWSI filed its *Notice* informing the Commission of “its intent to provide wastewater service to the Stoney Brook subdivision located at 8411 Highway 25 East, Cross Plains, Robertson County, Tennessee pursuant to T.C.A. 65-4-201.”¹

4. In its *Notice* TWSI explains that the Stoney Brook subdivision “adjoins TWSI’s pipeline to the north and the treatment facility property to the south.”² However, the Company admits that the Stoney Brook subdivision was not included in the original service area authorized in TPUC Docket No. 05-00293.³

5. Furthermore, TWSI states that the “treatment facility was built and put into operation in 2005 and has sufficient capacity to serve the 19 lots in Stoney Brook.”⁴

6. However, recent correspondence from the Tennessee Department of Environment and Conservation (TDEC) puts into question whether TWSI has sufficient capacity to serve, not only the residential lots of the Stoney Brook subdivision, but also if it has capacity to serve its existing customers.⁵ Specifically, TDEC issued a Notice of Violation (NOV) by letter dated November 26, 2019. In this NOV, TDEC states the following:

- The lagoon had not been constructed as designed. Problems with the existing lagoon include the lack of a liner and the presence of limestone rock outcrops in the lagoon basin.⁶
- Ordinarily, under design conditions, the lagoon “should retain wastewater for treatment in a deep cell with subsequent discharge to a drip irrigation field.”⁷ Yet at this site, TWSI has not reported any discharge from the lagoon. In fact, the Company has not yet constructed the drip irrigation field design that was submitted and approved by TDEC.⁸

¹ *Notice* at p. 1.

² *Id.* at pp. 1 and 2 (map).

³ *Id.* at p. 1. Note that TWSI erroneously identifies the previously approved CCN as TPUC Docket No. 95-00293; however, the correct docket is TPUC Docket No. 05-00293.

⁴ *Id.* at p. 1.

⁵ A copy of the NOV is located on the TPUC Docket Page in this Docket’s file and was filed on November 25, 2019. The link for the NOV is <http://share.tn.gov/tra/orders/2005/0500293m.pdf>.

⁶ NOV at p. 1.

⁷ *Id.*

⁸ *Id.*

7. As a result of the identified issues with the lagoon, TDEC states that “wastewater is not being retained in the lagoon indicating that the untreated wastewater is being discharged to groundwater, a violation of statute, rules and the permits as outlined below”:⁹

- Underground Injection Control (UIC) authorization ROB0000023, which approved the drip dispersal at TWSI’s site, does not authorize untreated effluent from unlined lagoons into groundwater.¹⁰
- State Operating Permit SOP-05057 authorizes the “operation of a wastewater collection, treatment, and storage system with disposal of treated wastewater through approved land application areas.”¹¹ However as currently operated, the system does not treat, store or land apply wastes as had been designed.
- Tenn. Code Ann. § 69-3-114. Causing pollution or refusing to furnish information. Subsection (a) provides that “It is unlawful for any person to discharge any substance into the waters of the state or to place or cause any substance to be placed in any location where such substances, either by themselves or in combination with others, cause any of the damages as defined in § 69-3-103, unless such discharge shall be due to an unavoidable accident or unless such action has been properly authorized. Any such action is declared to be a public nuisance.”
- Tenn. Code Ann. § 69-3-103. Part definitions. Subsection (29) that “‘Pollution’ means such alteration of the physical, chemical, biological, bacteriological, or radiological properties of the waters of this state, including, but not limited to, changes in temperature, taste, color, turbidity, or odor of the waters.”¹²
- Tenn. Comp. R. & Regs. Rule 0400-45-06-.04 Prevention of Pollution of Ground Water and Identification of Underground Sources of Drinking Water and Exempted Aquifers. Paragraph (1) states that “No owner or operator shall construct, operate, maintain, convert, plug, abandon, or conduct any other injection activity in a manner that allows the movement of fluid containing any contaminant into underground sources of drinking water, if the presence of that contaminant may cause a violation of any primary drinking water regulation or may otherwise adversely affect the health of persons. The applicant for a permit shall have the burden of showing that the requirements of this paragraph are met.”

⁹ *Id.* at pp. 1-2.

¹⁰ A copy of UIC File ROB0000023 is attached as Exhibit 1.

¹¹ State Operating Permit, SOP-05057, p. 2, Part I.A. General Requirements. A copy of the current State Operating Permit, SOP-05057, is located on the TPUC Docket Page in this Docket’s file and was filed on November 4, 2019. A link for the current permit is <http://share.tn.gov/tra/orders/2005/05002931.pdf>. The permit terms also explain that “Complete hydraulic infiltration within the soil profile is an expectation of the land application component. As such, the soil profile of the land application area is a permitted component of the system.” *Id.*

¹² The NOV cites to Tenn. Code Ann. § 69-30-108(28). However, subsection (28) is the definition of “pollutant” which “means sewage, industrial wastes or other wastes.”

8. To address the issues identified by TDEC staff and the alleged violations set out in the NOV, TDEC requested the following corrective action by TWSI:¹³

- Within 30 days, install a flowmeter to determine volume of wastewater received on a continuous basis and report results to DWR monthly.
- Within 30 days, compile an inventory of connections contributing wastewater to this system.
- Immediately discontinue discharge to the lagoon until an approved treatment design has been constructed.
- Within 60 days, submit an updated design for wastewater treatment for approval by the division.
- Within 90 days, conduct a water use survey in the 2 mile area surrounding the lagoon to identify residences using groundwater as a water source.
- Within 90 days, engage a qualified contractor to design a dye trace to determine groundwater flow paths from the lagoon and submit the design to DWR for approval.

9. Notwithstanding the issues and corrective action set out in TDEC's NOV detailed above, the Company's existing State Operating Permit, SOP-05057, has a design capacity of 0.0106 MGD.¹⁴ This is a significant decrease from the previous State Operating Permit, which had a design capacity of 0.074 MGD.¹⁵ It appears that the decrease in the design capacity is due to a lack of suitable soil areas in the previously identified 4.6 acres for the drip dispersal system.¹⁶ With such a decrease in the permitted design capacity of the treatment system, it is unclear if TWSI has the capacity to serve the additional 19 customers in the Stoney Brook

¹³ NOV at p. 2.

¹⁴ A copy of the current State Operating Permit, SOP-05057, is located on the TPUC Docket Page in this Docket's file and was filed on November 4, 2019. A link for the current permit is <http://share.tn.gov/tra/orders/2005/05002931.pdf>.

¹⁵ A copy of the previous State Operating Permit, SOP-05057 is attached as Exhibit 2.

¹⁶ *Letter from Brad Harris, Manager of TDEC's Land Based Systems, to Charles Hyatt, CEO of Adenus Group, LLC, October 12, 2014.* A copy of this correspondence is attached as Exhibit 3. In this correspondence, TDEC explained that the map of 4.6 acres provided by the Company actually provides only 1.15 acres of suitable soils area. Further, TDEC explained that the 1.15 acres of suitable soils is supportive of approximately 0.0106 MGD. If the company wished to maintain the permit daily flow of 0.074 MGD then the company need to demonstrate available suitable soils areas to support that design flow. *Id.*


subdivision in light of the Company's three existing commercial customers, 19 existing residential customers, and 33 unbuilt lots in the existing 52-lot residential development.


10. The interests of consumers, including without limitation, whether the Company's currently built system has the capacity to serve the existing customers in light of TDEC's recent NOV; the costs of addressing the corrective action set out in TDEC's NOV; whether the Company will have capacity to serve the additional 19 residential customers in the Stoney Brook subdivision; and who will pay for the additional capacity needed for the Stone Brook subdivision, may be affected by the determinations and orders made by the TPUC with respect to the Company's Petition.

11. Only by participating as a party in this proceeding can the Consumer Advocate adequately carry out its statutory duty to represent the interests of Tennessee consumers.

WHEREFORE, Petitioner respectfully asks the Commission to grant this Petition to Intervene in TPUC Docket No. 05-00293.

RESPECTFULLY SUBMITTED,


HERBERT H. SLATTERY III (BPR #09077)
Attorney General and Reporter
State of Tennessee


KAREN H. STACHOWSKI (BPR #019607)
Assistant Attorney General
Office of the Tennessee Attorney General
Financial Division, Consumer Advocate Unit
P.O. Box 20207
Nashville, Tennessee 37202-0207
Phone: (615) 741-2370
Fax: (615) 532-2910
Email: karen.stachowski@ag.tn.gov

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:

Jeff Riden
General Counsel
Tennessee Wastewater Systems, Inc.
851 Aviation Parkway
Smyrna, TN 37169
Jeff.Riden@adenus.com

This the 18th day of December 20 19.

Karen H Stachowski
Karen H. Stachowski

STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
DIVISION OF WATER RESOURCES-LAND BASED SYSTEMS UNIT
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue
Nashville, Tennessee 37243

MEMORANDUM

TO: Hari Akunuri, WPC-CO

FROM: Allen Rather, DWS- Ground Water Management Section

DATE: 3/09/2017

SUBJECT: LCSS/SFDS (Class V Injection) Approval
Cross Plains Treatment Facility
Cross Plains, Robertson County, Tennessee
UIC File ROB 0000023 SOP-05057

The Division of Water Supply 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 disposal for the waste water at the Cross Plains Treatment Facility located at Cross Plains, Robertson County, Tennessee. This Division approves the application dated 2/08/2017.

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.

Adenus shall also conduct a monthly visual inspection of the complete drip field looking for any signs of failure.

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.

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.

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.

Submit an "as built" drawing with Surveyor/Engineer stamp to the Division of Water Supply certifying that the system has been installed in accordance with the approved construction plans as required by Rule 1200-4-6-.14 (8) (d).

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.

c: file



**TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION
DIVISION OF WATER RESOURCES
401 CHURCH STREET
L & C ANNEX 6TH FLOOR
NASHVILLE TN 37243**

September 4, 2012

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-05057
TN Wastewater Systems - Cross Plains Treatment Facility
Cross Plains, Robertson 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.

Sincerely,

Vojin Janjić
Manager, Permit Section
Water Pollution Control

Enclosure

cc/ec: Permit Section File
Nashville Environmental Field Office (Mike.Thornton@tn.gov)
Ms. Michelle Ramsey, Utilities Division, Tennessee Regulatory Authority, michelle.ramsey@tn.gov
Mr. Brian Carter, Maintenance Manager, Adenus Operations LLC, brian.carter@adenus.com

**TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION
DIVISION WATER RESOURCES
6th Floor, L & C Annex
401 Church Street
Nashville, TN 37243**

Permit No. SOP-05057

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

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 - Cross Plains Treatment Facility
Cross Plains, Robertson County, Tennessee**

FOR THE OPERATION OF

Septic tanks, effluent collection system, deep cell lagoon and drip irrigation system located at latitude 36.53233 and longitude -86.6611 in Robertson County, Tennessee to serve approximately 400 homes in the Cross Plains Treatment Plant. The design capacity of the system is .074 MGD.

This permit is issued as a result of the application filed on March 31, 2011, in the office of the Tennessee Division of Water Resources and in conformity with approved plans, specifications and other data submitted to the Department in support of the above application, all of which are filed with and considered as a part of this permit, together with the following named conditions and requirements.

This permit shall become effective on: October 1, 2012

This permit shall expire on: August 31, 2017

Issuance date: September 1, 2012



**for Sandra K. Dudley, Ph.D., P.E.
Director**

CN-0759

RDAs 2352 & 2366

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 ₅	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.

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 15th 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 1200-4-5-.07(4)(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 1200-4-5-.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 Pollution Control (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, WPC 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 69-108-(F) 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**

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 Chapter 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 the name of the facility to which the septage was taken 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 even 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.

**Rationale
Proposed Changes to SOP Permit
August 2012**

The final permit is revised at issuance to address comments received by the permittee regarding effluent limiting and monitoring, site inspection frequency, entry notification and signage requirements. The revisions reflect an understanding reached regarding these and other issues between division staff and representatives of the permittee in a May 21, 2012, meeting held in the offices of the Division of Water Resources. The following persons were present at that meeting:

<u>Name</u>	<u>Representing</u>
Charles Hyatt	Adenus
Brian Carter	Adenus
Bob Pickney	Adenus
David Henry	TDEC-OGC
Hari Akunuri	TDEC-WPC
Wade Murphy	TDEC-WPC

These changes are not intended to resolve issues specifically as they relate to joint Underground Injection Control (UIC) authorization for the drip irrigation area covered by these SOPs.

Attachment 1
STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
DIVISION OF WATER SUPPLY
GROUND WATER MANAGEMENT SECTION
9th Floor, 401 Church Street
Nashville, Tennessee 37243-1549

MEMORANDUM

TO: Hari Akunuri, WPC-CO

FROM: Allen Rather, DWS- Ground Water Management Section

DATE: 8/01/2011

SUBJECT: LCSS/SFDS (Class V Injection) Approval
Cross Plains Treatment Facility
Cross Plains, Robertson County, Tennessee
UIC File ROB 0000023 SOP-05057

The Division of Water Supply 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 disposal for the waste water at the Cross Plains Treatment Facility located at Cross Plains, Robertson County, Tennessee. This Division approves the application dated 3/31/2011.

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.

Adenus shall also conduct a monthly visual inspection of the complete drip field looking for any signs of failure.

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.

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.

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.

Submit an “as built” drawing with Surveyor/Engineer stamp to the Division of Water Supply certifying that the system has been installed in accordance with the approved construction plans as required by Rule 1200-4-6-.14 (8) (d).

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.

c: Brad Harris, GWP- NCO
file



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

October 13, 2014

Mr. Charles Hyatt, CEO
Adenus Group, LLC
849 Aviation Pkwy.
Smyrna, TN 37167

Subject: **County: Robertson**
Project: Cross Plains Treatment Facility SOP-05057

Mr. Hyatt:

The Division of Water Resources recently conducted a file review of the Cross Plains Treatment Facility to determine dispersal capacity in order to accommodate a proposed Dollar General Store in Cross Plains. The file included a soils map delineating approximately 4.6 acres. Of the area submitted for review, approximately 3.45 acres is considered unsuitable due to being designated as "not mapped due to dense vegetation or rock outcrop". The map only provides approximately 1.15 acres of suitable soils area to support the project. This amount of soils area is supportive of approximately 10,060 gpd flow. Based on water use figures provided by the White House Utility District current flow to the facility is approximately 1700 GPD. The site is currently permitted for 74,000 gpd flow.

Based on this review of the file we are unable to demonstrate enough suitable soil area supportive of the current permitted capacity of 74,000 GPD for the facility. If you are wanting to maintain the current permitted daily flow please demonstrate available suitable soils areas sufficient to support the design flow. If you wish to reduce the permitted flow an application for a permit modification should be submitted. Current soils information is supportive of a daily flow of 10,600GPD.

To expedite matters, please reference the assigned State Operations Permit number SOP-05057 on any future correspondence. If we may be of any assistance, please feel free to contact me at (615) 532-5367 or by E-mail at Brad.Harris@tn.gov.

Sincerely,

Brad Harris
Manager, Land-Based Systems

cc: Land-Based Systems File
Ms. Ann M. Morbitt, Unit Manager, TDEC Division of Water Resources, Ann.Morbitt@tn.gov