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July 13, 2009

Via Electronic Transmission

Chairman Sara Kyle
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243-0505

filed electronically in docket office on 07/13/09
Docket No. 09-00099

Re: Petition of Integrated Resource Management, Inc. d/b/a IRM Utility, Inc. to Amend its Certificate of Public Convenience and Necessity to Serve an Area in Decatur County, Tennessee known as Riverstone Estates.

Dear Chairman Kyle:

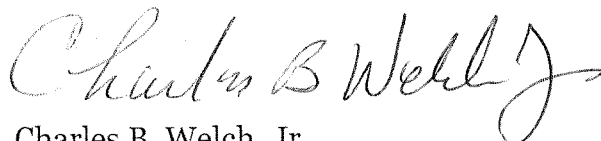
Please find an original of the referenced petition enclosed herewith. Five copies and the \$25.00 filing fee will be delivered by personal service to the Authority.

Included in this petition as **Exhibit B** is an unexecuted copy of the Utility Services Agreement (the "Agreement") entered into by the owner/developer of Riverstone Estates Utilities, Inc. and IRM Utility, Inc. A signed copy of the Agreement will be submitted to the Authority in the place of this copy as soon as possible.

Please date stamp a copy for my records and return to my courier. Thank you for your attention to this matter. If I may be of further assistance, please do not hesitate to contact me.

Very truly yours,

FARRIS MATHEWS BOBANGO, PLC



Charles B. Welch, Jr.

Enclosures
Cc: Jeffrey W. Cox, Sr.

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

IN RE:)
)
PETITION OF INTEGRATED RESOURCE)
MANAGEMENT, INC. d/b/a IRM UTILITY,)
INC. TO AMEND ITS CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY)
TO SERVE AN AREA IN DECATUR)
COUNTY, TENNESSEE KNOWN AS)
RIVERSTONE ESTATES)

Docket No. _____

PETITION TO AMEND
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

Integrated Resource Management, Inc. d/b/a IRM Utility, Inc. (“IRM”), by and through its undersigned counsel, hereby petitions the Tennessee Regulatory Authority (“Authority”) to amend its Certificate of Public Convenience and Necessity (“CCN”) to expand its service area to include a portion of Decatur County, Tennessee known as Riverstone Estates (“Riverstone”). In support of its Petition, IRM submits the following:

1. Maps of the proposed subject property area in Decatur County, Tennessee are attached hereto collectively as **Exhibit A**;
2. IRM has entered into a Utility Services Agreement with the owner/developer of the proposed service area, Riverstone Estates Utility, Inc. A copy of the Utility Services Agreement is attached hereto as **Exhibit B**;
3. IRM has completed its application for transfer and modification of a Tennessee Department of Environment and Conservation (“TDEC”) National Pollutant Discharge Elimination System (“NPDES”) Permit. At the request of IRM, TDEC has authorized and

modified NPDES Permit No. TN0078379, which was approved by letter dated May 5, 2009 and is attached hereto as **Exhibit C** to the Petition and also accompanies the Utility Services Agreement as Exhibit A;

4. Pre-filed testimony of Jeffrey W. Cox, Sr., President of IRM is attached hereto as **Exhibits D.**

WHEREFORE, PREMISES CONSIDERED, Integrated Resource Management, Inc. d/b/a IRM Utility, Inc. respectfully requests that the TRA grant its Petition to Amend Its Certificate of Public Convenience and Necessity to serve an area in Decatur County, Tennessee known as Riverstone Estates.

Respectfully submitted,

FARRIS MATHEWS BOBANGO, PLC

By: 

Charles B. Welch, Jr.; BPR No. 005593

Reen L. Locker, BPR No. 027384

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Nashville, Tennessee 37219

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rlocker@farrismathews.com

*Attorneys for Integrated Resource Management, Inc.
d/b/a IRM Utility, Inc.*

List of Exhibits

<u>Name</u>	<u>Exhibit</u>
Proposed Service Area Maps	A
Utility Services Agreement	B
NPDES Permit	C
Pre-Filed Testimony	D

EXHIBIT A



Integrated Resource Management, Inc.

Territory Location Map

Riverstone Estates
Decatur County

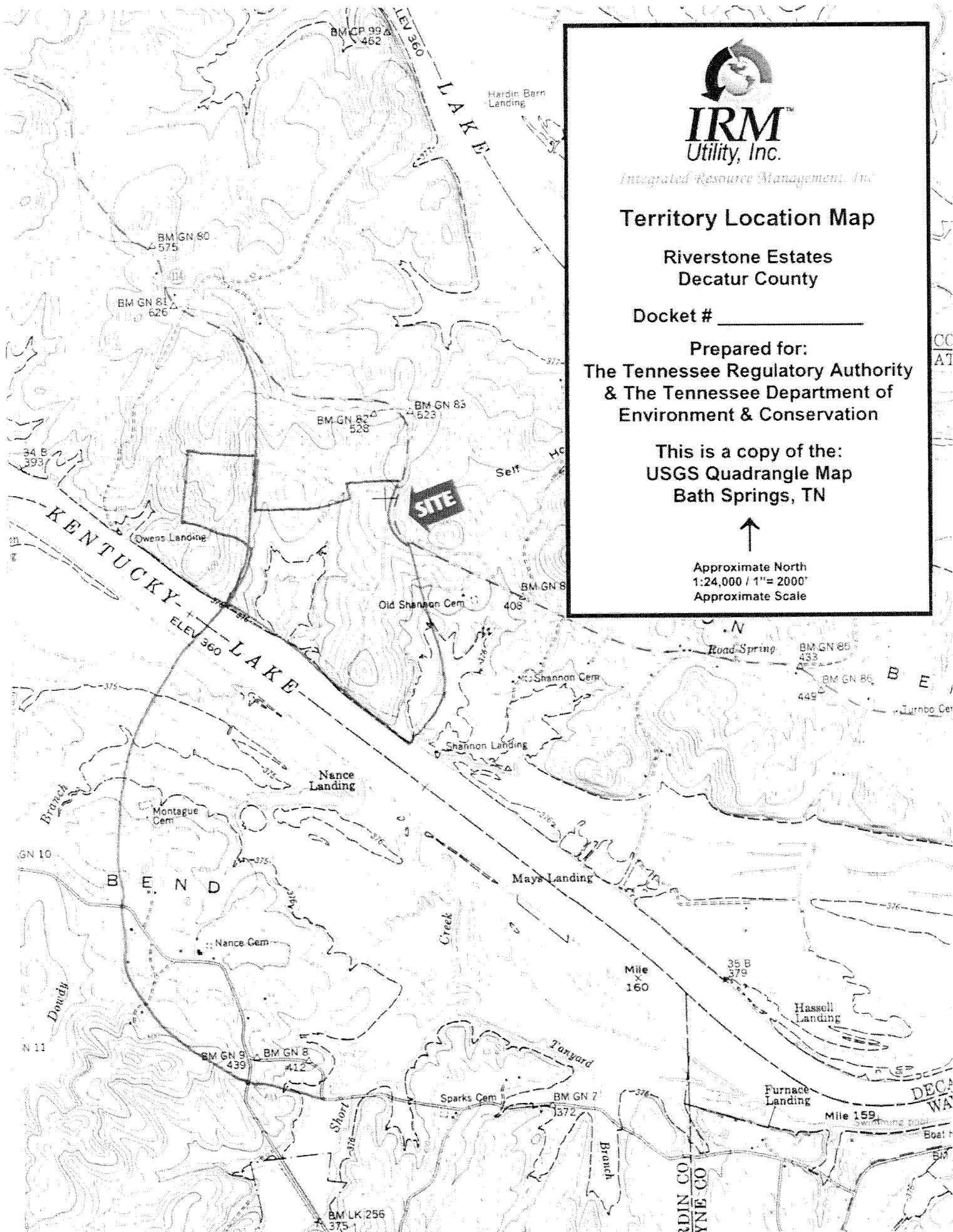
Docket # _____

Prepared for:
The Tennessee Regulatory Authority
& The Tennessee Department of
Environment & Conservation

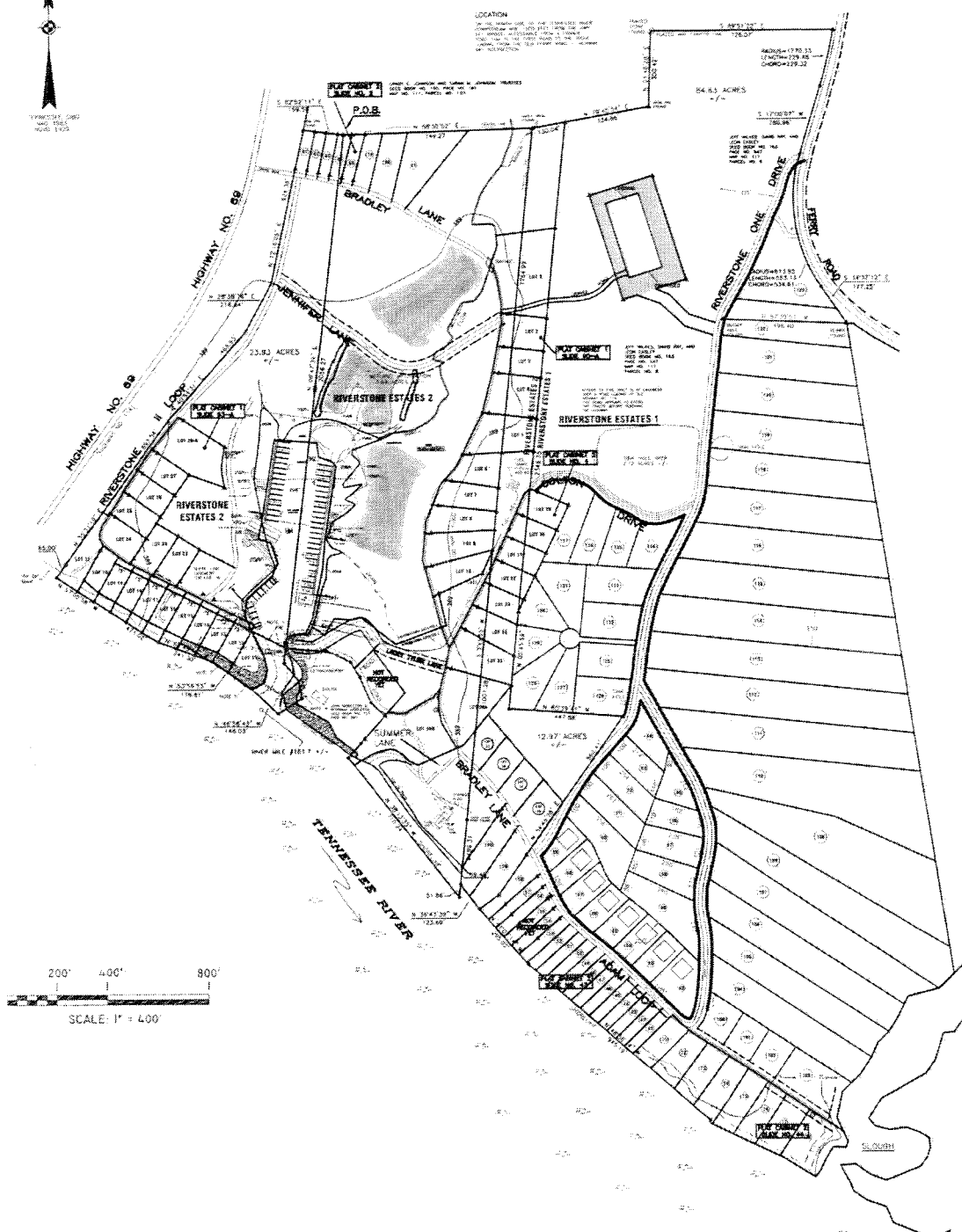
This is a copy of the:
USGS Quadrangle Map
Bath Springs, TN



Approximate North
1:24,000 / 1" = 2000'
Approximate Scale



NORTH



Existing Lagoon

PRELIMINARY SUBDIVISION MAP W/ TREATMENT AREAS

EXHIBIT B

UTILITY SERVICES AGREEMENT

This Utility Services Agreement (the "Agreement") is made and shall become effective this ____ day of _____, 2009, by and between Riverstone Estates Utilities, Inc. ("Riverstone"), which is principally located at 890 Pickwick Street, Savannah, Tennessee, 38372, and Integrated Resource Management, Inc. d/b/a IRM Utility, Inc. ("Utility"), which is principally located at 3444 St. Andrews Drive, White Pine, Tennessee, 37890, (collectively, the "Parties").

Recitals:

1. Utility desires to provide wastewater services in Decatur County, Tennessee to a residential subdivision known as Riverstone Estates (the "Development"). Utility will operate a wastewater treatment facility that beneficially reuses the water in subsurface drip irrigation systems; and

2. Riverstone has agreed to transfer its existing sewage collection, treatment, and disposal system (the "System") for the Development to Utility (the "Transfer"), subject to the approval of the Tennessee Department of Environment & Conservation ("TDEC"). A copy of the Transfer is attached hereto and incorporated herein by reference as **Exhibit A**. Utility, in its sole discretion, may increase or relocate the System to serve the Development. In accordance with the terms and conditions of this Agreement, the System will be brought to the appropriate standards of the applicable regulatory authorities and approved by Utility's engineers and representatives.

NOW, THEREFORE, upon the following mutual promises and covenants contained herein and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

Section 1. Regulatory Approval

Utility, shall petition the Tennessee Regulatory Authority (the "TRA") to amend its Certificate of Public Convenience and Necessity (the "CCN") to include the area of the Development and Future Development.

Section 2. Financial Requirements

Riverstone shall provide a performance bond, irrevocable letter of credit or other appropriate financial securities, as determined by Utility, in an amount equal to the estimated cost to construct and install the System for the Development and Future Development. Utility shall be named the beneficiary of the financial security provided by Riverstone.

Section 3. Rates for Services

Rates under the CCN for the Development will be determined by utilizing the design flow on the Utility's State Operating Permit and Tariff as approved by the applicable State regulatory agencies. The rates will become due and payable to Utility upon execution of this Agreement. The rates under the CCN are required to establish the appropriate escrow balances of Utility as determined by the TRA, and, to provide operator and permit monitoring by Utility as allowed by law.

Section 4. Indemnification

In the event the CCN is not granted by the TRA or the State Operating Permit is not issued by TDEC, Riverstone agrees to release, indemnify, and hold Utility harmless from any and all obligations associated with the Development. Riverstone shall cooperate with Utility for the transfer of any of the above permits or certificates already held by Riverstone, as permitted by law.

Section 5. Conditions Precedent

The following conditions precedent shall occur prior to acceptance of the System by Utility:

- A. Utility's engineers and representatives shall inspect and prepare a report suggesting upgrades or maintenance to the current System within ____ days of the effective date of this Agreement. Riverstone shall be responsible for the reasonable and typical engineering costs associated with this inspection.
- B. Riverstone shall provide proper testing including, without limitation, pressure testing of collection lines, operation of controllers, operation of pumps, operation of aerators, and all existing system components, subject to Utility's approval.
- C. Any suggested upgrades or maintenance to the current System will be completed by this ____ day of _____, 2009, which may be amended by the Parties in writing.
- D. Utility shall monitor the functioning of the System and make any additional requests for the optimal functioning of the System.
- E. A final maintenance upgrade based on the inspection and monitoring will be presented to Riverstone, if necessary by the ____ day of _____, 2009, which may be amended by the Parties in writing.

Section 6. Additional Obligations

Riverstone will facilitate and execute Restrictive Covenants and Bylaws of the Development and any Future Development that, at minimum, provides the following:

- A. A service agreement or contract between each homeowner and Utility to establish wastewater service. A copy of the service agreement or contract will be supplied by Utility to Riverstone.
- B. Notice that Utility will charge an initial fee and a monthly fee to be determined and will be established by a proposal to the TRA.
- C. A description of the Septic Tank Effluent Pumping system that is approved by IRM Utility, which shall be required by TDEC and the Utility.

Section 7. Prior Operations

Upon grant of the CCN, Riverstone will turn over any funds collected from all third parties for the purpose of operating the System.

Section 8. Expansion

Utility intends to develop other acreage within the Development ("Future Development") and to continue to utilize the System to develop the Future Development. Future Development may require an expansion of the System. Utility will continue service for the Development and for Future Development.

Section 9. No Limitation

Nothing contained herein shall be construed as to restrict Utility's right to increase the capacity or to extend the System as it may, at its sole discretion, deem appropriate, including, without limitation, extending the System for the purpose of providing wastewater sewer service to customers outside of the Development and Future Development.

Section 10. Representations and Warranties

Riverstone hereby represents and warrants that all materials and labor attributable to the System shall be paid in full at the time of completion of the construction and installation of the System and the System shall be free from any and all liens and encumbrances. Such representation shall survive the conveyance of the System by Riverstone to Utility.

Riverstone hereby represents and warrants that the System will be in conformance to the plans and specifications approved by Utility. The repair, maintenance, and replacement of the System shall be warranted by Riverstone for a period of two years

from the completion and beginning of operation of the System. The System shall become the responsibility of Utility after the approval of the System is complete and accepted by the Utility, and the warranty period has expired.

Section 11. Conveyance

Upon Utility's acceptance of the System, Riverstone shall convey all right, title and interest in and to the System to Utility. Riverstone shall, upon request of Utility, execute and deliver any and all documents necessary to convey the System and to grant Utility a perpetual easement in and to the real property surrounding the System to such extent necessary for access or ingress and egress to inspect, repair, replace and maintain the System.

Section 12. Severability

If any part of this Agreement for any reason shall be declared invalid or unenforceable, such decision shall not affect the validity or enforcement of any remaining portion, which shall remain in full force and effect; provided however, that in the event a part of this Agreement is declared invalid and the invalidity or enforceability of such part has the effect of materially altering the obligations of any party under this Agreement, the Parties agree, promptly upon such declarations being made, to negotiate in good faith to amend this Agreement so as to put such Party in a position substantially similar to the position such party was in prior to such declaration.

Section 13. Assignment

No party shall have any right to assign this Agreement or any of their respective rights or obligations under this Agreement to any third party except by operation of law or with the prior written consent of the other Parties; such consent shall not be unreasonably delayed, conditioned or withheld. Utility shall have no right to assign, transfer, convey, pledge or hypothecate the permits or any interest hereto without any necessary approval of TDEC, and the prior written agreement of the purchaser or assignor to be bound by the terms and conditions of this Agreement.

Section 14. Integration

This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior oral or written agreements or understandings of the Parties with regard to the subject matter hereof. No interpretation, change, termination, or waiver of any provision thereof shall be binding upon a Party unless in writing and executed by the other party. No modification, waiver, termination, recession, discharge, or cancellation of any right or claim under this Agreement shall affect the right of any party hereto to enforce any other claim or right hereunder.

Section 15. Amendment

This Agreement shall not be amended or modified except in writing signed by the Parties hereto.

Section 16. Choice of Law, Jurisdiction and Venue

The interpretation, enforcement and validity of this Agreement shall be construed in accordance with and governed under the laws of the State of Tennessee, irrespective of its conflicts of law principles. The Parties agree that the exclusive jurisdiction and venue for any litigation in connection with this Agreement or its subject matter shall be an appropriate court of competent jurisdiction located in the State of Tennessee and the County of Davidson. Both Parties hereby consent to the jurisdiction of said courts.

IN WITNESS WHEREOF, the Parties hereto, by their duly authorized officers or representatives, or as the case may be, in their individual capacity, have caused this Agreement to be executed and their corporate seals to be affixed hereto, if applicable, effective as of the day of year first above written.

Riverstone Estates Utilities, Inc.

**Integrated Resource Management,
Inc. d/b/a IRM Utility, Inc.**

By: _____

By: _____

Title: _____

Title: _____

EXHIBIT C



COPY

STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
401 CHURCH STREET
L & C ANNEX 6TH FLOOR
NASHVILLE TN 37243

May 5, 2009

Mr. Jeffrey W. Cox
President
IRM Utility, Inc.
P.O. BOX 642
White Pine, TN 37890

Subject: **Modified NPDES Permit No. TN0078379 (Transfer)**
IRM Utility, Inc - Riverstone Estates Wastewater Treatment Plant
Bath Springs, Decatur County, Tennessee

Dear Mr. Cox:

In accordance with the provisions of "The Tennessee Water Quality Control Act" (Tennessee Code Annotated, Sections 69-3-101 through 69-3-120) your NPDES Permit is hereby modified (Transfer) by the Division of Water Pollution Control. The continuance and/or reissuance of this NPDES Permit is contingent upon your meeting the conditions and requirements as stated therein.

You have the right to appeal any of the provisions established in this NPDES Permit, in accordance with Tennessee Code Annotated, Section 69-3-110, and the General Regulations of the Tennessee Water Quality Control Board. If you elect to appeal, you should file a petition within thirty (30) days of the receipt of this permit.

If you have questions, please contact the Division of Water Pollution Control at your local Environmental Assistance Center 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 Janjic
Manager, Permit Section
Division of Water Pollution Control

Enclosure

cc: Division of Water Pollution Control, Permit Section
Division of Water Pollution Control, Jackson Environmental Field Office
Ms. Reen L. Locker, Attorney, Farris Mathews Bobango PLC, 618 Church Street, Suite 300, Nashville, TN 37219
Mr. Jeff Wilks, Riverstone Estates Wastewater Treatment, 890 Pickwick Street, Savannah, TN 38372
Ms. Michelle Ramsey, Utilities Division, Tennessee Regulatory Authority, 460 James Robertson Parkway, Nashville, TN 37243

STATE OF TENNESSEE



NPDES PERMIT

COPY

No. TN0078379

Transfer

Authorization to discharge under the
National Pollutant Discharge Elimination System

Issued By

**Tennessee Department of Environment and Conservation
Division of Water Pollution Control
401 Church Street
6th Floor, L & C Annex
Nashville, Tennessee 37243-1534**

Under authority of the Tennessee Water Quality Control Act of 1977 (T.C.A. 69-3-101 et seq.) and the delegation of authority from the United States Environmental Protection Agency under the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977 (33 U.S.C. 1251, et seq.)

Discharger: IRM Utility Inc. - Riverstone Estates Wastewater Treatment Plant

is authorized to discharge: treated domestic wastewater

from a facility located: Bath Springs, Decatur County, Tennessee

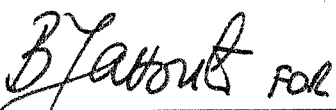
to receiving waters named: Tennessee River 161.6

in accordance with effluent limitations, monitoring requirements and other conditions set forth herein.

This permit shall become effective on: December 1, 2004

This permit shall expire on: October 29, 2009

Issuance date: October 29, 2004



Paul E. Davis, Director
Division of Water Pollution Control

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PART 1

A. EFFLUENT LIMITATION AND MONITORING REQUIREMENTS

Discharge 001 consists of domestic wastewater from a treatment facility with a design capacity of 0.033 MGD. Discharge 001 shall be limited and monitored by the permittee as specified below.

<u>Effluent Characteristics</u>	<u>Effluent Limitations</u>			<u>Monitoring Requirements</u>		
	Monthly Avg. Conc. mg/l	Weekly Avg. Conc. mg/l	Daily Max. Conc. mg/l	Measurement Frequency	Sample Type	Sampling Point
BOD ₅	30	---	45	2/month	grab	effluent
Suspended Solids	30	---	45	2/month	grab	effluent
<u>Effluent Characteristics</u>	<u>Effluent Limitations</u>			<u>Monitoring Requirements</u>		
	Monthly Average	Daily Min.	Daily Max.	Measurement Frequency	Sample Type	Sampling Point
Flow (MGD)	Report	---	Report	5/week	instantaneous	effluent
<i>E. coli</i> *	126/100 ml (see following paragraphs)	---	---	2/month	grab	effluent

* In the absence of a method in 40 CFR, Part 136 for measuring *E. coli* in effluent matrices, the permittee shall use methods proposed or added to Part 136 for measuring *E. coli* in ambient water.

<u>Effluent Characteristics</u>	<u>Effluent Limitations</u>			<u>Monitoring Requirements</u>		
	<u>Monthly Average</u>	<u>Daily Min.</u>	<u>Daily Max.</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>	<u>Sampling Point</u>
Total chlorine residual			1.0 mg/l instantaneous	5/week	grab	effluent
Settleable solids			1.0 ml/L	2/week	grab	effluent
Dissolved oxygen		1.0 mg/L instantaneous		5/week	grab	effluent
pH (Standard Units)		6.0	9.0	2/week	grab	effluent

The wastewater discharge must be disinfected to the extent that viable coliform organisms are effectively eliminated. The concentration of the *E. coli* group after disinfection shall not exceed 126 per 100 ml as the geometric mean based on a minimum of 5 samples, collected from a given sampling site over a period of not more than 30 consecutive days with individual samples being collected at intervals of not less than 12 hours. For the purpose of determining the geometric mean, individual samples having an *E. coli* group concentration of less than one (1) per 100 ml shall be considered as having a concentration of one (1) per 100 ml. In addition, the concentration of the *E. coli* group in any individual sample shall not exceed a specified maximum amount. A maximum daily limit of 487 colonies per 100 ml applies to lakes and Tier II waters. A maximum daily limit of 941 colonies per 100 ml applies to all other recreational waters.

There shall be no distinctly visible floating scum, oil or other matter contained in the wastewater discharge.

The wastewater discharge must result in no other materials in concentrations sufficient to be hazardous or otherwise detrimental to humans, livestock, wildlife, plant life, or fish and aquatic life in the receiving stream.

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.

The wastewater discharge must not cause an objectionable color contrast in the receiving stream.

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):

nearest accessible point after final treatment but prior to actual discharge to or mixing with the receiving waters.

2. Test Procedures

- a. Test procedures for the analysis of pollutants shall conform to regulations published pursuant to Section 304 (h) of the Clean Water Act, as amended, under which such procedures may be required.
- b. Unless otherwise noted in the permit, all pollutant parameters shall be determined according to methods prescribed in Title 40, CFR, Part 136, as amended, promulgated pursuant to Section 304 (h) of the Act.

3. Recording of Results

For each measurement or sample taken pursuant to the requirements of this permit, the permittee shall record the following information:

- a. The exact place, date, and time of sampling;
- b. The exact person(s) collecting samples;
- c. The dates and times the analyses were performed;
- d. The person(s) or laboratory who performed the analyses;
- e. The analytical techniques or methods used, and;
- f. The results of all required analyses.

4. Records Retention

All records and information resulting from the monitoring activities required by this permit including all records of analyses performed and calibration and maintenance of instrumentation shall be retained for a minimum of three (3) years, or longer if requested by the Division of Water Pollution Control.

C. DEFINITIONS

The "instantaneous concentration" is a limitation on the concentration, in milligrams per liter, of any pollutant contained in the wastewater discharge determined from a grab sample taken of the discharge at any point in time.

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" is the arithmetic mean of all samples collected in a one-month period. If only one sample is required per month, the permittee is required to report compliance against the monthly average limit other than fecal coliform.

For the purpose of this permit a "calendar day" is defined as any 24-hour period.

D. REPORTING

1. Monitoring Results

Monitoring results shall be recorded monthly and submitted monthly using Monthly Operation Report Forms (MOR/DMR) supplied by the Division of Water Pollution Control. 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. Monthly Operation Reports and any communication regarding compliance with the conditions of this permit must be sent to:

**Attention: Division of Water Pollution Control
Environmental Assistance Center - Jackson
362 Carriage House Drive
Jackson, TN 38305-2222**

The first MOR/DMR is due on the 15th of the month following permit effectiveness.

Monthly Operation Report must be signed and certified by a responsible corporate officer, as defined at 40 CFR 122.22, or a general partner or proprietor, or a principal municipal executive officer or ranking elected officer, or a duly authorized representative. Such authorization must be submitted in writing and must explain the duties and responsibilities of the authorized representative.

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 above, the results of such monitoring shall be included in the calculation and reporting of the values required in the Monthly Operation Report Form (MOR/DMR). Such increased frequency shall also be indicated. The Permittee is also required to perform and report influent and operation tests in accordance with the schedule listed on the Monthly Operation Report/Schedule for Analysis for Package Sewage Treatment Facilities or as developed by the design engineer.

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 309 of the Federal Water Pollution Control Act, as amended, and in Section 69-3-115 of the Tennessee Water Quality Control Act.

E. SCHEDULE OF COMPLIANCE

Full operational level shall be attained from the effective date of this permit.

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, the Regional Administrator of the U.S. Environmental Protection Agency, or their authorized representatives, upon the 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

Except for data determined to be confidential under Section 308 of the Federal Water Pollution Control Act, as amended, 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 Pollution Control. As required by the Federal Act, effluent data shall not be considered confidential.

4. Proper Operation and Maintenance

- a. 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.
- b. Dilution water shall not be added to comply with effluent requirements to achieve BCT, BPT, BAT and/or other technology based effluent limitations such as those in State of Tennessee Rule 1200-4-5-.03.

5. Treatment Facility Failure (Industrial Sources)

The permittee, in order to maintain compliance with this permit, shall control production, all discharges or both, upon reduction, loss, or failure of the treatment facility, until the facility is restored or an alternative method of treatment is provided. This requirement applies in such situations as the reduction, loss, or failure of the primary source of power.

6. 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.

7. 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.

8. 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. Notice is required only when:

- a. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR 122.29(b); or
- b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under 40 CFR 122.42(a)(1).

2. Permit Modification, Revocation, or Termination

- a. This permit may be modified, revoked and reissued, or terminated for cause as described in 40 CFR 122.62 and 122.64, Federal Register, Volume 49, No. 188 (Wednesday, September 26, 1984), 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.
- c. If any applicable effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established for any toxic pollutant under Section 307(a) of the Federal Water Pollution Control Act, as amended, the Director shall modify or revoke and reissue the permit to conform to the prohibition or to the effluent standard, providing that the effluent standard is more stringent than the limitation in the permit on the toxic pollutant. The permittee shall comply with these effluent standards or prohibitions within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified or revoked and reissued to incorporate the requirement.
- d. The filing of a request by the permittee for a modification, revocation, reissuance, termination, or notification of planned changes or anticipated noncompliance does not halt any permit condition.

3. **Change of Ownership**

This permit may be transferred to another party (provided there are neither modifications to the facility or its operations, nor any other changes which might affect the permit limits and conditions contained in the permit) 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.

Pursuant to the requirements of 40 CFR 122.61, concerning transfer of ownership, the permittee must provide the following information to the Division in their formal notice of intent to transfer ownership: 1) the NPDES permit number of the subject permit; 2) the effective date of the proposed transfer; 3) the name and address of the transferor; 4) the name and address of the transferee; 5) the names of the responsible parties for both the transferor and transferee; 6) a statement that the transferee assumes responsibility for the subject NPDES permit; 7) a statement that the transferor relinquishes responsibility for the subject NPDES permit; 8) the signatures of the responsible parties for both the transferor and transferee pursuant to the requirements of 40 CFR 122.22(a), "Signatories to permit applications"; and, 9) a statement regarding any proposed modifications to the facility, its operations, or any other changes which might affect the permit limits and conditions contained in 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**

All discharges shall be consistent with the terms and conditions of this permit. Any permit noncompliance constitutes a violation of applicable State and Federal 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 Division of Water Pollution Control in the appropriate Environmental Assistance Center within 24 hours from the time the permittee becomes aware of the

circumstances. (The Environmental Assistance Center should be contacted for names and phone numbers of environmental response team.)

A written submission must be provided within five days of the time the permittee becomes aware of the circumstances unless the Director on a case-by-case basis waives this requirement. 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 noncomplying 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 Discharge Monitoring 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 discharge to land or water 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 bypass 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 flow measurement industry and reported in an attachment to a Monthly Operating Report submitted to the local TDEC Environmental Assistance Center. 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 Pollution Control EAC 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 three (3) conditions are met:

- i. The bypass is unavoidable to prevent loss of life, personal injury, or severe property damage;
- ii. There are not 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 down-time or preventative maintenance;
- iii. The permittee submits notice of an unanticipated bypass to the Division of Water Pollution Control in the appropriate environmental assistance center 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 ten (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 Pollution Control in the appropriate Environmental Assistance Center 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

Except as provided in permit conditions or "*Bypassing*," "*Overflow*," "*Upset*," "*Diversion*," and "*Treatment Facility Failures*," 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 or the Federal Water Pollution Control Act, as amended.

PART III OTHER REQUIREMENTS

A. CERTIFIED OPERATOR

The waste treatment facilities shall be operated under the supervision of a Biological natural system certified operator in accordance with the Water Environmental Health Act of 1984.

B. PLACEMENT OF SIGNS

The permittee shall place and maintain a sign at each outfall. The sign(s) should be clearly visible to the public from the bank and the receiving stream. 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 and have a white background with black letters.

The sign(s) are to provide notice to the public as to the nature of the discharge and in the case of the permitted outfalls, that the discharge is regulated by the Tennessee Department of Environment and Conservation, Division of Water Pollution Control. The following is given as an example of the minimal amount of information that must be included on the sign:

NPDES permitted domestic outfall:

<p style="text-align: center;"> TREATED DOMESTIC WASTEWATER (PERMITTEE'S NAME) (PERMITTEE'S PHONE NUMBER) NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT # _____ TENNESSEE DIVISION OF WATER POLLUTION CONTROL Environmental Assistance Center - Jackson PHONE NUMBER : 1-888-891-8332 </p>
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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.

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. ANTIDegradation

Pursuant to the Rules of the Tennessee Department of Environment and Conservation, Chapter 1200-4-3-.06, titled "Tennessee Antidegradation Statement," and in consideration of the Department's directive in attaining the greatest degree of effluent reduction achievable in municipal, industrial, and other wastes, the permittee shall further be required, pursuant to the terms and conditions of this permit, to

comply with the effluent limitations and schedules of compliance required to implement applicable water quality standards, to comply with a State Water Quality Plan or other State or Federal laws or regulations, or where practicable, to comply with a standard permitting no discharge of pollutants.

RATIONALE SHEET**NPDES PERMIT No. TN0078379****Permit Writer: HVA****I. DISCHARGER**

NAME: IRM Utility Inc. - Riverstone Estates Wastewater Treatment Plant
 REPRESENTATIVE: Mr. David Ray
 LOCATION: Bath Springs, County: Decatur, PHONE NUMBER: 731-925-1893
 WASTEWATER:
 Discharge number: 001 type: Domestic
 WATERSHED: Tennessee Western Valley-Beech HUC: 6040001
 Average design flow: 0.033 MGD
 PRESENT TREATMENT: Lagoon
 STATUS: NEW

II. RECEIVING WATERS

STREAM: Tennessee River 161.6
 CLASSIFICATION: Domestic and industrial water supplies, fish and aquatic life, recreation, irrigation, livestock watering, Wildlife uses and navigation.
 LOW FLOW: 1Q10= 6000 CFS
 ESTABLISHED FROM: USGS gage station No. 03593500
 WATER QUALITY STATUS: According to the division's most recent assessment of water quality, the Tennessee River 161.6 is considered fully supportive of its designated use classifications.
 TIER DESIGNATION: Tier I per November 2002 assessment.

III. PROPOSED EFFLUENT LIMITS & RATIONALE

PARAMETERS	MONTHLY AVERAGE CONCENTRATION, (MG/L)	RATIONALE
BOD ₅	30	T.C.A. 1200-4-5-.09 (for BOD ₅)
Total Suspended Solids	30	T.C.A. 1200-4-5-.09
Dissolved Oxygen	1.0 (daily minimum)	Technology Based Limit
Total Chlorine Residual	1.0 (daily maximum)	Refer to A below
Fecal Coliform (colonies/100ml)	200	T.C.A. 1200-4-3-.03
<i>E. coli</i> (colonies/100ml)	126	T.C.A. 1200-4-3-.03, Refer to B below
Settleable Solids (ml/l)	1.0 (daily maximum)	T.C.A. 1200-4-5-.09
pH (standard units)	6.0-9.0	T.C.A. 1200-4-3-.03
Flow (MGD):		
Effluent	Report	Used to quantify pollutant load

A. CHLORINATION

The October 1999 revision to the Tennessee Water Quality Criteria, 1200-4-3-.05(4), require that criteria for fish and aquatic life be applied on the basis of flows in excess of the minimum critical flow occurring once in ten years for regulated streams and flows equal to or exceeding the 7-day minimum, 10-year recurrence interval on unregulated streams. This will result in a slight relaxation of the previous effluent limitation for chlorine.

The residual chlorine limit is derived using the mass balance formula and the EPA instream protection value of 0.019 mg/l for fish and aquatic life. Applying this formula yields the following calculation:

$$\frac{0.019 (Q_d + Q_s)}{Q_d} = \text{Limit (mg/l)} = \frac{0.019 (0.033 + 4007)}{0.033} = 2307 \text{ mg/l}$$

where:

$$\begin{aligned} 0.019 &= \text{instream protection value (acute)} \\ 0.033 &= Q_d, \text{ design flow of STP (MGD)} \\ 4007 &= Q_s, 1Q_{10} \text{ flow of receiving stream (MGD)} \end{aligned}$$

The residual chlorine limit is normally derived using the mass balance formula and the EPA instream protection value of 0.019 mg/l for fish and aquatic life. This value is judged by the division to be a well-documented criteria when site-specific information is not available. However, when water quality is not the limiting factor due to the large dilution afforded by the receiving stream, an effluent concentration of 1.0 mg/l shall not be exceeded as an operational control of treatment facilities.

B. TEST METHOD FOR *E. COLI*

Because 40 CFR Part 136 does not include test methods for measuring *E. coli* in effluent matrices, the Division has added a notation on the limits table page requiring the use of the methods either proposed or added by the EPA to Part 136 for measuring *E. coli* in ambient waters. The Division has no basis to believe that the proposed methods are appropriate only for testing ambient water.

The Division prefers using the proposed ambient-matrix method to measure *E. coli* in the treated effluent versus the alternative of comparing ambient *E. coli* up and downstream of the outfall for two reasons. First, comparison of ambient monitoring data alone fails to conclusively characterize a wastewater effluent. Second, use of the ambient matrix method makes for a meaningful comparison of the *E. coli* in the treated effluent with the *E. coli* identified in the Division's ambient water quality assessments.

IV. OTHER REQUIREMENTS & CONDITIONS

- A. BIOLOGICAL NATURAL SYSTEM CERTIFIED OPERATOR
- B. The permittee is required to install a sign notifying the public of its permitted discharge point.
- C. PERMIT TERM

This permit is being issued for 4 years in order to coordinate its issuance with other permits located within the Tennessee Western Valley-Beech Watershed.

V. COMPLIANCE SCHEDULE SUMMARY

<u>Section</u>	<u>Description</u>
I. D 1	DMR/MOR Reports, monthly
III. B	Placement of Sign(s), within 60 days from the effective date of this permit

EXHIBIT D

NASHVILLE, TENNESSEE

**PETITION OF INTEGRATED RESOURCE
MANAGEMENT, INC. d/b/a IRM UTILITY,
INC. TO AMEND ITS CERTIFICATE OF
PUBLIC CONVENIENCE AND NECESSITY
TO SERVE AN AREA IN DECATUR
COUNTY, TENNESSEE KNOWN AS
RIVERSTONE ESTATES**

PRE-FILED DIRECT TESTIMONY OF JEFFREY W. COX, SR.

FARRIS MATHEWS BOBANGO, PLC

Charles B. Wells 2

*Attorneys for Integrated Resource Management, Inc.
d/b/a IRM Utility, Inc.*

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

IN RE:)
)
PETITION OF INTEGRATED RESOURCE)
MANAGEMENT, INC. d/b/a IRM UTILITY,)
INC. TO AMEND ITS CERTIFICATE OF) Docket No. _____
PUBLIC CONVENIENCE AND NECESSITY)
TO SERVE AN AREA IN DECATUR)
COUNTY, TENNESSEE KNOWN AS)
RIVERSTONE ESTATES)

PRE-FILED DIRECT TESTIMONY OF JEFFREY W. COX, SR.

Q: Please state your name for the record and your position with the Petitioner, Integrated Resource Management, Inc. d/b/a IRM Utility, Inc. ("IRM").

A: Jeffrey W. Cox, Sr. I am the President of IRM.

Q: Are you presenting testimony on behalf of IRM?

A: Yes.

Q: Did you assist and cause the Petition to be filed in this proceeding requesting expanded service area and an extension of authority for IRM to provide wastewater services in Decatur County, Tennessee to a residential subdivision known as Riverstone Estates?

A: Yes.

Q: Can you describe the service you will be providing?

A: Yes, the service will be the same as we have petitioned for in the past. We will be operating an onsite wastewater treatment facility that beneficially reuses the water in subsurface drip irrigation systems.

Q: How many customers will be served by the proposed system?

A: There will be approximately one-hundred and fifty (150) residential customers. The homes will be a combination of primary residences, vacation homes, and possibly rental units. There will be a seventy (70) seat restaurant and a marina.

Q: Do you operate any other system in this area?

A: This is a new region we would like to develop. Currently, we are the primary company working on other projects in the surrounding area.

Q: When did IRM receive its first Certificate of Public Convenience and Necessity ("CCN") from the Tennessee Regulatory Authority ("Authority") to operate a sewer system in Tennessee?

A: Docket 03-00467 was heard in October 2003. On March 16, 2004, pursuant to the Authority's final order, IRM was granted its first CCN.

Q: Does IRM have the managerial, technical, and financial ability to provide wastewater service in the area referred to in the Petition?

A: Yes.

Q: Has IRM contacted other utility service providers in the area to determine if they have potential plans to service the area?

A: The subdivision already has a NPDES Permit from the Tennessee Department of Environment and Conservation ("TDEC") due to the fact that sewer was not available. The Permit Number is TN0078379. This review was required for the initial permit by TDEC.

Q: Is there a public need for wastewater service in the area?

A: Yes, there are twenty-one (21) homes that need service and three (3) homes scheduled to be built this summer. Many homes are on a drainfield system not approved by TDEC. The treatment system was built more than three years ago and has not been used due to the fact that a managing partner of the development is now deceased. IRM was asked to service the subdivision, evidenced by a Resolution (the "Resolution") passed by the board of directors of the Riverstone Estates Utilities, Inc., a copy of which is attached hereto as Attachment 1. .

Q: Is all of the information in the Petition accurate to the best of your knowledge, information, and belief?

A: Yes, it is.

Q: Have you submitted plans to TDEC for approval?

A: Yes, state operating permit No. SOP-08040 is on Public Notice as of March 23, 2009. The permit is scheduled to be finalized the last week of April. IRM desires to be ready to serve the customers immediately.

Q: Does IRM intend on complying with all Authority rules, statutes, and orders pertaining to the provision of wastewater services in Tennessee?

A: Yes.

Q: Does this conclude your testimony?

A: Yes.

STATE OF TENNESSEE)
COUNTY OF Jefferson)

JEFFREY W. COX, SR., having been first duly sworn, makes oath that the statements contained in the foregoing Pre-Filed Direct Testimony are true to the best of his knowledge, information, and belief.


JEFFREY W. COX, SR.

SWORN TO AND SUBSCRIBED before me, on this the 13 day of April, 2009.


Notary Public

My Commission Expires: Jan 23 2010



Attachment 1

**To the Pre-Filed Direct Testimony
of Jeffrey W. Cox, Sr.**

**RESOLUTION OF THE BOARD OF DIRECTORS OF
RIVERSTONE ESTATES UTILITIES, INC.**

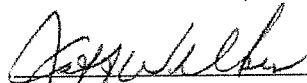
AUTHORIZING TRANSFER OF STATE OF TENNESSEE NPDES PERMIT

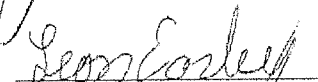
WHEREAS, the Corporation desires to transfer a Tennessee NPDES permit; and

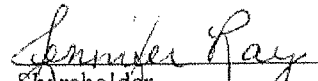
NOW, THEREFORE, BE IT RESOLVED that the corporation shall transfer the permit to IRM Utility, Inc., subject to IRM approval or State of Tennessee approval;

BE IT FURTHER RESOLVED that Jeff Wilkes, as President of the Corporation, is hereby authorized and instructed to execute any documents required by the State of Tennessee to transfer the permit to IRM Utility, Inc. on behalf of, the Corporation.

Witness this 3rd day of June, 2008.


President


Shareholder


Shareholder