

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

IN RE:)
)
)
PETITION OF LEXINGTON PLACE)
PROPERTY OWNER'S ASSOCIATION,)
INCORPORATED FOR A) **Docket No. 12-00119**
DECLARATORY RULING THAT)
KNOB RIDGE APARTMENTS, L.P.)
IS A PUBLIC UTILITY UNDER)
TENNESSEE LAW AND SHOULD BE)
REGULATED BY THE TRA)

**PETITION FOR A DECLARATORY RULING THAT KNOB RIDGE APARTMENTS,
L.P. IS A PUBLIC UTILITY UNDER TENNESSEE LAW AND SHOULD BE
REGULATED BY THE TRA**

Lexington Place Property Owner's Association, Incorporated, a Tennessee non-profit corporation, (the "Petitioner"), by and through counsel, pursuant to T.C.A. § 4-5-223(a); T.C.A. § 65-2-104; and TRA Rule 1220-1-2-.05(1), respectfully petitions the Tennessee Regulatory Authority (the "TRA") to convene a contested case, name Knob Ridge Apartments, L.P., a Tennessee limited partnership, (the "Respondent") as a party, and issue a declaratory ruling that the Respondent's operation of its proposed wastewater treatment system would constitute a public utility under Tennessee law subject to regulation by the TRA pursuant to T.C.A. § 65-4-101(6) and T.C.A. § 65-4-104, the construction of which shall not commence until issuance of a Certificate of Public Convenience and Necessity by the TRA.

In support of its petition, the Petitioner submits the following:

INTRODUCTION

1 The Respondent is a Tennessee limited partnership formed on December 6, 2011, having as its Registered Agent, Dwayne Barrett of Reno & Cavanaugh, PLLC, 424 Church Street, Ste. 1750, Nashville, TN 37219-2375.

2 On or about February 24, 2012, the Respondent submitted to the Tennessee Department of Environment and Conservation, Division of Water Pollution Control (“TDEC”) an *Application For a State Operation Permit (SOP)* (the “TDEC Application”). A copy of the TDEC Application is attached to this Petition as **Exhibit A**.

3 In response to the TDEC Application, TDEC issued a draft permit designated as State Operating Permit No. SOP-12005 (the “TDEC Draft Permit”). A copy of the TDEC Draft Permit is attached to this Petition as **Exhibit B**.

4 The TDEC Draft Permit would grant permission to the Respondent for the operation of “[a] domestic wastewater treatment system consisting of septic tanks, recirculating sand filtration and subsurface drip irrigation on 1.66 acres to serve a 48 unit apartment complex located . . . along North Knob Creek Road.”

5 The proposed wastewater treatment system addressed in the TDEC Draft Permit would serve a 48 unit apartment complex to be constructed on real property currently owned by Peacock Way, LLC, and known as Tract 2 of the Wilma Ownby Davis Property, containing 25.30 acres, more or less, as depicted on plat of record in Map Book 31, Page 70, Register's Office, Sevier County, Tennessee, (“Tract 2”) a copy of which plat is attached to this Petition as **Exhibit C**.

6 The Petitioner is a Tennessee non-profit corporation formed on September 8, 2006. The Charter and Bylaws of the Petitioner are attached to this Petition as **Exhibit D**.

7 The membership of the Petitioner consists of all owners of lots within Lexington Place Subdivision, said subdivision being depicted on plat of record in Large Map Book 3, Page 140, Register's Office, Sevier County, Tennessee, ("Lexington Place Subdivision") a copy of which plat is attached to this Petition as **Exhibit E**.

8 Tract 2 and Lexington Place Subdivision share a common boundary line which is the southern boundary of Lexington Place Subdivision. The proposed wastewater treatment system will include a 1.66 acre sewer drip field area immediately adjacent to this common boundary line, as can be seen in the Preliminary Site Plan attached to this Petition as **Exhibit G**.

9 T.C.A. § 65-2-104 provides that "[o]n the petition of any interested person, the authority may issue a declaratory ruling with respect to the applicability to any person, property, or state of facts of any rule or statute enforceable by it"

THE RESPONDENT'S OPERATION OF THE PROPOSED WASTEWATER TREATMENT SYSTEM WOULD CONSTITUTE A PUBLIC WASTEWATER UTILITY REGULATED BY THE TENNESSEE REGULATORY AUTHORITY AND REQUIRING A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

1 T.C.A. § 65-4-104 provides that "[t]he authority [the TRA] has general supervisory and regulatory power, jurisdiction, and control over all public utilities, and also over their property, property rights, facilities, and franchises, so far as may be necessary for the purpose of carrying out the provisions of this chapter."

2 No person may construct or operate any plant or system that would operate as a "public utility" without first having a Certificate of Public Convenience and Necessity (a "CCN") issued by the TRA. This requirement is set forth in T.C.A. § 65-4-201(a):

No public utility shall establish or begin the construction of, or operate any line, plant, or system, or route in or into a municipality or other territory already

receiving a like service from another public utility, or establish service therein, without first having obtained from the authority [the TRA], after written application and hearing, a certificate that the present or future public convenience and necessity require or will require such construction, establishment, and operation, and **no person or corporation not at the time a public utility shall commence the construction of any plant, line, system, or route to be operated as a public utility, or the operation of which would constitute the same, or the owner or operator thereof, a public utility as defined by law, without having first obtained, in like manner, a similar certificate [a CCN] [emphasis added]**

3 Based on the foregoing, the Respondent could not construct or operate the proposed wastewater treatment system without a CCN from the TRA if said system falls within the definition of a “public utility.”

4 The phrase “public utility” is defined in T.C.A. § 65-4-101(6) to include, “every individual, copartnership, association, corporation, or joint stock company. . . that own, operate, manage or control, within the state, any . . . system, plant or equipment, affected by and dedicated to the public use, under privileges, franchises, licenses, or agreements, granted by the state or by any political subdivision thereof.”

5 Further guidance is provided by TRA Rule 1220-4-13-.02(5), which defines “public utility or public wastewater utility” as “any person, partnership, corporation, company, association, receiver or two or more persons having a joint or common interest that owns, operates, and manages any public wastewater system for compensation within the state subject to the jurisdiction of the Authority [the TRA].”

6 TRA Rule 1220-4-13-.02(7) states that a “wastewater system” is defined as “any structure, land, equipment, or process for collecting, storing, treating, or disposing of wastewater, including but not limited to, tanks, pipes, pumps, and filters.”

7 The Respondent’s proposed wastewater treatment system satisfies these

definitions. The TRA's definition of "wastewater system" is satisfied, as the components of proposed wastewater treatment system, as described in the Respondent's TDEC Application, would include a collection pump tank capable of containing 20,000 gallons of sewage, a recirculating sand filtration system, and a subsurface drip irrigation system covering 1.66 acres of land. The TRA's definition of "public utility or public wastewater utility" and the definition of "public utility" provided in T.C.A. § 65-4-101(6) are both satisfied, as the Respondent is a for-profit, limited partnership that intends to own, operate, and manage a wastewater system dedicated to use by 48 households in exchange for compensation in the form of rental payments. Furthermore, none of the exceptions to "public utility" status listed in T.C.A. § 65-4-101(6) apply to the Respondent. Therefore, the proposed wastewater treatment system falls under the jurisdiction of the TRA and cannot be constructed or operated until a CCN has been issued by the TRA.

RELIEF SOUGHT

Based on the foregoing facts and law, the Petitioner respectfully requests the following relief:

- 1 That the TRA convene a contested case proceeding and name the Respondent, Knob Ridge Apartments, L.P., as a party to said proceeding,
- 2 That the TRA issue a declaratory ruling that the Respondent's operation of the proposed wastewater treatment system envisioned by the TDEC Application and the TDEC Draft Permit would constitute a public utility under Tennessee law subject to regulation by the TRA, the construction of which shall not commence until issuance of a CCN by the TRA, and
- 3 That the TRA grant such other relief as may be proper.

Respectfully submitted this 11th day of October 2012.



Ryan L. Russell, BPR#024687

Vickers, Crisp, & Russell, P.C.

200 Forks of the River Pkwy., Suite 301

P.O. Box 4486

Sevierville, TN 37864-4486

865-453-5578

Attorney for Lexington Place Property Owner's
Association, Incorporated

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of the foregoing Petition has been served upon the following person(s), by U.S. mail and/or electronic mail, this 11th day of October, 2012:

Dwayne Barrett, Esq.
Registered Agent
Knob Ridge Apartments, L.P.
c/o Reno & Cavanaugh, PLLC
424 Church Street, Ste. 1750
Nashville, TN 37219-2375

John T. Huff, Jr.
President
John Huff Consultants, Inc.
6060 Lee Road 54
Opelika, AL 36803

Wade Murphy (Wade.Murphy@tn.gov)
TDEC-Division of Water Resources
6th Floor, L&C Annex
401 Church Street
Nashville, TN 37243



Ryan L. Russell, Esq.

EXHIBIT A
TDEC Application

Site 70025

W. Scott Williams and Associates
6918 Yellow Oak Lane
Knoxville, TN 37931
865-692-9809

February 21, 2012

T.D.E.C. – Water Pollution Control
Attn: Wade Murphy - Permitting
6th Floor L&C Tower
401 Church St.
Nashville, TN 37243-1549

**RE: Knob Ridge Sewer System – Knob Creek Road
Sevier County, Tennessee**

Wade,

I am here by submitting the Application for State Operating Permit (1 original and 2 copies), the preliminary engineering report, and plan for a 14,400 gallon per day sanitary sewer treatment and disposal system for the above mentioned 48 unit, multi-family project. The same has already been submitted to Bob Odette in your office. Enclosed is a check for \$250 as he requested. Let me know if you need anything further. We would like to go on public notice for this as soon as possible. Thanks for your help.

Sincerely,



Scott Williams, P.E.

Enclosures

RECEIVED

2012 FEB 23 10:00 AM



Tennessee Department of Environment and Conservation
Division of Water Pollution Control
401 Church Street, 6th Floor L & C Annex
Nashville, TN 37243-1534
(615) 532-0625

APPLICATION FOR A STATE OPERATION PERMIT (SOP)

Type of application: ☒ New Permit ☐ Permit Reissuance ☐ Permit Modification

Permittee Identification: (Name of city, town, industry, corporation, individual, etc., applying, according to the provisions of Tennessee Code Annotated Section 69-3-108 and Regulations of the Tennessee Water Quality Control Board.)

Permittee

Name **Knob Ridge Apartments, LP**
(applicant):


Permittee
Address: **PO Drawer 2767, Opelika, AL 36803**

Official Contact: John Huff	Title or Position: GP		
Mailing Address: PO Drawer 2767	City: Opelika	State: AL	Zip: 36803
Phone number(s): 334-749-0052	E-mail: huffcon@mindspring.com		

Optional Contact: Steve Norrell	Title or Position: PM		
Address: PO Drawer 2427	City: Opelika	State: AL	Zip: 36803-2427
Phone number(s): 334.749.0052	E-mail: sdn@mindspring.com		

Application Certification (must be signed in accordance with the requirements of Rule 1200-4-5-.05)

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Name and title; print or type John Huff	Signature 	Date 02.17.2012
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Facility Identification:		Existing Permit No.	
Facility Name:	Knob Ridge Apartments	County:	Sevier
Facility Address or Location:	N. Knob Creek Road, Seymour, Sevier Co., TN	Latitude:	35 51.348'
		Longitude:	83 45.138'
Name and distance to nearest receiving waters: 2600 LF to Knob Creek			
If any other State or Federal Water/Wastewater Permits have been obtained for this site, list their permit numbers:			
Name of company or governmental entity that will operate the permitted system: Wesley Barger			
Operator address: PO Box 910 Kingston, TN 37763			
Has the owner/operator filed for a Certificate of Convenience & Necessity (CCN), or an amended CCN, with the Tennessee Regulatory Authority (TRA) (may be required for collection systems and land application treatment systems)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A			
If the applicant listed above does not yet own the facility/site or if the applicant will not be the operator, explain how and when the ownership will be transferred or describe the contractual arrangement and renewal terms of the contract for operations. TBD - Operator to be contracted on a multiple year basis.			
Complete the following information explaining the entity type, number of design units, and daily design wastewater flow:			
Entity Type	Number of Design Units		Flow (gpd)
<input type="checkbox"/> City, town or county	No. of connections:		
<input type="checkbox"/> Subdivision	No. of homes:	Avg. No. bedrooms per home:	
<input type="checkbox"/> School	No. of students:	Size of cafeteria(s): No. of showers:	
<input checked="" type="checkbox"/> Apartment	No. of units: 48	No. units with Washer/Dryer hookups: 48 No. units without W/D hookups:	14400
<input type="checkbox"/> Commercial Business	No. of employees:	Type of business:	
<input type="checkbox"/> Industry	No. of employees:	Product(s) manufactured:	
<input type="checkbox"/> Resort	No. of units:		
<input type="checkbox"/> Camp	No. of hookups:		
<input type="checkbox"/> RV Park	No. of hookups:	No. of dump stations:	
<input type="checkbox"/> Car Wash	No. of bays:		
<input type="checkbox"/> Other			
Describe the type and frequency of activities that result in wastewater generation. <i>See attached report.</i>			

Engineering Report (required for collection systems and/or land application treatment systems):	<input type="checkbox"/> N/A
<input checked="" type="checkbox"/> Prepared in accordance with Rule 1200-4-2-.03 and Section 1.2 of the Tennessee Design Criteria (see website for more information) <input type="checkbox"/> Attached, or <input checked="" type="checkbox"/> Previously submitted and entitled: Preliminary Engineering Report Proposed Wastewater Collection, Treatment, and Disposal System for Knob Ridge Development Approved? <input type="checkbox"/> Yes. Date: <input checked="" type="checkbox"/> No	

Engineering Report (required for collection systems and/or land application treatment systems):	N/A
Prepared in accordance with Rule 1200-4-2-.03 and Section 1.2 of the Tennessee Design Criteria (see website for more information) Attached, or Previously submitted and entitled: _____ Approved? Yes. Date: _____ No	

Wastewater Collection System:	N/A
System type (i.e., gravity, low pressure, vacuum, combination, etc.):	
<i>Low pressure force main, septic STEG tank at each 4-unit building</i>	
System Description: <i>3" PVC force main, primary treatment at septic tank</i>	
Describe methods to prevent and respond to any bypass of treatment or discharges (i.e., power failures, equipment failures, heavy rains, etc.): <i>Collection pump tank at drip field w/ 2-3 days capacity</i>	
In the event of a system failure describe means of operator notification: <i>Remote + audible alarm (cell)</i>	
List the emergency contact(s) (name/phone): <i>Steve Norell 334-663-1031</i>	
For low-pressure systems, who is responsible for maintenance of STEP/STEG tanks and pumps or grinder pumps (list all contact information)?	
<i>Wesley Barger - 865-270-8070</i>	
Approximate length of sewer (excluding private service lateral): <i>1250 LF</i>	
Number/hp of lift stations: <i>N/A</i>	Number/hp of lift pumps <i>N/A</i>
Number/volume of low pressure and or grinder pump tanks	<i>N/A</i>
Number/volume septic tanks	<i>12 / 2000 gallon</i>
Attach a schematic of the collection system. (<i>Attached</i>)	
If this is a satellite sewer and you are tying in to another sewer system complete the following section, listing tie-in points to the sewer system and their location (attach additional sheets as necessary):	
Tie-in Point	Latitude (xx.xxxx°)
<i>N/A</i>	

Land Application Treatment System:	N/A
Type of Land Application Treatment System: <u>Drip</u> Spray _____ Other, explain: _____	
Type of treatment facility preceding land application (recirculating media filters, lagoons, other, etc.): <u>Recirculating sand filter</u>	
Attach a treatment schematic. Attached	
Describe methods to prevent and respond to any bypass of treatment or discharges (i.e., power failures, equipment failures, heavy rains, etc.): <u>20,000 gallon collection tank before filter.</u>	
For New or Modified Projects: Name of Developer for the project: <u>Huff Construction</u>	
Developer address and phone number: <u>PO Drawer 2767 Opelika, AL 36803 334-749-0052</u>	
For land application, list: Proposed acreage involved: <u>1.66</u> Inches/week gpd/sq. ft loading rate to be applied: <u>0.2 gpd/sf</u>	
Is wastewater disinfection proposed?	
Yes Describe land application area access:	
<u>No</u> Describe how access to the land application area will be restricted <u>Fence</u>	
Attach required additional Engineering Report Information (see website for more information)	
Topographic map (1:24,000 scale presented at a six inch by six inch minimum size) showing the location of the project including quadrangle(s) name(s) GPS coordinates, and latitude and longitude in decimal degrees should also be included.	
Scaled layout of facility showing the following: lots, buildings, etc. being served, the wastewater collection system routes, the pretreatment system location, the proposed land application area(s), roads, property boundaries, and sensitive areas such as streams, lakes, springs, wells, wellhead protection areas, sinkholes and wetlands.	
Soils information for the proposed land disposal area in the form of a Water Pollution Control (WPC) Soils Map per Chapter 16 and 17 State of Tennessee Design Criteria for Sewage Work. The soils information should include soil depth (borings to a minimum of 4 feet or refusal) and soil profile description for each soil mapped.	
Topographic map of the area where the wastewater is to be land applied with no greater than ten foot contours presented at a minimum size of 24 inches by 24 inches.	
Describe alternative application methods based on the following priority rating: (1) connection to a municipal/public sewer system, (2) connection to a conventional subsurface disposal system as regulated by the Division of Groundwater Protection, and/or (3) land application.	
For Drip Dispersal Systems Only: Unless otherwise determined by the Department, sewage treatment effluent wells, i.e. large capacity treatment/drip dispersal systems, after approval of the SOP Application, will be issued an LLC tracking number and will be authorized as Permit by Rule per LLC Rule 1200-4-6-14(2) and upon issue of a State Operating Permit and Sewage System Construction Approval by the Department. Describe the following:	
The area of review (AOR) for each Drip Dispersal System shall, unless otherwise specified by the Department, consist of the area lying within a one mile radius or an area defined by using calculations under 1200-4-6-.09 of the Drip Dispersal System site or facility, and shall include, but not be limited to general surface geographic features, general subsurface geology, and general demographic and cultural features within the area. Attach to this part of the application a general characterization of the AOR, including the following: (This can be in narrative form)	

A general description of all past and present groundwater uses as well as the general groundwater flow direction and general water quality.
A general description of the population and cultural development within the AOR, i.e. agricultural, commercial, residential or mixed.
Nature of injected fluid to include physical, chemical, biological or radiological characteristics.
If groundwater is used for drinking water within the area of review, then identify and locate on a topographic map all groundwater withdrawal points within the AOR, which supply public or private drinking water systems. Or supply map showing general location of publicly supplied water for the area (this can be obtained from the water provider)
If the proposed system is located within a wellhead protection area or source water protection area designated by Rule 1200-5-1-.34, show the boundary of the protection area on the facility site plan.
Description of system, Volume of injected fluid in gallons per day based upon design flow, including any monitoring wells
Nature and type of system, including installed dimensions of wells and construction materials

Pump and Haul:	<input checked="" type="checkbox"/> N/A
Reason system cannot be served by public sewer:	
Distance to the nearest manhole where public sewer service is available:	
When sewer service will be available:	
Volume of holding tank:	gal. FEB 24 2012
Tennessee licensed septage hauler (attach copy of agreement):	
Facility accepting the septage (attach copy of acceptance letter):	
Latitude and Longitude (in decimal degrees) of approved manhole for discharge of septage:	
Describe methods to prevent and respond to any bypass of treatment or discharges (i.e., power failures, equipment failures, heavy rains, etc.):	

Holding Ponds (for non-domestic wastewater only):	<input checked="" type="checkbox"/> N/A
Pond use: <input type="checkbox"/> Recirculation <input type="checkbox"/> Sedimentation <input type="checkbox"/> Cooling <input type="checkbox"/> Other (describe):	
Describe pond use and operation:	
If the pond(s) are existing pond(s), what was the previous use?	
Have you prepared a plan to dispose of rainfall in excess of evaporation? <input type="checkbox"/> Yes <input type="checkbox"/> No	
If so, describe disposal plan:	
Is the pond ever dewatered? <input type="checkbox"/> Yes <input type="checkbox"/> No	
If so, describe the purpose for dewatering and procedures for disposal of wastewater and/or sludge:	
Is(are) the pond(s) aerated? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Volume of pond(s):	gal. Dimensions:

Is the pond lined (Note if this is a new pond system it must be lined for SOP coverage. Otherwise, you must apply for an Underground Injection Control permit.)? <input type="checkbox"/> Yes <input type="checkbox"/> No
Describe the liner material (if soil liner is used give the compaction specifications):
Is there an emergency overflow structure? <input type="checkbox"/> Yes <input type="checkbox"/> No
<i>If so, provide a design drawing of structure.</i>
Are monitoring wells or lysimeters installed near or around the pond(s)? <input type="checkbox"/> Yes <input type="checkbox"/> No
<i>If so, provide location information and describe monitoring protocols (attach additional sheets as necessary):</i>

Mobile Wash Operations:		<input checked="" type="checkbox"/> N/A
<input type="checkbox"/> Individual Operator	<input type="checkbox"/> Fleet Operation Operator	
Indicate the type of equipment, vehicle, or structure to be washed during normal operations (check all that apply):		
<input type="checkbox"/> Cars	<input type="checkbox"/> Parking Lot(s):	sq. ft.
<input type="checkbox"/> Trucks	<input type="checkbox"/> Windows:	sq. ft.
<input type="checkbox"/> Trailers (Interior washing of dump-trailers, or tanks, is prohibited.)	<input type="checkbox"/> Structures (describe):	
<input type="checkbox"/> Other (describe):		
Wash operations take place at (check all that apply):		
<input type="checkbox"/> Car sales lot(s)	<input type="checkbox"/> Public parking lot(s)	
<input type="checkbox"/> Private industry lot(s)	<input type="checkbox"/> Private property(ies)	
<input type="checkbox"/> County(ies), list:	<input type="checkbox"/> Statewide	
Wash equipment description:		
<input type="checkbox"/> Truck mounted	<input type="checkbox"/> Trailer mounted	
<input type="checkbox"/> Rinse tank size(s) (gal.):	<input type="checkbox"/> Mixed tanks size(s) (gal.):	
<input type="checkbox"/> Collection tank size(s) (gal.):	Number of tanks per vehicle:	
Pressure washer: psi (rated)	Pressure washer: <input type="checkbox"/> gas powered	<input type="checkbox"/>
gpm (rated)	electric	
Vacuum system manufacturer/model:	Vacuum system capacity:	inches Hg
Describe any other method or system used to contain and collect wastewater:		
List the public sewer system where you are permitted or have written permission to discharge waste wash water (include a copy of the permit or permission letter):		
Are chemicals pre-mixed, prior to arriving at wash location? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Describe all soaps, detergents, or other chemicals used in the wash operation (attach additional sheets as necessary):		
Chemical name:	Manufacturer:	Primary CAS No. or Product No.

EXHIBIT B
TDEC Draft Permit



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

March 26, 2012

Mr. John Huff, Jr.
Huff Construction, LLC
PO Box 2767
Opelika, AL 36803

**Subject: Draft of State Operating Permit No. SOP-12005
Knob Ridge Apartments, LP
Seymour, Sevier County, Tennessee**

Dear Mr. Huff:

Enclosed please find one copy of the draft state operating permit, which the Division of Water Pollution Control (the division) proposes to issue. The issuance of this permit is contingent upon your meeting all of the requirements of the Tennessee Water Quality Control Act and the rules and regulations of the Tennessee Water Quality Control Board.

If you disagree with the provisions and requirements contained in the draft permit, you have twenty-five (25) days from the date of this correspondence to notify the division of your objections. If your objections cannot be resolved, you may appeal the issuance of this permit. This appeal should be filed in accordance with Section 69-3-110, Tennessee Code Annotated.

If you have questions, please contact the Knoxville Environmental Field Office at 1-888-891-TDEC; or, at this office, please contact Mr. Wade Murphy at (615) 532-0666 or by E-mail at Wade.Murphy@tn.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "V. Janjic", is written over a horizontal line.

Vojin Janjic
Manager, Permit Section
Division of Water Pollution Control

P/WAT-3
Enclosure

cc: Permit Section File
Knoxville Environmental Field Office (Woody.Smith@tn.gov)
Mr. Scott Williams, W. Scott Williams and Associates, wscottwill@comcast.net
Mr. Mickey Barger, Manager, Watts Bar Utility District, mickey@wbud.org
Mr. Allen Rather, DWS-Ground Water Management Section, alan.rather@tn.gov

**6th Floor, L & C Annex
401 Church Street
Nashville, TN 37243**

PERMIT
For the operation of Wastewater Treatment Facilities

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/Quarter
Ammonia as N	Continuous	N/A	5 mg/l	Recorder

* 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 wastewater ponding or pools on the surface of the disposal field as a result of improper application or irrigation of wastewater except in direct response to precipitation. 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 Pollution Control, Knoxville Environmental Field Office within 5 days of discovery by the permittee.

All drip fields must 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 must be installed prior to beginning of operation.

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

The site shall be inspected by the certified operator or his/her designee, at a minimum, once per seven days. The following shall be recorded for each inspection and reported on the quarterly operating report:

- 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 condition of the drip area including the location of any ponding and the height of the cover crop,
- the operational status of the mechanical parts of the treatment system (pumps, filters, telemetry equipment, etc.)
- the date and time of inspection,
- the name of the inspector,
- the description of any corrective actions taken.

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 and submitted quarterly. 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 Pollution Control
Knoxville Environmental Field Office
3711 Middlebrook Pike
Knoxville, TN 37921

The first operation report is due on the 15th of the month following permit effective date.

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 from the effective date of this permit or from the start up of the treatment system whichever is later.

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 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 Pollution Control.

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 permittee must develop and implement a preventative maintenance schedule which corresponds to the manufacturer's recommendations for each of the appurtenances in the treatment system. Documentation supporting this preventative maintenance schedule, and its implementation, must be retained for a period of three years.

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 seven days. 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.

Final Plan of Operation, prepared in accordance with the State Design Criteria and manufacturer's specifications, shall be submitted to the Division of Water Pollution Control, Knoxville Environmental Field Office, 3711 Middlebrook Pike, Knoxville, TN 37921 within thirty (30) days of a request by division personnel. The permittee must comply with the submitted Final Plan of Operation.

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 condition of Section III.G.5 is met.

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

c. 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

d. 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 Pollution Control 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 Pollution Control 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 Pollution Control 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

Signs shall be posted at regular intervals around the perimeter of the area, and at each entrance. The sign language shall clearly indicate that the drip areas are being used for the dispersal of treated effluent and advise against trespassing. The minimum sign size should be two feet by two feet (2' x 2') with letters not less than one inches (1") high. Each sign shall be made of durable material and have a white background with black letters.

<p>TREATED DOMESTIC WASTEWATER DRIP IRRIGATED PLOTS (PERMITTEE'S NAME) (PERMITTEE'S PHONE NUMBER) TENNESSEE DIVISION OF WATER POLLUTION CONTROL Knoxville Environmental Field Office 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. New facilities must have the signs installed upon commencing operation.

C. ADDITION OF WASTE LOADS

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

D. SEPTIC TANK OPERATION

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

E. SEPTAGE MANAGEMENT PRACTICES

The permittee must comply with the provisions of 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 event of abandonment or noncompliance of the sewerage system, ownership of the treatment facilities must be by a municipality, a public utility, a wastewater authority, or a privately owned public utility (having a Certificate of Convenience and Necessity from the Tennessee Regulatory Authority), or another public agency.

G. SPECIAL REQUIREMENTS FOR SEWERAGE SYSTEMS OWNED AND OPERATED BY NON—PUBLIC ENTITIES

Three categories of financial security shall be demonstrated, (1) an Operating and Maintenance (O&M) Fund to address routine operation and maintenance, (2) a Reserve Fund to address major capital expenditures, and (3) a Bond, or equivalent financial security, to satisfy the requirements of Section 69-3-122 of the Water Quality Control Act.

1. Operating and Maintenance (O&M) Fund

The permittee shall properly operate and maintain the collection system in accordance with the provisions of this permit and all applicable federal and state regulations and law. Funds required to properly operate and maintain the system shall include monies to fund all routine operation, maintenance, principle and interest of debt service and other routine costs. The association shall establish an O&M Fund as follows:

O&M Fund Accounting: The O&M fund shall be separately accounted for in the financial management and accountability of the system. The O&M fund shall exist for the anticipated life of the collection and/or treatment system.

O&M Fund Reporting: The permittee shall maintain records of the operation and maintenance costs of the sewerage system. The permittee shall submit to the division a breakdown of the estimated operation and maintenance costs as specified above within sixty (60) days of the effective date of this permit. The information shall be updated annually and the updated information submitted to the division upon request.

2. Reserve Fund

A dedicated portion of the revenue shall be placed in an escrow account to establish the reserve fund. Expenditures from the reserve fund shall be restricted to capital expenses, and may not be applied to normal operating expenses in the ordinary course of business.

The permittee shall create, maintain and use reserve funds for the purpose of capital expenditures to repair or replace portions of the sewerage system. Such repair or replacement may occur in the event of damage, destruction or other repair or replacement that is not considered to be normal maintenance. It is also the purpose of this fund to be used to replace any portion of the sewerage system that reaches the end of its useful life. The reserve funds may also be used to pay any penalties, fines or damage assessments. In determining the adequate amount of reserve funds, the permittee must estimate the life expectancy of the components of the sewerage system, and the replacement cost of these components. Replacement cost estimates shall be updated at a minimum of once each five years at the time of permit renewal and shall be made available to the division upon request.

Reserve Fund Accounting: The reserve fund shall be separately accounted for in the financial management and accountability of the system. The reserve fund shall exist for the anticipated life of the collection and/or treatment system.

Reserve Fund Reporting: The amount of the reserve funds specified above shall be submitted to the division for review and approval within sixty (60) days of the effective date of this permit.

3. Bond Fund

The permittee shall obtain, maintain, and demonstrate adequate bond or other financial security instrument, to satisfy the requirements of Section 69-3-122 of the Water Quality Control Act (WQCA). The purpose of this bond is to provide a source of funding to the State for temporary operation of the system in the event of abandonment or noncompliance. The bond shall be established in an amount equal to the amount of the reserve fund plus 2 years of operation and maintenance costs up to the limit defined in Section 69-3-122(b) of the WPCA. The bond shall be maintained for a term that is not less than the anticipated life of the collection and/or treatment system. The permittee may obtain a Surety Bond, Insurance and Risk Retention Group Coverage, Letter of Credit or other financial security acceptable to the Division of Financial Responsibility (DFR) in accordance with the following conditions:

- a. Proof of adequate bond or financial security shall be submitted to DFR in the form of a notarized copy of the instrument within sixty (60) days of the effective date of this permit. DSR must be notified within 30 days, should the term of the security be canceled, extended, the terms changed, or the association obtains alternative security.
- b. Conditions for bond or financial security forfeiture may be caused by any of the following:
 - i. Failure to properly transfer or renew the permit and/or bond;
 - ii. Failure to employ a certified operator for more than (30) days;
 - iii. Chronic permit violations and/or violations not corrected within (30) days of notice of such violations from the division;
 - iv. Failure to properly maintain the collection or treatment system such that the system cannot be properly operated;
 - v. Operation of the collection or treatment system in such a manner as to create a public nuisance, health hazard, or violation of water quality standards;
 - vi. Abandonment of the facility; or
 - vii. Failure to provide sufficient funding to carry out the terms and conditions of the permit.
- c. The permittee must notify DFR if the bond or financial security is canceled. The association shall have thirty (30) days from the notification of cancellation to obtain alternate adequate bond or financial security acceptable to the DFR.
- d. Failure to submit the amount of adequate bond or financial security, failure to procure adequate bond or financial security and failure to submit proof of adequate bond or financial security will be cause for either revocation of the permit, enforcement action or both.

4. Funding Priority

The association, in its Bylaws, or on publicly recorded plats, shall identify the collection system as a common area, which will receive the highest priority for expenditures by the association except for federal, state and local taxes and insurance.

5. Dissolution

The permittee shall not transfer ownership of the sewage treatment system including the drip irrigation areas without written approval from the division. Such approval would be contingent upon proper transfer of the permit and the sewerage system to a public utility, privately owned public utility, or other entity acceptable to the division.

H. UIC AUTHORIZATION

The authorization and requirements associated with the operation of a Class V injection well (drip dispersal field) is attached to this permit in 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: 3/15/2012

SUBJECT: LCSS/SFDS (Class V Injection) Approval
Knob Ridge Apartments
Seymour, Sevier County, Tennessee
UIC File SEV 0000060

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 Knob Ridge Apartments located at Seymour, Sevier County, Tennessee. This Division approves the application dated 3/02/2012.

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.

Watts Bar Utility District 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

Fact Sheet (Rationale)

Knob Ridge Apartments, LP
STATE OPERATION PERMIT NO. SOP-12005
Seymour, Sevier County, Tennessee

Permit Writer: Wade Murphy
March 25, 2012

FACILITY CONTACT INFORMATION:

Mr. John Huff
General Partner
Phone: (334) 749-0052
huffcon@mindspring.com
PO Drawer 2767, Opelika, AL 36803

Facility location: North Knob Creek Road, Seymour, Sevier County, Tennessee

Name of the nearest stream: NA – No discharge allowed.

Treatment system: Septic tanks, recirculating sand filter and fenced drip irrigation area to serve a 48 unit apartment complex.

Permit period: This permit will be issued for a five-year period effective from the issuance date on the title page.

Monitoring and reporting: Quarterly operation reports to the EFO-Knoxville the 15th of month following quarters ending in March, June, September and December of each year.

Alternatives Analysis: Per telephone discussion with the applicant and design engineer, there is insufficient reserve area to have a conventional septic system approved. Public sewer is located along the property, but is insufficiently sized to serve this property. The public sewer provider will require the permittee to upsize two public pump stations and the sewage force main. There is sufficient soil at the site to meet drip irrigation design criteria. The design engineer indicated the capital cost of an onsite treatment system is less than the cost to upgrade the public sewer. The environmental benefits of the onsite treatment system are recharge of local groundwater and saved energy costs associated with pumping wastewater to Sevierville.

Other Considerations: Based on documentation provided by the permittee, the permittee will operate and maintain the sewer system as an integral part of operating and maintaining this apartment complex pursuant to commitments made with the Tennessee Housing Development Authority (THDA). Therefore, the permittee is operating the sewer system as a public sewer agency. Because the agency is not a government entity or a privately-owned public utility regulated by the Tennessee Regulatory Authority, financial responsibility conditions apply and transfer of the permit to another owner requires prior approval of the division.

EXHIBIT C
Tract 2 recorded plat

M DAVIS
125/167

BK P21 PD 70

CATON
21/141

TOM SHARP
481/458

TRACT 2
25.30 AC

EXCLUDED

TRACT 1
2.27 AC

GRAPHIC SCALE

MICHAEL ERADY, INC.
813 NORTSHORE DRIVE, SUITE 101
KNOXVILLE, TN 37919
PHONE (423) 594-0999
FAX (423) 594-5213

[illegible][illegible]

SENDER COUNTY: TRANSFEE
DISTRICT: 4
CAT: 57
PARCEL(S): PART OF 66
DEED REFERENCE: WD 503 PAGE 767
APPROVED BY: DJH
CREATED BY: DJH
COUNTY: CLATSOP, OR
5/24/2014 1:40PM
SHEET 1 OF 1
DRAWING NUMBER: 442008

WILMA OMNEY DAVIS

BIOMEDICAL

—TTPSSSE

SCALE: 1"=100'

DRAWING NUMBER: 44208

DOAN'S PATENT 44208

CONTINUATION OF STREET MAPS

I CERTIFY THAT THE STREET MAPS HAVE BEEN APPROVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES, CALIFORNIA, AND THAT THE SAME ARE TRUE AND CORRECT COPIES OF THE MAPS AS THEY WERE PREPARED AND SUBMITTED TO THE BOARD OF SUPERVISORS FOR APPROVAL.

WITNESSED MY HAND AND SEAL OF OFFICE, AT LOS ANGELES, CALIFORNIA, THIS 11TH DAY OF SEPTEMBER, 1964.

PAUL J. HARRIS, Mayor

10-05 11.19
PAC

Yusei Kaidoku
7-911 66-10-10-10

CONTINUED OF ACCOUNTS

PROTECTED BY THE CIVIL RIGHTS ACT, 1964. (CIVIL RIGHTS ACT, 1964)
AND THAT THE VIOLENCE WAS NOT PLANNED AS SUCH.
ACCORD TO THE SURVIVORS OF THE SCOTTISH
RECORDS.

9-24 89
0-1877

William D. Weston

11-17
87

COMMUNICATION OF SUBSISTENT ORGANISM

House size location and duration will determine the actual number of bedrooms for which a maximum of 2011 bedrooms (see Exhibit A - Bureau Field Day) are approved for standard physical substance sewage disposal system as well as

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DATE

FORMICALLY FOR N-CORPUS

1 MONTH ENTRY AND THE BUREAU OF PLS SPEND
WAS BEEN FOUND TO ONLY AND THE SIMILAR
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IT WAS NOT APPROPRIATE FOR A SOURCE OF THE OFFICE
OF THE OFFICE AT THE

Estadística

Model for letter T-6-25-2.

Edward Quinlan Davis Sister County, Texas
as being entitled for a surface license (SSD) with the listed attachment

to any consideration of a license, public or non-public, this plan for the exact location of the building would be approved and a GED system permit issued by the Office of Environmental Health. Water taps within living space would not be installed; water taps should be located in the site property lines unless otherwise noted. Any change, filling or alterations of the soil conditions may void this approval."

S.R. Richards, Eastford, Conn.
Director, Kent Agricultural Station
Eastford, Conn.

Excluded from the
category of

KILMA O'NEIL DAVIS

01 SEP 1968

STRICT, 9

LT, 57
ARJEL(5). PART OF 6

END REFERENCE. WD 503 PAGE 76

APPROVED BY: DJS
 SIGNED BY: DJS

05/22/2014

Case 1:17-cv-00001-UNA Document 1-1 Filed 07/26/17 Page 1 of 1

EXHIBIT D
Petitioner's Charter & Bylaws

Secretary of State
Division of Business Services
312 Eighth Avenue North
6th Floor, William R. Snodgrass Tower
Nashville, Tennessee 37243

DATE: 09/11/06
REQUEST NUMBER: 5857-0998
TELEPHONE CONTACT: (615) 741-2286
FILE DATE/TIME: 09/08/06 0907
EFFECTIVE DATE/TIME: 09/08/06 0907
CONTROL NUMBER: 0529352

TO:
LEXINGTON PLACE PROPERTY OWNER'S ASSOC.
INCORPORATED
204 PARKWAY
SEVIERVILLE, TN 37862

RE:
LEXINGTON PLACE PROPERTY OWNER'S ASSOCIATION, INCORPORATED.
CHARTER - NONPROFIT

CONGRATULATIONS UPON THE INCORPORATION OF THE ABOVE ENTITY IN THE STATE OF TENNESSEE, WHICH IS EFFECTIVE AS INDICATED.

A CORPORATION ANNUAL REPORT MUST BE FILED WITH THE SECRETARY OF STATE ON OR BEFORE THE FIRST DAY OF THE FOURTH MONTH FOLLOWING THE CLOSE OF THE CORPORATION'S FISCAL YEAR. ONCE THE FISCAL YEAR HAS BEEN ESTABLISHED, PLEASE PROVIDE THIS OFFICE WITH THE WRITTEN NOTIFICATION. THIS OFFICE WILL MAIL THE REPORT DURING THE LAST MONTH OF SAID FISCAL YEAR TO THE CORPORATION AT THE ADDRESS OF ITS PRINCIPAL OFFICE OR TO A MAILING ADDRESS PROVIDED TO THIS OFFICE IN WRITING. FAILURE TO FILE THIS REPORT OR TO MAINTAIN A REGISTERED AGENT AND OFFICE WILL SUBJECT THE CORPORATION TO ADMINISTRATIVE DISSOLUTION.

WHEN CORRESPONDING WITH THIS OFFICE OR SUBMITTING DOCUMENTS FOR FILING, PLEASE REFER TO THE CORPORATION CONTROL NUMBER GIVEN ABOVE. PLEASE BE ADVISED THAT THIS DOCUMENT MUST ALSO BE FILED IN THE OFFICE OF THE REGISTER OF DEEDS IN THE COUNTY WHEREIN A CORPORATION HAS ITS PRINCIPAL OFFICE IF SUCH PRINCIPAL OFFICE IS IN TENNESSEE.

VOL:2681/287-289

06055088

CH 3 PG BA: 94792
12/05/2006 11:19 AM
VALUE 0.00
MTG TAX 0.00
TRN TAX 0.00
REC FEE 5.00
DP FEE 2.00
REG FEE 0.00
TOTAL 7.00

STATE OF TENNESSEE, SEVIER COUNTY
SHERRY ROBERTSON HUSKEY
REGISTER OF DEEDS

FOR: CHARTER - NONPROFIT

ON DATE: 09/08/06

FROM:
GUARANTY LAND TITLE
204 PARKWAY
SEVIERVILLE, TN 37682-0000

RECEIVED: FEES \$100.00 \$0.00
TOTAL PAYMENT RECEIVED: \$100.00

RECEIPT NUMBER: 00004023567
ACCOUNT NUMBER: 00080875



SS-4458

Riley C. Darnell

RILEY C. DARNELL
SECRETARY OF STATE

CHARTER
OF

**LEXINGTON PLACE PROPERTY OWNER'S ASSOCIATION,
INCORPORATED**

FILED

FILED
SECRETARY OF STATE

2006 SEP -8 AM 9:07

RECEIVED
STATE OF TENNESSEE

5857.0938

The undersigned, acting as the incorporator(s) of a corporation under the Tennessee Nonprofit Corporation Act, adopt(s) the following Charter for such corporation:

1. The name of the corporation is **LEXINGTON PLACE PROPERTY OWNER'S ASSOCIATION, INCORPORATED.**

2. This corporation is a mutual benefit corporation.

3. The street address of the initial registered office of the corporation is 204 Parkway, Sevierville, Sevier County, Tennessee 37862, and the initial registered agent for the corporation at that office is Jerry D. Kerley.

4. The name and address of the incorporator is:

JERRY D. KERLEY
204 PARKWAY
SEVIERVILLE, TN 37862

5. The street address of the principal office of the corporation is 204 Parkway, Sevierville, Sevier County, Tennessee 37862.

6. The corporation is not for profit.

7. The corporation shall have members. The members of the corporation shall be the owners of Lots of **LEXINGTON PLACE SUBDIVISION**. Upon the conveyance or transfer of the ownership interest in a Lot of the subdivision, the new owner or owners shall succeed to the former Lot owners' membership, and the membership of the former unit or Lot owner or owners shall terminate.

8. To the extent allowed by the laws of the State of Tennessee, no present or future director of the corporation (or his or her estate, heirs and personal representatives) shall be liable to the corporation or its members for monetary damages for breach of fiduciary duty as a director of the corporation. Any liability of a director (or

his or her estate, heirs and personal representatives) shall be further eliminated or limited to the fullest extent allowed by the laws of the State of Tennessee, as may hereafter be adopted or amended.

9. With respect to claims or liabilities arising out of service as a director or officer of the corporation, the corporation shall indemnify and advance expenses to each present and future director and officer (and his or her estate, heirs and personal representatives) to the fullest extent allowed by the laws of the State of Tennessee, both as now in effect and as hereafter adopted or amended.

10. The purposes for which the corporation is organized are: to operate a Planned Unit Development management association solely to provide for the acquisition, construction, management, maintenance and care of association property; and generally to engage in any other lawful endeavor or activity in furtherance of the foregoing, so long as such endeavor or activity does not prevent the corporation from being, or maintaining its status as, a homeowners association as defined by Section 528(c)(1) of the Internal Revenue Code of 1986, or corresponding section of any future federal income tax code.

11. No part of the net earnings of the corporation shall inure to the benefit of, or be distributable to, its directors, officers, members or other private individuals or persons, except that the corporation shall be authorized and empowered to:

(a) pay reasonable compensation for goods and services rendered,

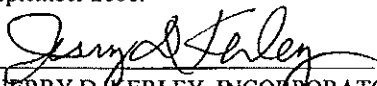
(b) rebate excess membership dues, fees or assessments, and

(c) make payments in furtherance of the purposes set forth in the paragraph just above.

12. The Corporation is a mutual benefit association and its existence shall be perpetual.

13. Upon dissolution, after all creditors of the corporation have been paid and any excess membership dues, fees or assessments have been rebated, its assets shall be distributed to **SAFE HARBOR CHILD ADVOCACY CENTER, INC.**, an Internal Revenue Service 501(c)(3) Organization.

DATED the 1st day of September 2006.


JERRY D. KERLEY, INCORPORATOR

lexingtonplace.charter

5057.0000

BY-LAWS OF
LEXINGTON PLACE PROPERTY OWNER'S
ASSOCIATION, INCORPORATED

NAME AND LOCATION. The name of the corporation is LEXINGTON PLACE PROPERTY OWNER'S ASSOCIATION, INCORPORATED, hereinafter referred to as the "Association". The principal office of the corporation shall be located at 222 Parkway, Sevierville, Tennessee 37862, but meetings of members and directors may be held at such places within the State of Tennessee, County of Sevier, as may be designated by the Board of Directors.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Lexington Place Property Owner's Association, Incorporated, its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property known as Lexington Place in the Declaration of Protective Covenants, Conditions and Restrictions, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 3. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of any areas designated or dedicated for a street and any areas reserved for future development and not numbered. Lots shall also include any lot in Lexington Place deeded by a metes and bounds description.

Section 5. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of any obligation.

Section 6. "Developer" shall mean and refer to TRC Properties, LLC., its successors and assigns.

Section 7. "Restrictions" shall mean and refer to the Declaration of Covenants and Restrictions applicable to the Properties recorded in Book 4270, Page 582 in the Office of the Register of Deeds of Sevier County, Tennessee.

Section 8. "Member" shall mean and refer to those persons entitled to membership as an owner of a lot in Lexington Place.

Section 9. "Right of Way" shall mean those rights of way shown on the map of record of Lexington Place and being all roads within said subdivision.

ARTICLE II

MEETING OF MEMBERS

Section 1. Annual Meetings. The first annual meeting of the members shall be held on or before December 7, 2001, and each subsequent regular annual meeting of the members shall be held as set by the Board of Directors each year.

Section 2. Special Meeting. Special meetings of the members may be called at any time by the President or by the Board of Directors, or upon written request of the members who are entitled to vote one-fourth (1/4) of all of the votes of the membership.

Section 3. Notice of Meetings. Written notice of each meeting of the members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least 15 days before such meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Sevier County Tax Assessor's Office, or supplied by such member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 4. Quorum. The presence at the meeting of members entitled to cast, or of proxies entitled to cast, one-half (1/2) of the votes of the membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, or these By-Laws. If however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

Section 5. Proxies. At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his lot.

ARTICLE III

BOARD OF DIRECTORS: SELECTION; TERM OF OFFICE

Section 1. Number. The affairs of this Association shall be managed by a Board of three (3) directors, who need not be members of the Association.

Section 2. Term of Office. At the first annual meeting the members shall elect one director for a term of one year, one director for a term of two years and one director for a term of three years; and at each annual meeting thereafter the members shall elect one director for a term of three years.

Section 3. Removal. Any director may be removed from the Board, with or without cause, by a majority vote of the Members of the Association. In the event of death, resignation or removal of a director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

Section 4. Compensation. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 5. Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

ARTICLE IV

NOMINATION AND ELECTION OF DIRECTORS

Section 1. Nomination. Nomination for election to the Board of Directors shall be made by a Nominating committee. Nominations may also be made from the floor at the annual meeting. The Nominating committee shall consist of a chairman, who shall be

a member of the Board of Directors, and two or more members of the Association. The Nominating committee shall be appointed by the Board of Directors prior to each annual meeting of the members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among members or non-members.

Section 2. Election. Election to the Board of Directors shall be by secret written ballot. At such election the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Restrictions. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

ARTICLE V

MEETINGS OF DIRECTORS

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held semi-annually without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the president of the Association, or by any two directors, after not less than three (3) days notice to each director.

Section 3. Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the board.

ARTICLE VI

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Powers. The Board of Directors shall have power to:

- (a) suspend the voting rights of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed 60 days for infraction of published rules and regulations;
- (b) exercise of the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-laws, the Articles of Incorporation or the Restrictions;
- (c) declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors;
- (d) employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties; and
- (e) to take actions determined necessary by the Association Members to be necessary for the betterment of Lexington Place.

Section 2. Duties. It shall be the duty of the Board of Directors to:

- (a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special

meeting when such statement is requested in writing by one-fourth (1/4) of the members who are entitled to vote;

(b) supervise all officers, agents and employees of this Association and to see that their duties are properly performed;

(c) to collect assessments to maintain the common areas, to wit:

(1) fix the amount of the annual assessment against each lot at least thirty (30) days in advance of each annual assessment period;

(2) send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period; and

(3) foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the owner personally obligated to pay the same.

(d) issue, or to cause an appropriate officer to issue, upon demand by any person a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment.

(e) procure and maintain adequate liability and hazard insurance as the Board of Directors deems to be necessary.

(f) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;

(g) cause common areas of Lexington Place to be maintained.

(h) cause to be maintained the detention area located on Lot ____9____.

ARTICLE VII

OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Officers. The officers of this Association shall be a president, who shall at all times be a member of the Board of Directors, a secretary, and a treasurer, and such other officers as the Board may from time to time by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

Section 3. Term. The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

Section 4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time giving written notice to the Board, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Multiple Offices. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. Duties. The duties of the officers are as follows:

PRESIDENT

(a) The president shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the board are carried out; shall sign all written instruments and shall co-sign all checks.

SECRETARY

(b) The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the Board.

TREASURER

(c) The treasurer shall receive and deposit in appropriate bank account all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks of the Association; keep proper books of account; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the members.

ARTICLE VIII

BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any member. The Restrictions, the Articles of Incorporation and the By-Laws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at reasonable cost.

ARTICLE IX

ASSESSMENTS

As more fully provided herein, each member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest per annum from the date of delinquency at the highest rate allowable by law, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of or abandonment of his lot.

ARTICLE X

AMENDMENTS

Section 1. These By-Laws may be amended, at a regular or special meeting of the members, by a vote of a majority of a quorum of members present in person or by proxy.

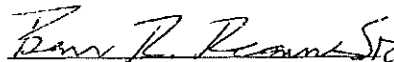
Section 2. In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and in the case of any conflict between the Restrictions and these By-Laws, the Restrictions shall control.


ARTICLE XI

MISCELLANEOUS

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

IN WITNESS WHEREOF, we, being all of the directors of the LEXINGTON PLACE PROPERTY OWNER'S ASSOCIATION, INCORPORATED have hereunto set out hands this 27th day of June, 2001.


Benjamin Reams, Sr.


Charles T. Thompson

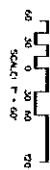

Bruce D. Carr

EXHIBIT E

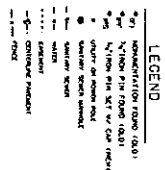
Recorded plat of Lexington Place Subdivision

[illegible]

EXHIBIT G
Preliminary Site Plan



- TOTAL AREA: 27.57 ACRES**



KNOS RIDGE
W. KNOS CREEK ROAD
SENIER CO., TEMPESTER
TAX MAP DIST PANCEL 068.04

[illegible]

DEVELOPER:

JOHN MUIR
MUIR CONSULTING, LLC
PO BOX 2167
Greenville, NC 27603-0267
D 12163 188-1521 / F 12163 188-4267

Official Issue:
DEC. 16, 2011

EX1

JPM NO. 1790

Scott Williams and Associates	5810 TELLER CAC LANE ROCKVILLE, PENNSYLVANIA 17051 PHONE: (717) 521-2922 FAX: (717) 521-2904 E-MAIL: S.WILLIAMS@BAK...COM
	CONSULTING CIVIL ENGINEERING LAND SURVEYING

