

Date: April 29, 2014

Mr. David Foster  
Tennessee Regulatory Authority  
502 Deaderick Street, 4<sup>th</sup> Floor  
Nashville, TN 37243

re: Docket No 14-00006 Data Request dated 4-24-2014

Mr. Foster,

Please find enclosed the response to the data request dated April 24, 2014 in reference to the "Scales Project".

1. List of all pending enforcement actions taken by TDEC against TWS.:

Directors Order OGC11-0078 Cedar Hill

Emergency Order WPC14-0020 Maple Green

2. TWS detailed plans for resolving the issues set forth in each pending enforcement action.

Director's Order OGC11-0078 Cedar Hill

The facility was immediately partitioned to prevent any effluent from entering into the sinkhole feature. A corrective action plan was submitted to TDEC. Legal counsel is currently in the process of reaching an "Amended Order by Consent" with TDEC. TWS has conducted dye trace studies and geological studies on the site by a third party. TWS intends to construct a wetlands treatment facility similar to the one proposed for the Maple Green facility. Once approved plans are accepted by TDEC on Maple Green, TWS will submit those plans for Cedar Hill. TWS intends to combine the Maple Green and Cedar Hill emergency rate case together with the request to the TRA once TWS receives accepted plans from TDEC.

Emergency Order WPC14-0020 Maple Green

Attached is the "Answer to Emergency Order" filed on March 4, 2014. In that response it identifies the events and the actions taken by TWS to resolve the issues. In addition is "attachment A". The attachment gives you a timeline of events and interactions



851 Aviation Parkway  
Smyrna, TN 37167

with TDEC on submitting revised Engineering plans to replace the existing system. As of today, TWS has received no approved plans from TDEC. TWS received preliminary approval from First Bank on February 21, 2014 for funding to construct the new system. TWS was advised by counsel and TRA staff that a petition for an emergency rate case could not be presented to the Authority until TWS received approved plans from TDEC. TWS is waiting for that approval from TDEC prior to filing the petition.

Sincerely,

Charles Hyatt

**STATE OF TENNESSEE  
DEPARTMENT OF ENVIRONMENT AND CONSERVATION**

**IN THE MATTER OF:**

**TENNESSEE WASTEWATER SYSTEMS,  
INC. AND ADENUS SOLUTIONS GROUP,  
LLC, ADENUS OPERATIONS, LLC**

**Respondents.**

**DIVISION OF WATER  
RESOURCES**

**Case No. WPC14-0020**

**ANSWER TO EMERGENCY ORDER**

Tennessee Wastewater Systems, Inc. ("TWS"), Adenus Solutions Group, LLC and Adenus Operations, LLC submits this Answer to the Emergency Order issued by the Commissioner of the Tennessee Department of Environment and Conservation on February 5, 2014.

TWS holds State Operating Permit (SOP) No. SOP-01028 for its Maple Green Reclamation Facility in Coopertown, Robertson County, Tennessee. The facility is operated by Adenus Operations, LLC. The SOP allows the operation of septic tanks, effluent collection system, deep cell lagoon, and drip irrigation system serving homes and businesses in the area. Tennessee Wastewater Systems applied for the SOP on August 30, 2001 and, on September 10, 2001, received a letter from TDEC stating that the site appeared suitable. Preliminary engineering plans were submitted on November 6, 2001 and revised on December 31, 2001 to reflect recommendations in Geotek, Inc.'s geotechnical study of December 17, 2001. On

February 6, 2002, TDEC approved the final plans and specifications and gave permission to construct. On March 6, 2007, TDEC certified that construction of the effluent lagoon was in compliance.

On February 1, 2014 Adenus Operations personnel responded to an overnight alarm indicating a low level in the treatment lagoon. The on-call personnel reviewed the alarm at 8:00 a.m. and arrived at the site at 9:00 a.m. Upon arrival at the site, Adenus Operations personnel observed multiple collapses in the Southeast corner of the lagoon. Adenus Operations personnel reported the incident to the Division of Water Resources (the "Division") by email at 4:00 p.m. on February 1, 2014. The incident constituted an upset within the meaning of Paragraph II. C. 4. of the SOP and was unavoidable.

Respondents took immediate steps to prevent additional wastewater from entering the sinkholes. A large earthen berm was constructed in the competent portion of the deep cell lagoon for that purpose which successfully stopped additional flows into the sinkholes. Construction to strengthen and build a larger levee continued for a week. The berm was constructed to contain approximately 2.5 million gallons at a lagoon elevation of 6 feet, allowing 2 feet of freeboard.

TDEC issued a Temporary Water Contact Advisory on February 2, 2014 and lifted it on February 5, 2014 after samples taken did not reflect any threat to the public. TWS engaged Geotek on or about February 4, 2014 to evaluate whether any maintenance issues or location of the drip lines may have contributed to the collapse. In a letter dated February 19, 2013, Geotek concluded, "Based on our observations and the above information, it is our present opinion that the sinkholes formed due to natural karst-sinkhole activity unrelated to any alleged maintenance issues or to the location of the drip lines."

In the meantime, TWS and Adenus Operations personnel continued to monitor the lagoon and met on several occasions with TDEC officials to address the concern about the continued use of the lagoon. The influent to the lagoon is now flowing into an improvised aeration tank with the tank effluent discharging to the uncompromised portion of the lagoon. The lagoon itself is also being aerated.

On February 14, 2014, TWS, through its construction group, Adenus Solutions Group, submitted a Preliminary Engineering Report for the Remediation and Modification of the Maple Green Reclamation Facility. To eliminate concern with the continued use of the deep cell lagoon, TWS plans to construct a 35,000 gallon per day Free Water Surface wetland treatment system on the existing site and remediation of the current lagoon to establish the proper cover vegetation to prevent soil erosion. The construction is estimated to take 5 months and cost approximately \$160,000.00. This solution is subject to approval by the Tennessee Regulatory Authority and financing for the project.

In further response to the Emergency Order, Respondents would show as follows:

1. Respondents admit the allegations in Paragraph I;
2. Respondents admit the allegations in Paragraph II, but would show service of process for this action only should be through the undersigned.
3. Respondents deny the allegations in Paragraph III. Adenus Operations, LLC is the operator under the Permit. Adenus Solutions Group, LLC is a construction company. Service of process of this action only should be through the undersigned.
4. Respondents admit the allegations in Paragraph IV. Service of process for this action only shall be through the undersigned.

5. Respondents admit that the Commissioner with the concurrence of the Governor has the authority to issue emergency orders, but would show that the statutory authority speaks for itself and would deny any language inconsistent with the express language of the regulatory and statutory citations.

6. Respondents admit the allegations in Paragraph VI of the Order.

7. Respondents generally admit the allegations in Paragraph VII. Tennessee Wastewater Systems applied for the SOP on August 30, 2001 and, on September 10, 2001, received a letter from TDEC stating that the site appeared suitable. Preliminary engineering plans were submitted on November 6, 2001 and revised on December 31, 2001 to reflect recommendations in Geotek, Inc.'s geotechnical study of December 17, 2001. On February 6, 2002, TDEC approved the final plans and specifications and gave permission to construct. On March 6, 2007, TDEC certified that construction of the effluent lagoon was in compliance. Respondents had installed temporary drip lines for purposes of establishing vegetation. These temporary drip lines functioned in the same manner as the originally designed drip lines.

8. The Respondents generally admit the allegations in Paragraph VIII, but do not have knowledge of communication with the Tennessee Emergency Management Agency.

9. The Respondents understand TWRA responded to the incident and talked with Adenus Operations personnel, but have no knowledge of the matters identified by TWRA.

10. In response to the allegations in Paragraph X, Respondents began immediately to construct an earthen berm to stop the flow of wastewater into the compromised area. This construction activity continued until the berm was adequately containing all flows.



11. In response to the allegations in Paragraph XI, Respondents admit that they reported the incident, but that the report speaks for itself. However, Respondents consider the incident an upset within the meaning of Paragraph II. C 4 of the SOP rather than a bypass.

12. Respondents admit the allegations in Paragraph XII. Respondents worked diligently to stabilize the situation and improve the berm.

13. Respondents admit the allegations in Paragraph XIII.

14. In response to the Order in Paragraph XIX, Respondents took immediate action to comply with each paragraph. After consultation with the Commissioner, Respondents installed an aeration tank which aerates the effluent prior to discharge into the lagoon. The lagoon is also aerated. Respondents began a weekly sampling protocol by sampling for BOD5 to assure that the effluent receives effective secondary treatment. Permission was granted to continue to use the temporary drip lines. In addition, the Respondents have submitted preliminary engineering plans that will eliminate the lagoon entirely in favor of a Free Water Surface wetland and reclaiming the lagoon.

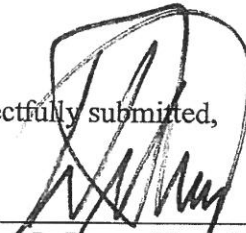
The Respondents expect to pay all reasonable costs associated with the investigation of the release and oversight as stated in Paragraph III of the Order. However, at present, they have not received any invoice for such expenses.

NOW, HAVING FULLY ANSWERED, the Respondents accept the Emergency Order and its requirements, but appeal the Emergency Order to preserve their rights to challenge any requirements that may be unreasonable, arbitrary and capricious or beyond the scope of authority of the Department and the Emergency Order. Respondents also request that Adenus Solutions Group be dismissed from this action as they are not a proper party to this proceeding.

Respondents further reserve any rights they may have to challenge any future action that may result from this matter. Respondents understand the gravity of this unavoidable incident and will continue to work with the Division to assure prompt and effective resolution to all issues.

Dated: the 4th day of March, 2014

Respectfully submitted,



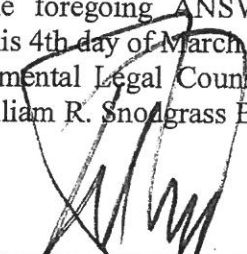
---

William L. Penny (Sup. Ct. No. 009606)  
STITES & HARBISON PLLC  
SunTrust Plaza  
401 Commerce Street  
Suite 800  
Nashville, TN 37219-2490  
Telephone: (615) 782-2200

*Counsel for Respondents*

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing ANSWER AND PETITION FOR HEARING was served by hand delivery, on this 4th day of March, 2014 upon E. Joseph Sanders, General Counsel, and Devin Wells, Environmental Legal Counsel, Tennessee Department of Environment and Conservation, 2<sup>nd</sup> Floor, William R. Snodgrass Bldg., 312 Rosa Parks Avenue, Nashville, Tennessee 37243.



---

William L. Penny

16974N:140154:1041969:1:NASHVILLE



## **Maple Green Timeline Update**

### **Event**

2/1/2014 Collapse of SE corner of Lagoon.

### **Build temporary berm**

2/1/2014 - 2/8/2014

### **Emergency Order**

2/5/2014 Emergency Order is issued

### **Commissioners meeting**

2/6/14 Commissioners meeting, Explain we intend to remove the Lagoon and go to a free surface flow wetland.

### **Introduce aeration**

2/12/2014

### **Preliminary Engineering report**

2/14/2014 Meeting With DWR Director and Deputy Director

### **Initial Response Letter From DWR to Preliminary Engineering Report**

2/20/2014

### **Submit Wetland design**

3/10/14 Plans Electronically submitted to TDEC

### **Follow up letter on Preliminary Engineering Report From DWR**

3/18/2014

### **meet with BH to discuss TDEC Questions**

3/25/14 8:00 AM to hear TDEC sizing concerns.

### **Below Treatment requirements:**

Beginning March 11, BOD5 results appear to consistently be below 45mg/L

### **Notified TDEC of intent to go to Drip with effluent.**

March 24, 2014

**Respond to TDEC questions in E-mail**

3/26/14 E-mail response demonstrating the modeling calculations used.

**Email intent to reduce sampling**

3/31/2014 Sent Notice that on April 7 we intend to reduce sampling should results received the week of 3/31 indicate adequate treatment.

**Meet with Brad Harris, Bob O'Dette, Fali Kapadia, Allen Rather**

4/14/14 TDEC Requested Examples again. They gave their numbers and the equation they are currently using.

Discussed whether the size was the only hold up. BH: No, there are multiple questions, they have just focused on sizing. I explained that their numbers gave a very unrealistic 50 Day HRT. Brad said he felt the numbers supported that.

**Sent Email identifying another error in the calculation used by the state.**

4/23/14 Sent an E-mail explaining the equation used by the state is giving them the unusual units of gallon/feet rather than square feet for surface area.

**Received response from TDEC arguing the validity of their numbers.**

4/25/14