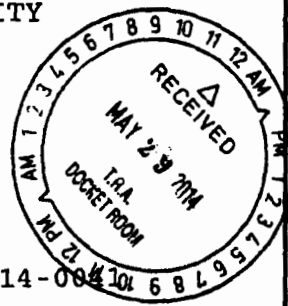


BEFORE THE TENNESSEE REGULATORY AUTHORITY



IN RE:)
)
SHOW CAUSE PROCEEDING AGAINST)
TENNESSEE WASTEWATER SYSTEMS,)
INC. FOR MATERIAL)
NON-COMPLIANCE AND/OR)
VIOLATION OF TENN. COMP. R.)
& REGS. 1220-04-13, et seq.)

DOCKET NO. 14-084101

* * * * *

DEPOSITION OF MIKE WALLACE

Monday, May 12th, 2014

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TRUESDEL & RUSK
Registered Professional Reporters

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2 By Mr. Walker

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Truesdel & Rusk

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D E P O S I T I O N

The deposition of MIKE WALLACE, taken at the request of Tennessee Wastewater Systems, for purposes of discovery, pursuant to the Tennessee Rules of Civil Procedure, on the 12th day of May, 2014, at the offices of Concord Title, 10690 Murdock Drive, Knoxville, Tennessee, before Ginger Truesdel, Licensed Court Reporter #003 and Notary Public at Large for the State of Tennessee.

It is agreed that the deposition may be taken in machine shorthand by Ginger Truesdel, Licensed Court Reporter #003 and Notary Public for the State of Tennessee, and that she may swear the witness and thereafter transcribe her notes to typewriting; and that all formalities touching caption, certificate, filing, transmission, etc., are expressly waived.

It is further agreed that all objections except as to the form of the questions are reserved to on or before the hearing.

Truesdel & Rusk

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1 MIKE WALLACE,
2 called as a witness at the instance of Tennessee
3 Wastewater Systems, having been first duly sworn,
4 was examined and deposed as follows:

5 (Proceedings commenced at 1:09 p.m.)

6 EXAMINATION

7 BY MR. WALKER:

8 Q. Now, we're going to do the standard
9 stipulation, which is that all objections except as
10 to the form of the question are reserved for the
11 hearing. Since your lawyer is not here, that
12 probably doesn't matter.

13 A. Okay.

14 Q. But the witness has been sworn.

15 Did Don talk to you about whether
16 or not you want to read and sign the deposition
17 before it is submitted or not?

18 A. We did not discuss that.

19 Q. Well, it's your choice. You can
20 wait -- she can either send you the deposition after
21 it's over and you can review it and sign it --

22 A. Yes.

23 Q. -- or you can waive the signing
24 part. Now, I will only mention that it's -- we are
25 in a little bit of a time constraint here, because

1 the TRA hearing is --
2 MR. BOZARTH: June 10th.
3 A. June 10th.
4 Q. June 10. So it's entirely up to
5 you. Do you want to see the deposition and sign it?
6 A. I don't necessarily need to see the
7 deposition.
8 MR. BOZARTH: And if you get to the
9 end of it and you want to change --
10 MR. WALKER: Change your mind.
11 MR. BOZARTH: -- your mind, you
12 can.
13 MR. WALKER: Of course. Of course.
14 THE WITNESS: Well, in all
15 depositions, I've always gotten a copy
16 before the court system and I've always
17 gotten a copy of the deposition.
18 MR. WALKER: Well, why don't we do
19 that, then? Why don't you just give him a
20 copy so he can sign it before it's
21 submitted. I think that would be more fair.
22 THE WITNESS: Okay.
23 BY MR. WALKER:
24 Q. State your name, address, phone
25 number and what you do for a living.

1 A. Okay, my name is Franklin D.
2 Wallace. I live at 190 Powers Lane in Jacksboro,
3 Tennessee. I am the executive secretary and general
4 manager of the Caryville-Jacksboro Utility
5 Commission.

6 Q. What's your phone number?

7 A. My phone number is -- my work phone
8 number is (423)562-9776. My home phone number is
9 (423)562-1671.

10 Q. And I believe you said you have had
11 your deposition taken before?

12 A. Yes.

13 Q. So you know how a deposition works?

14 A. Yes, sir.

15 Q. And I'm going to ask you a series
16 of questions and you are under oath --

17 A. Yes, sir.

18 Q. -- during that. And if I ask you
19 anything that you don't understand, you will tell me
20 and I will reask the question.

21 A. Yes.

22 Q. It's very important that you
23 understand what my question is and if I don't state
24 it right, you just tell me and I'll rephrase it.

25 A. Yes, sir.

1 Q. And if you need to take a break any
2 time, just let me know --

3 A. Okay.

4 Q. -- and we'll stop.

5 Okay. Mr. Wallace, just tell me
6 from the beginning how you or how Caryville and
7 Jacksboro came to be involved with Villages at
8 Norris Lake.

9 A. The Villages at Norris Lake
10 requested that the utility become involved in the
11 wastewater as the wastewater at that site -- it had
12 no wastewater, and we are a big proponent of not
13 having wastewater sewage emptied into Norris Lake.
14 And they talked about the type of system they'd like
15 to have.

16 And I can back up further still.
17 The basin office in Knoxville had approached us when
18 this project first began years ago about perhaps
19 doing this type of system. We're already doing
20 three in the community. We are doing Ray Allen, we
21 are doing Deerfield, and Deer Hill in the county in
22 that same lake area. So they knew we had experience
23 and thought that should be the way that we should do
24 that.

25 Q. When you say "this type of system,"

1 would you please --

2 A. Yeah, this is a nondischarge
3 system.

4 Q. Right.

5 A. It's a drip field type system.

6 Q. And when you say you were requested
7 to become involved, who actually made the request?

8 A. There was a partner in this firm,
9 used to be Steve Williams, Steve and Boog Potter
10 came to our office and asked if we'd be interested
11 in doing that.

12 Q. Okay. Do you remember about when
13 that was?

14 A. No, sir, I can't tell you the
15 dates, but I will tell you, I serve on the Economic
16 and Community Development Board in Campbell County.
17 It is a seven member executive board and a 15 -- 18
18 member full board that does this sort of thing. And
19 from a utility standpoint, I represent the
20 wastewater side of that on that board.

21 It's -- it's got the county majors,
22 all five city mayors and myself and the manager of
23 LaFollette sit on that board. So that's why we have
24 a vested interest in it.

25 Q. Now, Villages at Norris Lake --

1 A. Yes, sir.

2 Q. -- how far is that from your
3 service area?

4 A. Well, from our service area, it is,
5 well, actually, nautical miles to get there, I can't
6 tell you how many miles. I've been there a number
7 of times, but I didn't look to see how many miles it
8 was, quite honestly.

9 Q. But it's outside your service area?

10 A. Yes, sir, it is.

11 Q. The other sites that you mentioned
12 where you are using a nondischarge system, are they
13 also outside your system?

14 A. They are all outside, not far from
15 this. They are all outside and all permitted and
16 are operating within the rules of the permit.

17 Q. So, are these also developments --

18 A. Yes, sir.

19 Q. -- for vacation homes primarily,
20 like Villages at Norris Lake?

21 A. Yes, sir.

22 Q. So they are similar kinds of
23 projects like Villages at Norris Lake?

24 A. Uh-huh.

25 Q. Okay. Well, you mention those

1 three names again. Which one is the largest of the
2 current systems approximately?

3 A. Ray Allen. It has -- it also has
4 condominiums. It's quite large.

5 Q. How many customers are there
6 approximately?

7 A. I can't tell you how many units are
8 there because we just actually just dealt with the
9 wastewater only. We don't deal with the --

10 Q. Understood.

11 A. We have no relationship with the
12 customer.

13 Q. But you don't know how many --

14 A. How large.

15 Q. -- approximately how many
16 wastewater customers are there? Several hundred,
17 fifty?

18 A. All together, there's over 100
19 there.

20 Q. Okay. And how long have you been
21 serving them?

22 A. We've been serving them now for
23 some six plus years.

24 Q. Okay. Now, is there a homeowners
25 association at Ray Allen?

1 A. No, it's owned by the developer.

2 Q. Oh, I see.

3 A. All of these are owned by the

4 developer.

5 Q. I see. I see.

6 A. We own the permit.

7 Q. Understood.

8 So the developer actually owns the

9 facilities?

10 A. Yes.

11 Q. Okay. And who collects money from

12 the customers?

13 A. They do.

14 Q. The developer does?

15 A. Yes, sir.

16 Q. Okay. Do you know how that rate is

17 determined?

18 A. No, sir.

19 Q. If a customer didn't pay, would you

20 send somebody out there to turn the water off or

21 would the developer handle that?

22 A. The developer would do that.

23 Q. Who maintains the system?

24 A. They maintain it.

25 Q. The developer does?

1 A. Uh-huh.

2 Q. Okay. Do you have a contract with
3 the developer?

4 A. We do not have a contract with the
5 developer.

6 Q. Okay. Remember, I'm talking about
7 Ray Allen.

8 A. Ray Allen, that's correct.

9 Q. I'm using that as an example,
10 because I figure that how Ray Allen operates might
11 be an indication of how you would operate at
12 Villages at Norris Lake.

13 A. Yes, sir.

14 Q. That's why I'm asking these
15 questions.

16 A. Yes, sir.

17 Q. Let me ask you this.

18 A. Yes, sir.

19 Q. Do you go out to Ray Allen, do you
20 send your engineer out there periodically to inspect
21 it?

22 A. Yes, sir.

23 Q. How often?

24 A. We do -- we do the quarterly
25 reporting, it's every three months, but we send our

1 people out there weekly.

2 Q. Is that because TDEC requires
3 weekly inspections?

4 A. No, it's because we don't want to
5 have something go wrong, and we stay in close
6 contact with the owner, with the -- and the one that
7 does that is Mark LeJeune.

8 Q. Who works for you?

9 A. No, sir. He is the son-in-law of
10 the developer --

11 Q. Ah, I see.

12 A. -- Mark LeJeune.

13 Q. I see. So, he's your --

14 A. I go to church with him.

15 Q. -- he's your contact with the
16 developer.

17 A. Absolutely.

18 Q. Okay.

19 A. Paul Fields is the developer.

20 Q. Now, does the developer pay you to
21 do those weekly inspections?

22 A. No, sir.

23 Q. Does he pay you to file the
24 quarterly reports?

25 A. Yes, sir.

1 Q. How does he pay -- how much does he
2 pay you?

3 A. Well, when those reports are --
4 when those reports are filed, the amount are gotten
5 back by the engineer that does that, and we compile
6 them and they would pay those annually. Those
7 are -- those reports are filed are about \$3,500 a
8 quarter -- I mean, \$350 a quarter.

9 Q. Per quarter?

10 A. Uh-huh.

11 Q. So the reports are done by an
12 engineer?

13 A. Yes, IRTECH.

14 Q. Do you to you spell that?

15 A. I-R-T-E-C-H. IRTECH Engineering.

16 Q. And IRTECH is then paid by the
17 developer?

18 A. Be paid by the utility. And the
19 utility is paid by reimbursement.

20 Q. Okay. So it is a pass-through
21 or --

22 A. Yes, pass-through.

23 Q. Okay. Other than filing the
24 quarterly reports and -- well, the quarterly
25 reports, do you actually sign the quarterly reports?

1 A. The quarterly report is actually
2 signed by IRTECH, but I review that prior to -- I
3 get the same documentation and go over them to make
4 sure that there will not be an NOV.

5 Q. But you don't -- okay.

6 A. It's signed by the engineer.

7 Q. Do you get paid for reviewing it?

8 A. No, sir.

9 Q. Okay.

10 A. That's part of my job.

11 Q. Okay. Other than the quarterly
12 report, which you review --

13 A. Yes.

14 Q. -- and the weekly inspections, now,
15 the inspections are done by your engineer?

16 A. Yes. Well, it's not our engineer.
17 We have a pretreatment coordinator, so this is a
18 pretreatment process to make sure that nothing --
19 everything operates within the permit.

20 Q. So he goes out there once a week?

21 A. Yeah, we go out there. Now,
22 there's times that we don't go once a week when I
23 know everything's operating correctly, but we do go
24 periodically to make sure that we don't have an
25 issue.

1 Q. Okay. Do you ever go out there
2 yourself?

3 A. Yes, sir.

4 Q. How often?

5 A. I'm out there about every six
6 months. With my duties, I just can't go.

7 Q. Sure, of course.

8 A. Of course.

9 Q. Do you get paid for going out
10 there?

11 A. No, sir. It's oversight.

12 Q. Okay. How does -- well, obviously,
13 as you said, is any money paid by either the
14 customers or the developer to CJUC in order for you
15 all to do these inspections or look at the reports
16 or for any purpose?

17 A. Those money are reimbursed or like
18 you say, pass-through funds that would be paid back
19 to the utility.

20 Q. So, let me -- other than the
21 pass-through, do they pay you anything?

22 A. No, sir.

23 Q. Now, why do you do it for free?

24 A. The reason we do that is to make
25 sure that that permit, we own the permit, make sure

1 it doesn't have an NOV. It is not a burden. It is
2 a fact that we don't want to see the discharge of
3 the waste into Norris Lake.

4 Q. Sure. So, does the developer hire
5 someone to do the maintenance and --

6 A. Absolutely.

7 Q. Who do they hire, do you know?

8 A. Have no idea.

9 Q. Okay. Now, you would be legally
10 responsible --

11 A. Absolutely.

12 Q. -- if there were a problem?

13 A. Yes, sir.

14 Q. Because you have the SOPs in your
15 name?

16 A. That's right.

17 Q. And do you have an easement at Ray
18 Allen?

19 A. At Ray Allen, there's a dedicated
20 easement area, but we do not have a perpetual
21 easement like this.

22 Q. Okay. What kind of easement do you
23 have?

24 A. Ingress and egress.

25 Q. I see.

1 So you don't actually own --

2 A. No, sir.

3 Q. -- the treatment facilities --

4 A. No, sir.

5 Q. -- at Ray Allen?

6 A. No, sir.

7 Q. -- nor do you have a perpetual

8 easement for the treatment facilities?

9 A. No, sir.

10 Q. Your easement is only to go in and

11 out?

12 A. Yes, sir.

13 Q. Okay. You mentioned that there are

14 three and Ray Allen is one of them. Which one was

15 the first one that you did?

16 A. Ray Allen.

17 Q. Ah.

18 When you talked -- who did you talk

19 to at TDEC about providing service at Ray Allen; do

20 you remember?

21 A. No, sir, I don't remember. We did

22 that through IRTECH. IRTECH was the engineer.

23 Q. Have you personally ever had any

24 discussions with anyone at TDEC about this

25 arrangement where your name is on the SOP, but

1 you're not actually the operator of the system?

2 A. Yes, the basin office in Knoxville.

3 Q. What is the basin office?

4 A. Basin, it's -- it's the -- well,

5 John West is the director and Natalie Harris is

6 actually the manager.

7 Q. Okay.

8 A. But the --

9 Q. Is that part of TDEC? Excuse me.

10 A. Yes, that's part of TDEC.

11 Q. I did not know that.

12 What is the basin?

13 A. The basin, you have a basin in

14 Memphis, you have a basin in Nashville, you have a

15 basin in Knoxville and you have a basin in

16 Chattanooga.

17 Q. And you said John West and Natalie?

18 A. Uh-huh.

19 Q. What's Natalie's last name?

20 A. Natalie Harris. She is actually

21 manager. But the gentleman who came and talked to

22 me about it was Woody Smith, who works for John

23 West. He's an environmentalist.

24 Q. So, was it Mr. Smith who suggested

25 that this would be appropriate for the SOP to be in

1 your name --

2 A. That is correct.

3 Q. -- but that you wouldn't actually
4 be operating the system?

5 A. Uh-huh. Yes, that's correct.

6 And you're asking me if that was
7 the only person I talked to?

8 Q. Well, actually, I would be
9 interested in anyone else at TDEC that you have
10 talked to about this arrangement, because I guess --
11 is there anyone else you recall talking to about
12 getting the SOP in your name, but having someone
13 else operate it?

14 A. I have after the fact, I have, but
15 that's who we talked about originally.

16 Q. Sure. Who have you talked to after
17 the fact?

18 A. I've had a telephone conversation
19 with Wade Murphy. He and IRTECH, met with Tim Slone
20 with IRTECH, and we talked about that fact and that
21 that arrangement has worked nicely.

22 We have not -- when we found out
23 that there was a potential NOV, we received that and
24 we got 10 days to answer that. And the owner has
25 always done that, corrected that minor issue, and we

1 have gotten documentation back to the state. And
2 that's what's happened on each case. We've not had
3 an issue.

4 Q. Now, I don't want to go into as
5 much detail --

6 A. Yes, sir.

7 Q. -- on the other two as we did on
8 Ray Allen --

9 A. Okay.

10 Q. -- but is it safe to say that the
11 other two operate in the same way?

12 A. In the same way. Deer Hill is just
13 to the left side of Ray Allen (indicating) and it is
14 housing with a drip field and those things.

15 The Peninsula is just that, it's a
16 peninsula and it serves housing, and that's what it
17 has.

18 Q. Okay. And these are smaller than
19 Ray Allen, both of them?

20 A. Yes, uh-huh.

21 Q. But in each one, is it the
22 developer runs it, but your name is on the SOP?

23 A. That's correct.

24 Q. And do you have a contract with the
25 developer?

1 A. Not a contract with the developer.
2 Now, I'll share with you, developers do ask and we
3 do talk to the state about people, who actually do
4 this on behalf -- that the state recommends that
5 they go out and work with them.

6 So this is something that's done --
7 this is not the first time this has been done
8 because the state is familiar and, in fact, have
9 given me names to share with those people who need
10 to operate those.

11 Q. And by "names," do you mean
12 developers or people that the developer would hire
13 to operate?

14 A. Contract, that the people that the
15 developer would hire, yes, sir.

16 Q. Got you.

17 Now, I believe I asked you or maybe
18 I didn't --

19 A. Okay.

20 Q. -- do you know who the developer
21 has hired at Ray Allen to operate this system?

22 A. No, sir, I do not.

23 Q. Do you know who the developer has
24 hired at Deer Hill or Peninsula?

25 A. No, sir.

1 Q. Do you know who Emerson Properties
2 has hired to manage the system at the Villages at
3 Norris Lake?

4 A. I have been involved at a meeting
5 at our conference room at our municipal building
6 where they talked about potential people, and they
7 have sat down and worked some of those things out.
8 Where that's at at this process at this point, I do
9 not know.

10 Q. Mr. Wallace, do you ever lose sleep
11 thinking about the fact that an operator that you
12 don't know is operating a system and if he makes a
13 mistake, Caryville-Jacksboro would be the one that
14 would pay the fine?

15 A. To us, it would be -- in a fine
16 that would have to be paid, of course it would be a
17 pass-through fine and we would do that. But we have
18 found that they are operating -- if we found that
19 they were not operating correctly, then, that's
20 something we would speak to the owner about.

21 Q. The developer?

22 A. The developer. But at this point
23 we find that it's a beautiful arrangement.

24 Q. But unless I'm missing something,
25 Caryville-Jacksboro doesn't get any money for doing

1 this?

2 A. Technically, in the end we get
3 reimbursed.

4 Q. But you don't make any money?

5 A. At this point we haven't -- we
6 haven't initiated it -- at a point it will, but at
7 this point, we are not making any money, but --

8 Q. When you say "reimbursed," you're
9 not reimbursed for your employee who goes out there
10 once a week, are you?

11 A. The reimbursement of anything that
12 we do with anyone is cost plus 15 percent.

13 Q. But, like I said, you're not --

14 A. No, sir.

15 Q. -- reimbursed for the guy who goes
16 out --

17 A. Not at this point.

18 Q. And you're not reimbursed for your
19 time --

20 A. Absolutely not.

21 Q. Okay. So why do you do it?

22 A. Well, sitting on the Economic
23 Community Development Board and knowing how much
24 Norris Lake means to Campbell County, and the
25 economy of Campbell County, that is why we do that.

1 Q. Are you saying that if you didn't
2 do it, these developments would not get built?

3 A. At this point, there is a -- that
4 is a real -- that is a real assumption, that they
5 would not be developed.

6 Q. Why not? What do you bring to the
7 table that some other utility couldn't bring to the
8 table?

9 A. Well, because we're -- where we're
10 strategically located and that it isn't in our
11 backyard, the fact that no other entity within
12 Campbell County has chosen to assist in any way,
13 that is the reason we do that.

14 Q. Okay.

15 A. I have also been told that by the
16 basin office in Knoxville. In fact, we're the only
17 utility that takes waste, residential waste.

18 Q. Would it be fair to say that the
19 basin office has encouraged you to do this?

20 A. By their coming to talk to us
21 initially, I think that, yeah, yes, sir, but they
22 have not demanded that we do it.

23 Q. Of course not. But when you say
24 coming and talking to you in the first place, I
25 thought you were first -- oh, I see, that was on the

1 Ray Allen project?

2 A. No, Woody -- no, that was initially
3 when the former developer of this project --

4 Q. Right.

5 A. -- years ago, which none of these
6 others were developed --

7 Q. Ah, okay.

8 A. -- that's when Woody Allen came and
9 talked to . . .

10 Q. And said would you all become
11 involved?

12 A. Correct.

13 Q. I thought -- you said Steve came to
14 our office in connection with this project. That
15 was a lawyer from here. That was something
16 different, right?

17 A. No, sir. IRTECH Engineering first
18 approached the utility about this client, and then
19 Boog Potter and Steve Williams came to the office
20 and talked to -- they also brought -- the company's
21 logo is SOS. They were -- they're out of Cleveland,
22 Tennessee. They're also an engineering company.
23 And those folks came at the same time, and there was
24 a meeting -- conference room meeting about the
25 possibility of doing that.

1 Q. Was that before or after Woody
2 Smith --

3 A. After.

4 Q. That was after, oh, okay.

5 A. This was -- when this project
6 became a reality, this second project of Boog
7 Potter's.

8 Q. So when Mr. Smith first approached
9 you about doing it, was the original developer --

10 A. Yes, sir.

11 Q. -- still there?

12 A. Yes, sir, that's when the original
13 developer was there.

14 Q. Do you happen to know why the
15 original developer didn't make this arrangement with
16 you and chose Tennessee Wastewater instead?

17 A. I have no idea. I do not know, no,
18 sir.

19 Q. Okay. But you did not ever meet
20 with the original developer, did you?

21 A. No, sir. To my knowledge, no.

22 Q. Okay. But Mr. Smith came to you
23 and suggested this kind of arrangement for the
24 original development, Villages at Norris Lake,
25 right?

1 A. He came with a representative of
2 that firm, Mr. Smith did.

3 Q. I see. I see.

4 Does Mr. Smith still work at the
5 Knoxville basin?

6 A. To my knowledge.

7 Q. Again, just to be clear, I think I
8 understand how the business model works as we have
9 talked about in regard to Ray Allen, but let's just
10 quickly go over the Villages at Norris Lake.

11 If you were to become the
12 wastewater operator for Villages at Norris Lake,
13 would you anticipate operating it the same way that
14 you operate Ray Allen and the other two
15 developments?

16 A. No, sir, and I tell you why,
17 because they have already approached someone to
18 operate it by contract.

19 Q. Who's "they"?

20 A. Boog Potter and his company.

21 Q. Right.

22 A. And so they have talked to those,
23 in my presence, I'll put that.

24 Q. Right.

25 A. And they had worked with the

1 company named IRTECH. Remember, there's engineering
2 in between the utility and the developers. But it
3 happens to be the same engineer, IRTECH.

4 Q. Okay, but in terms of the actual
5 operation of the system --

6 A. Yes, sir.

7 Q. -- would it be the same way that
8 Ray Allen has done? In other words, would you allow
9 the developer -- well, let's just go through it one
10 step at a time.

11 A. Yes, sir.

12 Q. With Villages at Norris Lake, would
13 you collect rates from the customers?

14 A. We would not collect the rates.
15 We've discussed that.

16 Q. Would you set the rate?

17 A. We would not set the rate.

18 Q. And where would the money go?

19 A. With the contract with -- the
20 contractor, who has the contract with either the
21 homeowners association and/or Boog Potter would make
22 those arrangements.

23 Q. Okay. So you would not construct
24 the system?

25 A. No, sir.

1 Q. You would not maintain the system?

2 A. No, sir.

3 Q. You would not operate the system?

4 A. No, sir.

5 Q. What would you see your involvement
6 as being?

7 A. What our involvement would be to
8 oversee the reporting, and at the same time make
9 sure that the permit was adhered to and do the
10 interim inspections that we do to make sure that
11 would happen as a part of the contract that they
12 have with whomever this contractor is.

13 Q. And you would not expect to get
14 paid other than out-of-pocket reimbursement?

15 A. Out-of-pocket reimbursement at cost
16 plus 15%.

17 Q. But you would not otherwise
18 expect to be paid?

19 A. Oh, absolutely not, no, sir.

20 Q. Nor would you put any of the --
21 your money into running the system?

22 A. No, sir.

23 Q. Okay. So, if something breaks or a
24 repair is needed, it's up to the developer and
25 whoever he contracts with?

1 A. We caution them that they have to
2 have those funds available to do that.

3 Q. How do you know that they do? Do
4 you ask to see the bank statement or do you ever get
5 concerned that the developer might say "oh, sure,
6 I've got the money"?

7 A. No.

8 Q. I've never heard a developer say
9 that.

10 A. Neither have we.

11 Q. Okay. But, seriously, do you just
12 kind of have to take their word for it?

13 A. They have to escrow those funds.

14 Q. Oh, really?

15 A. Yeah. That discussion took place
16 in that meeting at the conference table with IRTECH.

17 Q. Do you know the size of the escrow
18 fund that they're talking about? And I'm talking
19 about --

20 A. No, sir.

21 Q. -- Villages at Norris Lake. Okay.

22 A. It will have to be part of the
23 contract.

24 Q. Which contract?

25 A. The contract they sign with the

1 company that's going to . . .

2 Q. Okay. And how do you know that
3 they'll pick a company that knows what they're
4 doing?

5 A. In our involvement thus far, the
6 company that they are looking at, it's the same
7 company that we do a lot of business with at the
8 utility.

9 Q. What's the name of that company?

10 A. SOS.

11 Q. SOS. Thank you.

12 A. Jack Bransfield is the company
13 president.

14 Q. Okay.

15 A. From Cleveland, Tennessee.

16 Q. Have you actually -- have you been
17 to Villages at Norris Lake?

18 A. Yes, sir, I have.

19 Q. Why?

20 A. I went out there -- I met the state
21 out there when we went out and did the drip field
22 line, in that area. I have driven it all, I've
23 walked it all to see what it was going to look like,
24 so at the end of the day when it was done, we would
25 know whether it would work or not before we agreed

1 that we would do that. I went with permission from
2 our board.

3 Q. But, once again, you didn't get
4 paid for that?

5 A. No, sir. I'm the pretreatment
6 director for our utility and that's my job to do
7 that.

8 Q. I thought you were the president.

9 A. No. No, we have a board.

10 Q. You're the executive director?

11 A. Executive director.

12 Q. How many employees do you have?

13 A. We have 20 employees.

14 Q. Okay. You also provide water in
15 your service area?

16 A. Yes, sir.

17 Q. What is the average water and sewer
18 bill for a residential customer in your service
19 area; do you know?

20 A. Average water and sewer bill in our
21 area, the average user uses 3200 gallon a month, and
22 their average bill is less than \$40 for water, less
23 than \$40 for sewer. Less than \$80.

24 Q. Okay, under \$80.

25 And do you divide that out on the

1 bill between water and sewer?

2 A. Yes, sir, we have water, tap,
3 sewer, and my miscellaneous charges.

4 Q. Are the water and sewer bill
5 usually roughly the same?

6 A. Yes, sir. Now, they are for
7 residential, for commercial they're not.

8 Q. Understood.

9 So if somebody irrigates their lawn
10 in the summer, their sewer bill will go up also?

11 A. Oh, absolutely.

12 Q. Do you get a lot of complaints
13 about that?

14 A. What they end up doing is get a
15 separate meter.

16 Q. Exactly. Yes. I was going to say
17 if you don't get complaints about that, you're the
18 only sewer company in the state that doesn't.

19 A. We help them by doing that.

20 Q. So you don't really consider
21 yourself the operator of these systems?

22 A. We are not the operator of the
23 system, no, sir.

24 Q. But you are legally responsible --

25 A. Yes, sir.

1 Q. -- for anything that goes wrong?

2 A. Uh-huh.

3 Q. And on the other two systems, do
4 you have an easement for the treatment facility or
5 is it just an ingress and egress?

6 A. There's an easement set aside for
7 those. Technically, we don't own those on the other
8 system.

9 Q. Okay.

10 A. This perpetual easement area we're
11 talking about here is the only one that we would own
12 it. But it's on it, but it is separated from the
13 development in the fact that the system's there and
14 it's used for no other purpose.

15 Q. Why did you decide to do this one
16 differently than you did the other three?

17 A. This was the suggestion of our
18 engineering firm that we do that. But the owner --

19 Q. Did they give you a reason?

20 A. No, sir.

21 Oh, this one? Because in this --
22 in this -- going through this process, that Wade
23 Murphy and the state indicated we really needed to
24 own a perpetual easement.

25 Q. Okay. So you did it because

1 Mr. Murphy said you needed to?

2 A. Yes, TDEC indicated we needed to.
3 But not necessarily Wade, but Wade is -- that's
4 where he works.

5 Q. Did you have any objection to doing
6 it that way?

7 A. No, sir. It's an improvement, yes,
8 sir.

9 Q. You didn't pay anything for that?

10 A. No, sir.

11 Q. Do you know if Emerson Properties
12 or the homeowners association at Villages of Norris
13 Lake has an escrow account with money in it?

14 A. No, sir, I do not know that.

15 Q. If this case were to turn out so
16 that Tennessee Wastewater ends up finishing out the
17 system and operating it and maintaining it and CJUC
18 were not involved, do you -- would you have any
19 problem with that?

20 A. We wouldn't have any problem with
21 it.

22 Q. Okay. That's what I was asking
23 you.

24 A. No, sir.

25 Q. Okay.

1 A. We wouldn't have any heartburn, no,
2 sir.

3 Q. Okay. Are you familiar with
4 Tennessee Wastewater?

5 A. The only involvement I've had has
6 been through this process.

7 Q. Okay. So you're not familiar with
8 any of the other sites that they operate --

9 A. No, sir.

10 Q. -- in East Tennessee?

11 A. No, sir.

12 Q. Okay.

13 A. No, sir, I'm not at all.

14 Q. Your paths have not crossed before?

15 A. No, sir. To my knowledge, they
16 haven't.

17 Q. Okay. Have you had any contact
18 yourself with the homeowners association at Villages
19 at Norris Lake?

20 A. I've had no personal contact, to my
21 knowledge.

22 Q. Okay. Is it your understanding
23 that the treatment system at Villages at Norris Lake
24 is not yet finished?

25 A. Yes, sir.

1 Q. Do you know what it would take in
2 terms of time or money to finish it?

3 A. No, sir, I do not.

4 Q. Okay.

5 A. That is -- IRTECH is the
6 engineering firm handling that.

7 Q. Are they handling it on behalf of
8 CJUC --

9 A. No, sir.

10 Q. -- or handling it on behalf of the
11 developer?

12 A. On behalf of the developer.

13 Q. Okay. Will you go out there during
14 the construction process and inspect it?

15 A. Yes, sir.

16 Q. Okay.

17 A. Along with the engineer.

18 Q. Okay. Will you inspect it before
19 it goes into operation?

20 A. Yes, sir.

21 Q. In a situation like this, if a
22 customer -- well, whose name appears on the bill
23 when a customer gets a bill for sewer service?

24 A. The homeowner's name.

25 Q. No, I'm sorry, what company's name

1 appears on the bill?

2 If I get a bill to Henry Walker and
3 I'm living at the Villages at Norris Lake, I get a
4 bill for wastewater service, what's the return
5 address going to say?

6 A. Through this process, it's what
7 they decide it's going to be.

8 Q. Well, let's look at the other --

9 A. What the developer decides it's
10 going to be.

11 Q. Let's look at the other three where
12 you are involved.

13 A. Yes, sir.

14 Q. In those situations, does the name
15 Caryville-Jacksboro appear anywhere on the bill?

16 A. No, sir.

17 Q. Okay.

18 A. No, sir.

19 Q. So, in other words, if a customer
20 has a problem, he's not calling Caryville-Jacksboro?

21 A. No, sir.

22 Q. You probably wouldn't want that.

23 A. No, sir.

24 Q. So would you anticipate that
25 Caryville-Jacksboro's name would appear on the bill

1 at Villages at Norris Lake?

2 A. No, sir.

3 Q. Okay. Who would those customers
4 presumably call if they had a problem?

5 A. The contractor that -- the
6 contractor, who has a contract to maintain that.

7 Q. So it would be SOS?

8 A. Or their representative.

9 Q. Right.

10 A. They have -- there's another -- it
11 goes on to another third party, who has experience
12 at doing that, that they're working with.

13 Q. That SOS works with?

14 A. Yes.

15 Q. Okay.

16 A. I have met the gentleman and his
17 company, but I don't recall his name.

18 Q. Okay. So it's not SOS, but it's
19 who they contract with?

20 A. Right, correct.

21 Q. So you're actually twice removed, I
22 guess three times removed. There's you, then
23 there's the developer, then there's SOS, and then
24 the guy who actually runs it?

25 A. Uh-huh. But there's a chain of

1 accountability.

2 Q. Sure, of course. Of course.

3 Do you ever see the contracts
4 between, say, the developer and SOS or between SOS
5 and the guy who actually runs the system?

6 A. Since -- since those have not been
7 drawn, no, sir.

8 Q. Okay. Well, when you say there's a
9 chain of accountability, how do you know?

10 A. When those are drawn, we'll see the
11 contracts.

12 Q. Okay.

13 A. Yes, sir.

14 Q. Okay.

15 A. And those haven't been because of
16 the interruption of this process.

17 Q. Sure.

18 Why isn't there a contract between
19 you and the developer?

20 A. At this point, we've had no --
21 you're talking about this particular project?

22 Q. This particular project.

23 A. This project has not gone forward
24 enough to have any type of a contract.

25 Q. But do you have a contract with the

1 developer at any of the other three --

2 A. No, sir.

3 Q. -- developments where your name is
4 on the SOP?

5 A. We don't.

6 Q. Why not?

7 A. There at this point has been no
8 need to have one. They are privately held and
9 privately owned, and they are -- these are credible
10 people.

11 Q. If they decide to start charging
12 those residents \$100 a month for sewer --

13 A. Correct.

14 Q. -- is there anything you could do
15 about it?

16 A. No, sir.

17 Q. Is there anything anybody could do
18 about it?

19 A. Well, I'm sure they could appeal to
20 the control board.

21 Q. What's the control board?

22 A. The net -- in Nashville.

23 Q. Oh, you mean the Tennessee
24 Regulatory?

25 A. Tennessee Regulatory Authority,

1 yes, sir. I would be in hopes that that would
2 happen.

3 Q. I would, too.

4 A. Yes, sir.

5 MR. WALKER: If I did not mention
6 it earlier, this is a collective exhibit to
7 his deposition.

8 (Exhibit No. 1 marked)

9 Q. Is it fair to say, Mr. Wallace,
10 that although you are legally responsible for these
11 wastewater operations, your principal involvement is
12 limited to having your name on the SOP, periodic
13 inspections of the facility, filing the quarterly
14 reports, and anything else?

15 A. No, sir.

16 Q. Okay.

17 A. The quarterly reports were filed by
18 IRTECH.

19 Q. And, again, if you -- but they're
20 filed by IRTECH in your name, right?

21 A. Correct.

22 Q. And if you had a complaint from a
23 customer about rates or service, what would you do?
24 If a customer managed to find out that your name was
25 on the operating permit and they called you up with

1 a complaint about rates or service, what would you
2 do?

3 A. We would inform the owner and the
4 operator.

5 Q. Okay. And would you direct the
6 customer to them?

7 A. Yes.

8 Q. Okay. But you don't tell the owner
9 or the operator how much rates to charge?

10 A. Absolutely, no, sir.

11 Q. Why not?

12 A. We don't know what the operation
13 and maintenance of it is and we're not involved in
14 that.

15 Q. Okay.

16 A. Quite honestly, they haven't asked.

17 Q. Well, I guess if they could charge
18 whatever they want, there's no reason they should
19 ask.

20 A. Okay.

21 MR. WALKER: I think that's it, but
22 if you'll excuse me for a minute, I'm going
23 to go outside and talk to Mr. Pickney and
24 let him tell me about the million things
25 he's going to tell me I've forgotten and

1 I'll be right back.

2 (Off the record)

3 MR. WALKER: I have no further
4 questions.

5 MR. BOZARTH: I have no questions.

6 (Proceedings concluded at 2:55 p.m.)

7 FURTHER THIS DEPONENT SAITH NOT.
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1	ERRATA SHEET - MIKE WALLACE, 5/12/14		
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Truesdel & Rusk

000438

1 SIGNATURE OF WITNESS

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5 MIKE WALLACE

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STATE OF:

8

COUNTY OF:

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10

Sworn and subscribed to before me this _____

11

day of _____, 2014.

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Notary Public

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My commission expires: _____

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Truesdel & Rusk

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C E R T I F I C A T E

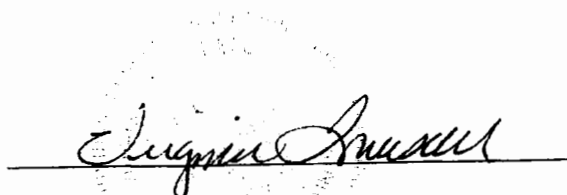
STATE OF TENNESSEE:

COUNTY OF KNOX:

I, Virginia B. Truesdel, Notary
Public and Licensed Court Reporter in the State of
Tennessee, do hereby certify that I reported in
machine shorthand the foregoing proceedings; that
the foregoing pages, numbered 1 to 48, inclusive,
were typed by me using computer-aided transcription
and constitute a true and accurate record of said
proceedings.

I further certify that I am not an
attorney or counsel of any attorney or counsel
connected with the action, nor financially
interested in the action.

Witness my hand and official seal
this the 13th day of May, 2014.



Virginia B. Truesdel
LCR #003; Expiration: 6/30/2014.
My commission expires: 7/16/2016.

Caryville - Jacksboro Utilities Commission

P. O. Box 121 — Jacksboro, Tennessee 37757

COMMISSIONERS

ROBERT M. BURDEN, Chairman
JAMES F. WRIGHT, Secretary
ROBERT H. BURRELL, Treasurer

TELEPHONE

OFFICE: 562-9776
WATER PLANT: 562-2234
WASTEWATER PLANT: 562-9895

March 28, 2011

Boog Potter
Emerson Properties, LLC
10325 Yellow Pine Lane
Knoxville, TN 37932

Re: Villages at Norris Lake

Dear Mr. Potter:

The purpose of this letter is to confirm that approval was received from the Board of Commissioners of the Caryville-Jacksboro Utilities Commission to both submit the application and assume responsibility for the sewer operating permit associated with the waste water treatment plant for the subdivision known as The Villages at Norris Lake. The application has been submitted to the Tennessee Department of Environment and Conservation, as we hope to receive the permit in the coming weeks.

Sincerely,



Franklin D. Wallace,
Executive Secretary

FDW/pft

000441



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

AUG 01 2011

Mr. Frank D. Wallace
Executive Secretary
Caryville-Jacksboro Utilities Commission
PO Box 121
Jacksboro, TN 37757

**Re: State Operating Permit No. SOP-10051
Caryville Jacksboro Utility District - The Villages at Norris Lake
Grantsboro Community, Campbell County, Tennessee**

Dear Mr. Wallace:

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

Please note that this permit authorizes operation of a proposed sewerage system pursuant to the Act which requires that persons planning to operate sewerage systems apply for and obtain a permit that is protective of purposes of the Water Quality Control Act. Public comment received in association with this proposed sewerage system alleges that this system is outside of the chartered service area of the Caryville-Jacksboro Utility Commission. The division has already issued a sewer system permit (SOP-07001) for the general scope of this activity to Tennessee Wastewater Systems, Inc. This company holds a Certificate of Convenience and Necessity (CCN) from the Tennessee Regulatory Authority for some, or all, of the service area associated with a sewerage system proposed by a former developer. Note that Part II. A.5 of both SOPs provide as follows: 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. Further, Part II.D.2 of both SOPs state, "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 application state law." The division is not in a position to regulate service area. Please consult with you legal staff regarding your service area issue(s).

Please be advised that a petition for permit appeal may be filed, pursuant to T.C.A. Section 69-3-105, subsection (i), by the permit applicant or by any aggrieved person who participated in the public comment period or gave testimony at a formal public hearing whose appeal is based upon any of the issues that were provided to the commissioner in writing during the public comment period or in testimony at a formal public hearing on the permit application. Additionally, for those permits for which the department gives public notice of a draft permit, any permit applicant or aggrieved person may base a permit appeal on any material change to conditions in the final permit from those in the draft, unless the material change has been subject to additional opportunity for public comment. Any petition for permit appeal under this subsection (i) shall be filed with the board within thirty (30) days after public notice of the commissioner's decision to issue or deny the permit.

000360

If you have questions, please contact the Division of Water Pollution Control at your local 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,



Vojin Janjić
Manager, Permit Section
Division of Water Pollution Control

Enclosure

cc/ec: Division of Water Pollution Control, Permit Section, Municipal Facilities Section & Knoxville Environmental Field Office
Ms. Michelle Ramsey, Utilities Division, Tennessee Regulatory Authority, michelle.ramsey@tn.gov
Ms. Patsy Fulton, Utilities Division, TRA, patsy.fulton@tn.gov
Mr. Patrick H. Perry, Secretary of the Board, The Villages at Norris Lake Community Assoc., Inc., popperry@verizon.net
Mr. Michael Hines, , M.S., P.E. Vice President, Tennessee Wastewater Systems, Inc., mikehines@charter.net
Mr. Henry Walker, Esq., Bradley, Arant, Boult, Cummings, hwalker@babco.com
Mr. Douglas S. Hodge, Ph.D., PMP, Evergreene Utility Service, LLC, hodge.dsh@gmail.com

000361

**TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION
DIVISION OF WATER POLLUTION CONTROL**

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

Permit No. SOP-10051

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

In accordance with the provision of Tennessee Code Annotated section 69-3-108 and Regulations promulgated pursuant thereto:

PERMISSION IS HEREBY GRANTED TO

**Caryville Jacksboro Utility District - The Villages at Norris Lake
Grantsboro Community, Campbell County, Tennessee**

FOR THE OPERATION OF

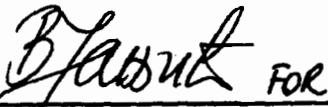
AdvanTex Recirculating Filter with UV disinfecting and 15 acre subsurface drip disposal system located at latitude 36.309667 and longitude -84.055167 in Campbell County, Tennessee to serve approximately 450 homes in the Villages at Norris Lake Subdivision. The design capacity of the system is 0.135 MGD.

This permit is issued as a result of the application filed on November 4, 2010, in the office of the Tennessee Division of Water Pollution Control and in conformity with approved plans, specifications and other data submitted to the Department in support of the above application, all of which are filed with and considered as a part of this permit, together with the following named conditions and requirements.

This permit shall become effective on: September 01, 2011

This permit shall expire on: July 31, 2016

Issuance date: July 29, 2011



Paul E. Davis
Director
Division of Water Pollution Control

CN-0759

RDAs 2352 & 2366

000362

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	Grab	Report	N/A	Once/Quarter
<i>E. Coli</i>	Grab	941 colonies/100 ml	N/A	Once /Quarter

* Report average daily flow for each calendar month.

Sampling requirements in the table above apply to effluent being discharged to the drip irrigation plots.

This permit allows the operation of a wastewater drip irrigation system. There shall be no 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.

The permittee must disinfect the wastewater in order to meet the above *E. Coli* limit.

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:

- o the condition of the treatment facility security controls (doors, fencing, gates, etc.),
- o the condition of the drip area security controls (doors, fencing, gates, etc.),
- o the condition of the site signage,
- o the condition of the drip lines under pressure,
- o the condition of the drip area including the location of any ponding and the height of the cover crop,
- o the condition of the mechanical parts of the treatment system (pumps, filters, telemetry equipment, etc.)
- o the condition of the UV bulbs (if applicable),
- o the last date the UV bulbs were cleaned (if UV is used),
- o the date and time of inspection,
- o the name of the inspector,
- o 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.

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 (see note below) by the permittee if:

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

b. The notice includes a written agreement between the existing and new permittees containing a specified date for transfer of permit responsibility, coverage, and liability between them; and

c. The Director, within 30 days, does not notify the current permittee and the new permittee of his intent to modify, revoke or reissue, or terminate the permit and to require that a new application be filed rather than agreeing to the transfer of the permit.

Note: For the purposes of this part, "person" is defined as 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.

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.

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 recommended perimeter distance between any two (2) signs should not exceed one hundred fifty feet at all sites. 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 two inches (2") high. Each sign shall be made of durable material and have a white background with black letters.

**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**

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. DRIP SITE MANAGEMENT

The drip irrigation system must have appropriate site management practices to ensure that the nitrogen design assumptions will be achieved. The cover crop must be able to uptake the prescribed amount of nitrogen (100 lbs/acre/year). For cover crops other than trees, the cover crop shall be cut on a regular basis and the cuttings removed from the site. This requirement shall not be construed to warrant any use of the harvested product and the permittee shall assume full responsibility for its proper use or disposal.

G. OWNERSHIP OF THE TREATMENT FACILITIES

a. The permittee shall own the treatment facilities (and the land upon which they are constructed) including the land to be utilized for drip or spray irrigation. A perpetual easement (properly recorded) may be accepted in lieu of ownership. If the permittee elects to make the treated wastewater available for reuse (irrigation of a golf course for example) a backup dedicated land application site must be provided or a perpetual easement must be obtained for the property where reuse is to take place. The perpetual easement must allow year-round application of the wastewater except where the permittee has provided (and the division has approved) storage facilities for periods when reuse is not available. Evidence of ownership of the treatment facility land application site(s) and/or a copy of the perpetual easement(s) must be furnished to the division for approval prior to construction of the wastewater collection and treatment system.

b. Where the treatment facility serves private homes, condominiums, apartments, retirement homes, nursing homes, trailer parks, or any other place where the individuals being served have property ownership, rental agreements, or other agreements that would prevent their being displaced in the even of abandonment or noncompliance of the sewerage system, ownership of the treatment facilities must be by a municipality, a public utility, a wastewater authority, or a privately owned public utility (having a Certificate of Convenience and Necessity from the Tennessee Regulatory Authority), or another public agency.

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.

Attachment 1

STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
DIVISION OF WATER SUPPLY
GROUND WATER MANAGEMENT SECTION
8th Floor, 401 Church Street
Nashville, Tennessee 37243-1549

MEMORANDUM

TO: Wade Murphy, WPC-CO

FROM: Allen Rather, DWS- Ground Water Management Section

DATE: 6/02/2011

SUBJECT: LCSS/SFDS (Class V Injection) Approval
Villages at Norris Lake
LaFollette, Campbell County, Tennessee
UIC File CAM 0000016

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 Villages at Norris Lake located at LaFollette, Campbell County, Tennessee. This Division approves the application dated 12/10/2010.

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.

The Caryville Jacksboro 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.

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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 1200-6-14 (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

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Rationale

Caryville Jacksboro Utility District - The Villages at Norris Lake

STATE OPERATION PERMIT NO. SOP - SOP-10051

Grantsboro Community, Campbell County, Tennessee

Permit Writer: Wade Murphy

FACILITY CONTACT INFORMATION:
Mr. Frank Wallace, Executive Secretary
Phone: (423) 562-9776
cjuc@ccdi.net
Off of Rain Valley Road
Jacksboro TN 37757

Facility location: Off of Rain Valley Road

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

Treatment system: AdvanTex Recirculating Filter with UV disinfecting

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

This permit action proposes to permit operation of a treatment system whose general scope of activity is currently permitted via SOP-07001. The current permit is issued to Tennessee Wastewater Systems, Inc (TWS). That company holds a Certificate of Convenience and Necessity (CCN) from the Tennessee Regulatory Authority (TRA) to provide sewer service to an area defined in documents associated with TRA Docket #06-00277. To the division's knowledge, the formerly proposed wastewater treatment system is not installed and the original developer/owner is no longer involved with the project. The Caryville-Jacksboro Utility Commission(CJUC) has applied to sewer this development in conjunction with contractual arrangements between the new owner/developer and Evergreen Utility Services.

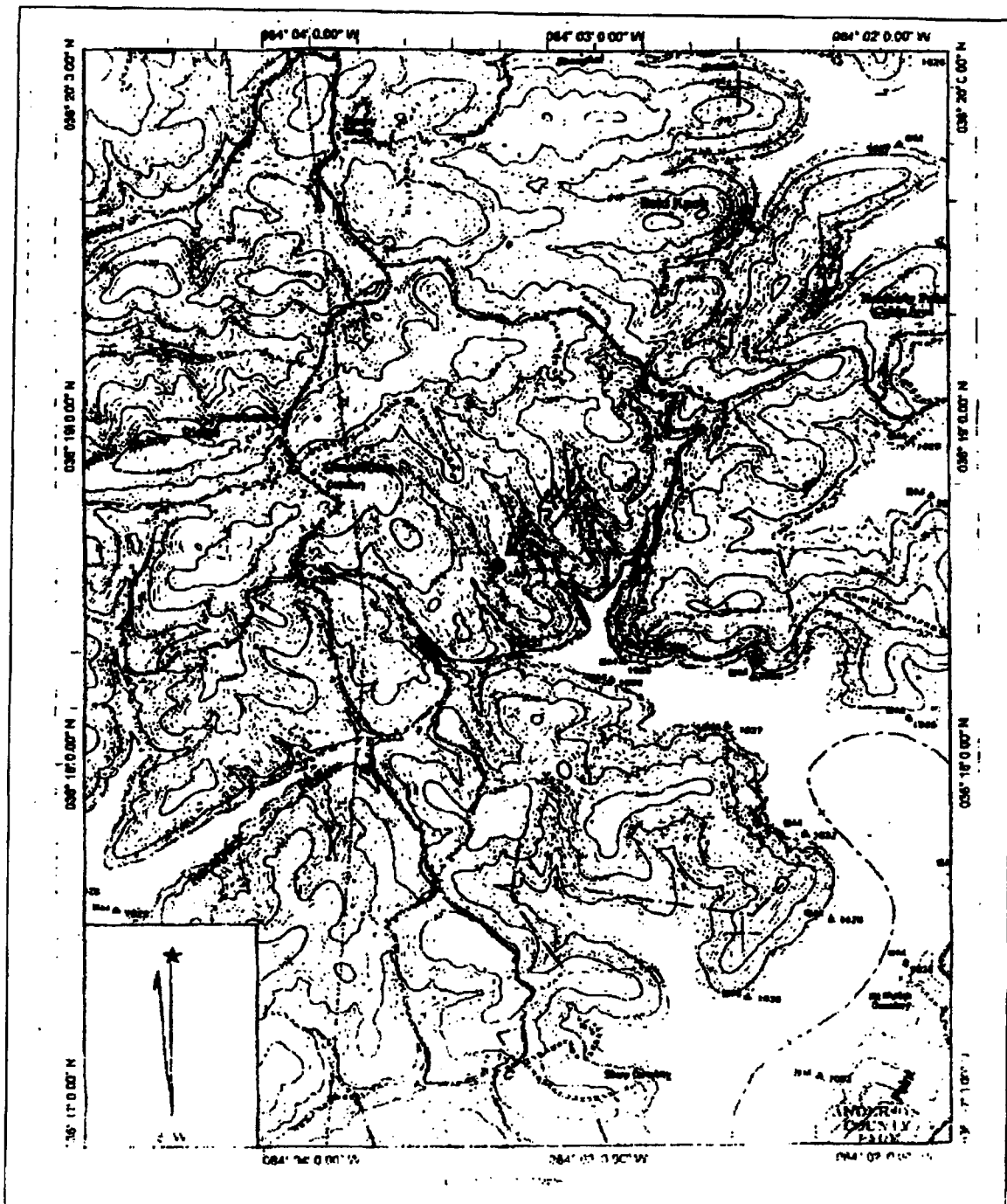
The Water Quality Control Act requires sewer systems to obtain permits with conditions that protect public waters. Protecting waters requires active and proactive management of wastewater collected for treatment and disposal. Additionally, this system will receive residential wastewater generated by persons subscribing to sewer service. Therefore, the division requires the permittee to be an entity engaged in providing wastewater services as a function of their entity operations. More specifically, the division intends for the permit holder to be either 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 (such as a utility commission). The change of ownership transfer requirements in Part II.B.3 of this proposed permit are tailored to clearly impose this requirement and to align it with Part III.G.

Both the Caryville-Jacksboro Utility Commission and Tennessee Wastewater Systems, Inc. are entities meeting the division's permit ownership condition. Property rights, or service area rights, of these entities are not conveyed via this sewer system permit process. Therefore, this

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permit is drafted and public noticed for public comment with the CJUC, TWS, Inc., and the TRA being considered interested parties for the purposes of the public participation process. The topographical map submitted with the application is attached for reference.

Proposed site for SOP-10051:



This instrument prepared by:
C. Mark Troutman
Troutman & Troutman, P.C.
P.O. Box 757
LaFollette, TN 37766

Record:

BK/PG: M109/819-821
13002386

3 PGS : AL - AMENDED EASEMENT	
JUNE BATCH: 87176	05/01/2013 - 02:55 PM
VALUE	0.00
MORTGAGE TAX	0.00
TRANSFER TAX	0.00
RECORDING FEE	15.00
ARCHIVE FEE	0.00
DP FEE	2.00
REGISTER'S FEE	0.00
TOTAL AMOUNT	17.00

STATE OF TENNESSEE, CAMPBELL COUNTY
DORMAS MILLER
REGISTER OF DEEDS

AMENDED
JOINT (NON-EXCLUSIVE) PERMANENT AND PERPETUAL
EASEMENT

This Agreement is made and entered into as of the 1st day of May, 2013, by **EMERSON PROPERTIES, LLC**, a Tennessee limited liability company, (hereinafter referred to as the "Developer"), **FIRST PARTY AND THE CARYVILLE-JACKSBORO UTILITIES COMMISSION**, (hereinafter referred to as "CJUC"), **SECOND PARTY**.

WHEREAS, the Developer is the developer of the subdivision known as the Villages at Norris Lake as shown on the various plats of said subdivision of record in Plat Cabinet A, Slides 521, 522, 352, 232, 248, 251, 231, 538, 544, 269, 518-520, 536-538, 563-567, and 574-575, in the Register's Office for Campbell County, Tennessee (hereinafter referred to as the "Subdivision"); and

WHEREAS, the roadways in The Villages at Norris Lake are summarized on a plat of record in Plat Cabinet B, Slide 501 in the Register's Office for Campbell County, Tennessee, a small copy of which is attached hereto as Exhibit One; and

WHEREAS, the Developer also owns other real property which will serve as a part of the wastewater treatment system for the Subdivision; and

WHEREAS, the Developer to grant unto the Second Party the joint easements within the Subdivision and the maintenance of the same.

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inspect, repair, maintain, replace and remove, such wastewater utility system components over, across, and through the lands of the First Party described as follows:

TRACT ONE

Situated in District Two (2) of Campbell County, Tennessee, and being a joint, permanent and perpetual easement 50 feet in width along all roadways as contained in the Villages at Norris Lake Subdivision and shown on the plats referenced above, and summarized on the plat of record in Plat Cabinet B, Slide 501, in the Register's Office for Campbell County, Tennessee, the center line of which shall follow the center line of all such roadways, together with a similar easement along any and all other roads hereafter constructed in said Subdivision, together with the right of ingress and egress along said roadways, for the purpose of erection, construction, installation, and laying, and hereafter use, operation, inspection, repair, maintenance, replacement and removal, of such wastewater utility system components for the Subdivision.

TRACT TWO

Situated in District Two (2) of Campbell County, Tennessee, and being a joint permanent and perpetual easement for the purpose of creating and supporting a drip field and waste water treatment system on and over all of that certain 29.69 acre tract identified as Tax Parcel Number 173.01, and shown on the Exhibit One attached hereto and plat of record in Plat Cabinet B, Slide 501, in the Register's Office for Campbell County, Tennessee, together with a right of ingress and egress across any roads in the Subdivision to access such property, all for the purpose of erection, construction, installation, and laying, and hereafter use, operation, inspection, repair, maintenance, replacement and removal, of such wastewater utility system components for the Subdivision.

For deed reference as to both tracts, see Warranty Deed Book 437, Page 3 in the Register's Office for Campbell County, Tennessee.

This is not a conveyance of the fee in said lands, but only the rights, privileges and easements set forth herein.

The First Party may otherwise use the lands over and through which said easements lay in such a way as to not interfere with the rights and privileges herein set forth.

Upon completion of the installation of sewer lines, waste water treatment plant and drip field disposal system to the required specifications of the Second Party, such sewer lines, waste water treatment plant and drip field disposal system shall become the property of the Second Party and maintained by it in the same manner and to the same extent as other public utility sewer lines and Second Party shall have the right to enter upon such easement areas for the purposes of such general maintenance thereof as may be necessary or

DEVELOPER:
EMERSON PROPERTIES, LLC

CJUC
CARYVILLE-JACKSBORO
UTILITIES COMMISSION

By: [Signature]
Its: Chief Manager

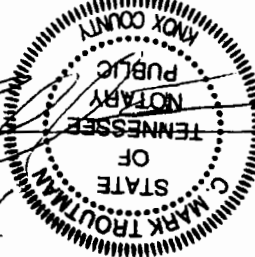
By: [Signature]
Its: Executive Secretary

STATE OF Tennessee)
COUNTY OF Knox) ss.

Before me, C. Mark Troutman, of the state and county aforementioned, personally appeared George L. Potter, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be Chief Manager of EMERSON PROPERTIES, LLC, the within named bargainer, a Tennessee limited liability company, and that he as such Chief Manager executed the foregoing instrument for the purpose therein contained, by signing the name of the Company by himself as Chief Manager.

WITNESS my hand and seal at office in Knoxville, Tennessee, this 30th day of April, 2013.

Notary Public



My Commission Expires: 7-31-2014

STATE OF Tennessee)
COUNTY OF Campbell) ss.

Before me, Kimberly Slone, of the state and county aforementioned, personally appeared Frank Wallace, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be Executive Secretary of the CARYVILLE-JACKSBORO UTILITIES COMMISSION, and that he as such Executive Secretary executed the foregoing instrument for the purpose therein contained, by signing the name of the CARYVILLE-JACKSBORO UTILITIES COMMISSION by himself as Executive Secretary.

WITNESS my hand and seal at office in Caryville, Tennessee, this 1st day of May, 2013.

Notary Public

Kim Slone



My Commission Expires: July 16, 2014

090381

XFINITY Connect

irtec@comcast.net

± Font Size ±

SOP-10051**From :** irtec@comcast.net

Wed, Apr 03, 2013 02:33 PM

Subject : SOP-10051

2 attachments

To : Wade Murphy <Wade.Murphy@tn.gov>**Cc :** Frank Wallace <cjuc@ccdi.net>

Mr. Murphy:

On behalf of Frank Wallace, Executive Secretary of Caryville-Jacksboro Utilities Commission (CJUC), under direction of Mr. Devin M. Wells, Esq., we are forwarding to you a copy of the perpetual easement for CJUC (and exhibit) concerning The Villages of Norris Lake development. This perpetual easement agreement provides for ingress and egress for installation and maintenance of the proposed collection system, treatment system and drip field areas. These documents have been duly prepared and recorded in the Campbell County Courthouse.

Should you have any questions or comments, please contact us.

Sincerely,

Tim K. Slone, PE, PLS
IRTEC, Inc.
211 Main Street
P O Box 306
Caryville, TN 37714
423.566.1915

RecEasement CJUC.doc.pdf

128 KB

VILLAGES-EASEMENT-PLAN-400.pdf

1 MB

This instrument prepared by:
C. Mark Troutman
Troutman & Troutman, P.C.
P.O. Box 757
LaFollette, TN 37766

Recording Information

JOINT (NON-EXCLUSIVE) PERMANENT AND PERPETUAL EASEMENT

This Agreement is made and entered into as of the 29th day of MARCH, 2013, by **EMERSON PROPERTIES, LLC**, a Tennessee limited liability company, (hereinafter referred to as the "Developer"), **FIRST PARTY AND THE CARYVILLE-JACKSBORO UTILITIES COMMISSION**, (hereinafter referred to as "CJUC"), **SECOND PARTY**.

WHEREAS, the Developer is the developer of the subdivision known as the Villages at Norris Lake as shown on the various plats of said subdivision of record in Plat Cabinet A, Slides 521, 522, 352, 232, 248, 251, 231, 538, 544, 269, 518-520, 536-538, 563-567, and 574-575, in the Register's Office for Campbell County, Tennessee (hereinafter referred to as the "Subdivision"); and

WHEREAS, the roadways in The Villages at Norris Lake are summarized on a plat of record in Plat Cabinet B, Slide 501 in the Register's Office for Campbell County, Tennessee, a small copy of which is attached hereto as Exhibit One; and

WHEREAS, the Developer also owns other real property which will serve as a part of the wastewater treatment system for the Subdivision; and

WHEREAS, the Developer to grant unto the Second Party the joint easements within the Subdivision and the maintenance of the same.

WITNESSETH:

000383

TRACT ONE

Situated in District Two (2) of Campbell County, Tennessee, and being a joint, permanent and perpetual easement 50 feet in width along all roadways as contained in the Villages at Norris Lake Subdivision and shown on the plats referenced above, and summarized on the plat of record in Plat Cabinet B, Slide 501, in the Register's Office for Campbell County, Tennessee, the center line of which shall follow the center line of all such roadways, together with a similar easement along any and all other roads hereafter constructed in said Subdivision, together with the right of ingress and egress along said roadways, for the purpose of erection, construction, installation, and laying, and hereafter use, operation, inspection, repair, maintenance, replacement and removal, of such wastewater utility system components for the Subdivision.

TRACT TWO

Situated in District Two (2) of Campbell County, Tennessee, and being a joint permanent and perpetual easement for the purpose of creating a drip field over all of that certain 29.69 acre tract identified as Tax Parcel Number 173.01, and shown on the Exhibit One attached hereto and plat of record in Plat Cabinet B, Slide 501, in the Register's Office for Campbell County, Tennessee, together with a right of ingress and egress across any roads in the Subdivision to access such property, all for the purpose of erection, construction, installation, and laying, and hereafter use, operation, inspection, repair, maintenance, replacement and removal, of such wastewater utility system components for the Subdivision.

For deed reference as to both tracts, see Warranty Deed Book 437, Page 3 in the Register's Office for Campbell County, Tennessee.

This is not a conveyance of the fee in said lands, but only the rights, privileges and easements set forth herein.

The First Party may otherwise use the lands over and through which said easements lay in such a way as to not interfere with the rights and privileges herein set forth.

Upon completion of the installation of the sewer lines to the required specifications of the Second Party, such sewer lines shall become the property of the Second Party and maintained by it in the same manner and to the same extent as other public utility sewer lines and Second Party shall have the right to enter upon such easement areas for the purposes of such general maintenance thereof as may be necessary or convenient from time to time.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the

29th day of MARCH, 2013.

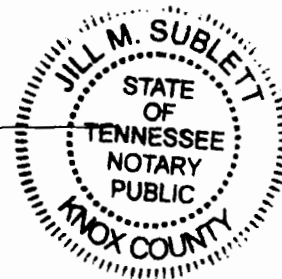
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STATE OF Tennessee)
) ss.
COUNTY OF Knox)

Before me, Jill M. Sublett, of the state and county aforementioned, personally appeared George L. Potter, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be Chief Manager of **EMERSON PROPERTIES, LLC**, the within named bargainer, a Tennessee limited liability company, and that he as such Chief Manager executed the foregoing instrument for the purpose therein contained, by signing the name of the Company by himself as Chief Manager.

WITNESS my hand and seal at office in Knox County, Tennessee, this 29th day of March, 2013.

Jill M. Sublett
Notary Public



My Commission Expires: 2/2/14

STATE OF Tennessee)
) ss.
COUNTY OF Campbell)

Before me, Kim Slone, of the state and county aforementioned, personally appeared Frank Wallace, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be Executive Secretary of the **CARYVILLE-JACKSBORO UTILITIES COMMISSION**, and that he as such Executive Secretary executed the foregoing instrument for the purpose therein contained, by signing the name of the **CARYVILLE-JACKSBORO UTILITIES COMMISSION** by himself as Executive Secretary.

WITNESS my hand and seal at office in Campbell County, Tennessee, this 1st day of April, 2013.

Kim Slone
Notary Public



My Commission Expires: July 16, 2014



STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION

OFFICE OF GENERAL COUNSEL

401 Church Street
20th Floor, L & C Tower
Nashville, Tennessee 37243-1548
Telephone: (615) 532-0131

March 6, 2013

Mr. Frank D. Wallace
Executive Secretary
Caryville-Jacksboro Utilities Commission
P.O. Box 121
Jacksboro, TN 37757

Re: The Villages At Norris Lake-Campbell County

Dear Mr. Wallace:

The Department is in receipt of a Chancery Court decision dated January 7, 2013 rendered in favor of Tennessee Wastewater Systems Inc. We are also in receipt of a Petition for Declaratory Order filed January 16, 2013 on behalf of Emerson Properties, LLC. Clearly, both of these actions affect Caryville-Jacksboro Utilities Commission ability to provide wastewater treatment service to the Villages at Norris Lake under State Operating Permit (SOP) No. Sop-10051. The Department is not a party to these actions and it intends to remain neutral as to how those actions are ultimately resolved.

When the Department issued the above referenced SOP to Caryville Jackson Utilities Commission on August 1, 2011 the Caryville Jackson Utilities Commission was informed of the previous issuance of SOP-07001 to Tennessee Wastewater Systems, Inc. Specifically the Caryville Jackson Utilities Commission was told:

The division has already issued a sewer system permit (SOP-07-001) for the general scope of this activity to Tennessee Wastewater Systems, Inc. This company holds a Certificate of Convenience and Necessity (CCN) from the Tennessee Regulatory Authority for some, or all, of the service area associated with a sewerage system proposed by a former developer. Note that Part II. A.5 of both SOPs provide as follows: 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 property rights in either real or personal property or any invasion of personal rights, nor any infringement of Federal, State, or local laws or regulations.

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Further, Part II.D.2 of both SOPS state, "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 application of state law." The division is not in a position to regulate service area. Please consult with your legal staff regarding your service area issue(s).

On May 22, 2012, the Department issued an approval of construction plans and specifications for the Caryville Jackson Utilities Commission wastewater treatment system under tracking #WPC 12-0102 pursuant to Rule 1200-4-2-.05. That Rule provides, in part:

Construction work shall not be commenced on any new construction or major change of existing facilities or for any activity outlined in Section 69-3-108 of the Act until complete and final plans and specifications for such activities have been submitted to and approved in writing by an authorized representative of the Commissioner.

The final plans and specifications shall be prepared in accordance with generally accepted wastewater engineering practices. The Design Criteria published from time to time are used internally by the Division as a compilation of such practices and are available to the public. Other designs may also be used if adequately supported by calculations and actual testing data.

The May approval acknowledges that the submitted plans and specifications meet the minimum design criteria. However, Caryville Jackson Utilities Commission is not currently authorized to construct *or* operate. Caryville Jackson Utilities Commission's permit contains the following provision:

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."(SOP-10051Sec. G paragraph a. Page 13).

The Department has not received the above referenced evidence.

The Department has been informed that construction of a wastewater treatment facility is underway in the Villages at Norris Lake. If that is true, such construction is in violation of your permit and Department rules and should cease. Further, it appears to the Department that the January 7, 2013 Chancery Court decision prohibits operation pending the outcome of the Petition for Declaratory Order before the Tennessee Regulatory Authority.

Please contact me if you would like to discuss or if I can be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Devin M. Wells", with a long horizontal flourish extending to the right.

Devin M. Wells
Environmental Legal Counsel
Tennessee Department Of
Environment and Conservation

CC: Wade Murphy-TDEC Division Of Water Resources
C. Mark Troutman-Attorney for Emerson Properties, LLC.
Christopher A. Bowles-Attorney For Tennessee Wastewater Systems, Inc.

000388

Caryville Jacksboro Utility Commission

From: Wade Murphy [Wade.Murphy@tn.gov]
Sent: Wednesday, May 18, 2011 4:06 PM
To: cjuc@ccdi.net
Cc: hodge.dsh@gmail.com; Allen Rather; Hari Akunuri; Vojin Janjic; popperry@verizon.net
Subject: Villages at Norris Lake; SOP-10051, Campbell Co.

Mr. Wallace, this follows up your letter dated March 18, 2011. On the basis of the information you provided, the division is planning to draft a permit to your agency for the operation of the wastewater system for the proposed Villages at Norris Lake wastewater system. However, there is another issue needing resolution prior to permitting your project. I apologize for what may seem like a protracted process, but I did not want to require additional requirements of you if we were not going to issue the permit to your agency.

You may be familiar with a TDEC program regulating the underground injection of wastewater into the ground. The program is referred to as the Underground Injection Control Program. A drip irrigation system for a residential subdivision meets the definition of a Class V injection well. The program regulating injection wells is administered by the Division of Water Supply for the protection of water supplies existing in the form of groundwater. You may read about it at <http://www.tn.gov/environment/dws/uicbroch.shtml>.

As a courtesy to the public, the department combines these two permit coverages to minimize your having to work through two agencies in the same department. That program has an application fee of \$250.00 dollars which you will need to pay to the Division of Water Supply. The link to their fee schedule may be viewed online at <http://www.tn.gov/environment/dws/forms/cn1189.pdf>. Your activity falls in payment line item #5 (large capacity septic systems). Beyond that, a soil scientist with that program, Mr. Allen Rather, will be contacting you to arrange a visit of the proposed drip irrigation area. He has already received the soil report and maps prepared by IRTEC and Soil Solutions. On the basis of his inspection, he will provide comments back to my division for inclusion in the joint permit coverage.

I look forward to working with you on this project. If you have any questions, please feel free to call or email.

Wade Murphy
TDEC-WPC
(615) 532-0666



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

FEB 09 2011

Mr. Frank D. Wallace
Executive Secretary
Caryville Jacksboro Utility District - The Villages at Norris Lake
PO Box 121
Jacksboro, TN 37757

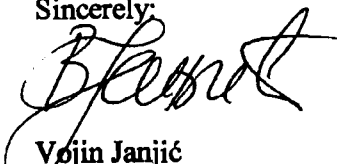
Subject: **SOP Permit No. SOP-10051**
Caryville Jacksboro Utility District - The Villages at Norris Lake, and
SOP Permit No. SOP-07001
TN Wastewater Systems - Villages at Norris Lake
Campbell County, Tennessee

Dear Mr. Wallace:

We are in receipt of your application as of October 18, 2010. We must consider your application incomplete until we receive clarification on the question of who will own the sewer system and at what time Caryville Jacksboro Utility District will become the owner of the sewer system.

If you have questions, please contact the division at 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:


Vojin Janjic
Manager, Permit Section

CC: DWPC, Permit Section & Knoxville Environmental Field Office
Ms. Michelle Ramsey, TRA, michelle.ramsey@tn.gov
Mr. Patrick H. Perry, The Villages at Norris Lake Community Assoc., popperry@verizon.net
Mr. Michael Hines, M.S., P.E., TWSI, mikehines@charter.net
Mr. Douglas S. Hodge, Ph.D., PMP, DSH & Assoc., hodge.dsh@gmail.com

VMJ/WDM/eyr

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Caryville-Jacksboro Utilities Commission

P. O. Box 121 — Jacksboro, Tennessee 37757

COMMISSIONERS

ROBERT M. BURDEN, Chairman
JAMES F. WRIGHT, Secretary
ROBERT H. BURRELL, Treasurer

TELEPHONE

OFFICE: 562-9776
WATER PLANT: 562-2234
WASTEWATER PLANT: 562-9895

March 18th, 2011

Vojin Janjic
Manager, Permit Section
State of Tennessee Dept of Environmental and Conservation
401 Church Street
L&C Annex 6th Floor
Nashville, TN 37243

SUBJECT: SOP Permit No. SOP-10051
PROJECT: The Villages at Norris Lake - Caryville Jacksboro Utility District (CJUC)

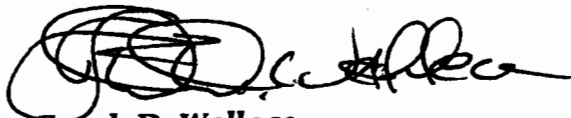
Dear Mr. Janjic:

We are in receipt of your response letter dated February 9th, 2011 requesting clarification on The Villages at Norris Lake permit application of the final construction sewer treatment system.

As the permit holder for the Villages at Norris Lake project, TDEC SOP #10051, CJUC will meet and provide for the obligations required for the system under TDEC rules & regulations as we have and continue to do so for other projects we are currently the permit holder for. This issue has been reviewed and approved by our board of directors.

If you have any additional questions, please feel free to contact me directly at

Sincerely,



Frank D. Wallace
Executive Secretary

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