

14-00124

IN THE CHANCERY COURT FOR STEWART COUNTY, TENNESSEE
23rd JUDICIAL DISTRICT AT DOVER

JEFFREY GARTON, and wife,
JEANNE FAITH-GARTON,
Plaintiffs,

A True Copy Attest
FILED: APRIL 16, 2015
Jane C. Link
Clerk and Master

vs. DOCKET NO. CH-13-CV-14

STATE OF TENNESSEE,
DEPARTMENT OF ENVIRONMENT & CONSERVATION,
HAMMERLAND, INC.; and
LAKE ASSOCIATES, INC.,
Defendant.

MOTION TO LIFT RESTRAINING ORDER

Now comes the Defendant, Hammerland Inc., and Lake Associates, Inc., through Counsel, and moves the Court to lift the Restraining Order entered in this matter on February 28, 2013. Said Motion is based on the following:

1. On February 1, 2013, a hearing was held on the Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction.
2. Based on the pleadings, testimony and arguments of Counsel, the Court granted said Restraining Order. An Order was entered from said hearing on February 28, 2013.
3. That a copy of the aforementioned "Order" was never received by Defendants Hammerland, Inc. or Lake Associates, Inc. and therefore they were unaware they could not transfer land.
4. That on May 15, 2014 Hammerland, Inc., by and through its authorized agent, Pamela L. Bygden, Secretary executed a Quit Claim Deed from Hammerland, Inc., to Hammerland Utilities, Inc. Said Deed is found of record in Deed Book 172 at pages 695-698 in the Register of Deeds Office in Stewart County, Tennessee. (See attached Exhibit 1)
5. The transfer of land in question, on which is situated a Subsurface Sewage Disposal System (SSDS), was made by Hammerland, Inc., to Hammerland Utilities, Inc., because the State Health Authority has stated that the existing SSDS is not adequate to service the balance of lots in the subdivision it serves, and a new system must be installed

to replace the existing system. State Rules and Regulations will not allow the developer of the subdivision to be the owner and maintainer of the new system, and therefore the transfer was made to comply with the rule. (See attached Exhibit 2, letter date March 24, 2015 from Michael W. Callahan, PE).

6. Developer Hammerland, Inc, by its transfer of land to Hammerland Utilities, Inc., has completed all the necessary steps in the application process for approval of the new system. Hammerland Utilities, Inc. will bear all expense of the new system. Approval is pending resolution of the present Injunction imposed by this Honorable Court, and can't move forward without removal of the injunction. (See Exhibit 3, application).

PREMISES CONSIDERED MOVANT PRAYS:

1. That the Court conduct a hearing at its earliest convenience to remove the current injunction so that a new sewage disposal system can be installed.
2. For any further or general relief.

Respectfully Submitted,



Michael L. Ainley, BRP#015150
Ainley, Hoover & Hoover, PLLC
Counsel for the Defendants
200 N. Poplar Street
Paris, Tennessee 38242
(731) 642-0178

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing was served upon Plaintiffs' Counsel, Thomas M. Stanley, at Post Office Box 559, Dover, Tennessee 37058, by depositing a true and exact copy thereof in the United States Mail, postage prepaid on this the 14th day of April, 2015.



Michael L. Ainley

This document prepared by Attorneys Title & Escrow, A Division of Ainley, Hoover & Hoover
200 North Poplar Street, Paris, Tennessee 38242.

This instrument was prepared without the benefit of a Title Opinion or Survey.

QUITCLAIM DEED

THIS INSTRUMENT made and entered into on this the 15th day of May, 2014 by and between **HAMMERLAND, INC.**, a Tennessee Corporation, ("Grantor"), and **HAMMERLAND UTILITIES, INC.**, ("Grantee").

WITNESSETH

FOR AND IN CONSIDERATION of the sum of One dollar (\$1.00) and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, Grantor does hereby convey, transfer, remise, release, relinquish and quitclaim unto Grantee, its successors and assigns, all of Grantor's right, title and interest in the property having an address of River Trace Drive, Dover, TN 37058 and being more particularly described as follows:


SEE ATTACHED EXHIBIT "A"

TO HAVE AND TO HOLD, all and singular the above-described land and premises, with the appurtenances, unto grantee, its successors and assigns, to the only proper use, benefit, and behoof of grantee, its successors and assigns forever.

THE PARTIES HERETO ACKNOWLEDGE that Attorneys Title & Escrow, A Division of Ainley, Hoover & Hoover, PLLC is not the closing agent for this transaction, pursuant to the provision of Section 6045(e) of the Internal Revenue Code, as amended by the Tax Reform Act of 1986.

IN WITNESS WHEREOF, the Grantor has caused this instrument to be executed on the date first above written.

HAMMERLAND, INC. a Tennessee Corporation


Pamela L. Bygden, Secretary

STATE OF TENNESSEE

COUNTY OF Henry

Before me, the undersigned authority, a Notary Public of the State and county mentioned, personally appeared Pamela L. Bygden, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged herself to be Secretary (or other officer authorized to execute the instrument) of Hammerland, Inc., the within named bargainor, a corporation, and that such officer, executed the foregoing instrument for the purpose therein contained, by personally signing the name of the corporation as Secretary (or other authorized officer).

Witness my hand, at office, this 15th day of May, 2014.

My Commission expires: 1/24/15

Lanora L. Roy
Notary Public

OWNER OF PROPERTY AND
PARTIES RESPONSIBLE FOR TAXES:

Hammerland Utilities, Inc.
6471 E. Antioch Road
Buchanan, TN 38222

I, or we, hereby swear or affirm that the actual consideration for this transfer or value of the property transferred, whichever is greater, is \$1.00, which amount is equal to or greater than the amount which the property transferred would command at a fair voluntary sale.

Pamela L. Bygden
Affiant

Subscribed and sworn to before me this 15th day of May, 2014.

Lanora L. Roy
Notary Public

My commission expires 1/24/15

This instrument prepared without benefit of a Title Opinion by:
ATTORNEYS TITLE & ESCROW
A DIVISION OF AINLEY, HOOVER & HOOVER PLLC
200 NORTH POPLAR STREET
PARIS, TENNESSEE 38242

Exhibit "A"

Map 110, Group -, Parcel 6.19
Tenth Civil District of Stewart County, Tennessee

TRACT NO. 1: Beginning at a set iron pin in the north right of way of River Trace Drive, 25 feet from centerline; said pin being located, South 81 deg. 36 min. 27 sec. East 505.48 feet from a found iron pin in the original southwest corner of the property of which this is a portion; runs thence with severance lines: North 02 deg. 23 min. 42 sec. West 215.95 feet to a set iron pin; North 05 deg. 10 min. 57 sec. West 276.09 feet to a set iron pin; North 06 deg. 48 min. 28 sec. East 396.65 feet to a set iron pin; North 83 deg. 37 min. 27 sec. East 147.00 feet to a set iron pin; South 17 deg. 48 min. 46 sec. East 376.94 feet to a set iron pin; South 06 deg. 51 min. 01 sec. West 99.57 feet to a set iron pin; South 02 deg. 06 min. 23 sec. West 254.48 feet to a set iron pin; South 25 deg. 03 min. 26 sec. West 89.00 feet to a set iron pin; South 04 deg. 02 min. 51 sec. West 143.69 feet to a set iron pin in the north right of way of River Trace Drive, 25 feet from centerline; thence with the north right of way of River Trace Drive; along a curve to the left, having a radius of 225.00 feet, an arc length of 104.08 feet, and being subtended by a chord bearing and distance of North 73 deg. 34 min. 05 sec. West 103.16 feet; North 86 deg. 49 min. 13 sec. West 106.61 feet to the point of beginning and containing 5.13 acres, more or less, according to survey and description of Larry I. Smith. RLS, Tennessee Reg. No. 824, dated December 15, 1997.

Subject to septic field condition as set out in Deed Book 294, page 259, in the Register's Office of Stewart County, Tennessee.

This being the same real estate conveyed to Hammerland, Inc., a Tennessee Corporation, by Warranty Deed of Kenneth E. Morgan and wife, Shirley A. Morgan, dated January 19, 1998 and of record in Deed Book 294, page 259, in the Register's Office of Stewart County, Tennessee.

TRACT NO. 2: BEGINNING at a 1/2-inch rebar found at the original northeast corner of Hammerland, Deed Book 294, Page 259; runs thence with Hammerland as follows: South 83 degrees 37 minutes 27 seconds West, 147.00 feet to a point; South 06 degrees 48 minutes 28 seconds West, 396.65 feet to a 1/2-inch rebar with cap set thence with a severance line as follows: North 01 degrees 00 minutes 48 seconds East, 320.72 feet to a 1/2-inch rebar with cap set; North 08 degrees 06 minutes 14 seconds East, 93.84 feet to a 1/2-inch rebar with cap set; North 82 degrees 59 minutes 20 seconds East, 128.01 feet to a 1/2-inch rebar with cap set; South 68 degrees 02 minutes 05 seconds East, 50.85 feet to the Point of Beginning and containing 0.25 acres, more or less, as surveyed by Thomas A. Young, Tennessee Registered Land Surveyor Number 2265, of L. I. Smith & Associates, 302 North Caldwell Street, Paris, TN 38242, on February 26, 2013. Bearings are based upon a record bearing found in Deed Book 294, Page 259.

TRACT NO. 3: BEGINNING at a 1/2-inch rebar found at the eastern most corner of Hammerland, Deed Book 294, Page 259; runs thence with a severance line South 03 degrees 26 minutes 24 seconds West, 353.81 feet to a 1/2-inch rebar with cap set in the east line of Hammerland; thence with Hammerland as follows: North 02 degrees 06 minutes 23 seconds East, 254.48 feet to a point; North 06 degrees 51 minutes 01 seconds East, 99.57 feet to the Point of Beginning and containing 0.02 acres, more or less, as surveyed by Thomas A. Young, Tennessee

Registered Land Surveyor Number 2265, of L. I. Smith & Associates, 302 North Caldwell Street, Paris, TN 38242, on February 26, 2013. Bearings are based upon a record bearing found in Deed Book 294, Page 259.

Subject to septic field condition as set out in Record Book 160, page 48, in the Register's Office of Stewart County, Tennessee.

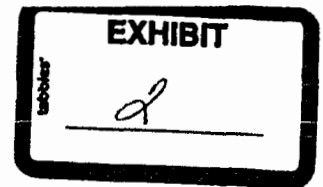
Tract Nos. 2 and 3 being the same real estate conveyed to Hammerland, Inc., a Tennessee Corporation, by Quit Claim Deed of Shirley A. Morgan, Individually and as Personal Representative of the Estate of Kenneth E. Morgan, by and through her Attorney-In-Fact, Kelly Lynn Roban, dated March 1, 2013 and of record in Record Book 160, page 48, in the Register's Office of Stewart County, Tennessee.

Derek Barhart, Register
Stewart County Tennessee
Rec #: 35723 Instrument #: 43072
Req'd: 20.00 Recorded
State: 0.00 5/19/2014 at 10:30 AM
Clerk: 0.00 in Record Book
Other: 2.00 172
Total: 22.00 Pgs 695-698

***CE*DESIGNERS, Inc.**

108 EAST COMMERCIAL AVENUE
MONTEREY, TENNESSEE 38574

Phone: (931) 839-2350
Fax: (931) 839-6380
www.cedesigners.com



March 24, 2015

TO WHOM IT MAY CONCERN:

I, Michael W. Callahan, P.E., a professional engineer registered in the State of Tennessee, do attest to the following statement.

I have been designing sewer systems for public agencies since 1977 and for private developers since 1979. Based on verbal instructions from staff of the Tennessee Department of Environment and Conservation (TDEC) and on written policy's which I have received over 20 years, I have functioned using my professional opinion that a developer was not allowed to own a sewer system.

I advised Pam Bygden to incorporate as a separate company to operate the sewer system for River Trace II to remove any potential conflict of interest with the company which was the developer. Since this issue arose, I have had an opportunity to study the matter and I am still convinced that my advice was correct.

TDEC's reason for this position on ownership is that after a development is complete, the developer can simply walk off leaving operation and maintenance to take care of itself. This view has proven to be historically correct.



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



APPLICATION FOR A STATE OPERATION PERMIT (SOP)

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

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

Permittee

Name **River Trace II Homeowners Association**
(applicant):

Permittee
Address: **6471 E. Antioch Road, Buchanan, Tennessee 38222**

Official Contact:

Pam Bygden

Title or Position:

Secretary

Mailing Address:

6471 E. Antioch Road

City:

Buchanan

State:

TN

Zip:

38222

Phone number(s):

731-642-1399

E-mail:

pambygden@gmail.com

Optional Contact:

Title or Position:

Address:

City:

State:

Zip:

Phone number(s):

E-mail:

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

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

Name and title; print or type

Pam Bygden, Secretary

Signature

Date

September 3, 2013

Facility Identification:		Existing Permit No.	
Facility Name:	River Trace II WWTP	County:	Stewart
Facility Address or Location:	River Trace Road, Stewart County, Tennessee	Latitude:	36-26-18N
		Longitude:	88-01-44W
Name and distance to nearest receiving waters: 1000 ft to Tennessee River(Kentucky Lake)			
If any other State or Federal Water/Wastewater Permits have been obtained for this site, list their permit numbers:			
Name of company or governmental entity that will operate the permitted system: River Trace II Homeowners Association			
Operator address: 6471 E. Antioch Road, Buchanan, Tennessee 38222			
Has the owner/operator filed for a Certificate of Convenience & Necessity (CCN), or an amended CCN, with the Tennessee Regulatory Authority (TRA) (may be required for collection systems and land application treatment systems)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A			
If the applicant listed above does not yet own the facility/site or if the applicant will not be the operator, explain how and when the ownership will be transferred or describe the contractual arrangement and renewal terms of the contract for operations.			
Complete the following information explaining the entity type, number of design units, and daily design wastewater flow:			
Entity Type	Number of Design Units		Flow (gpd)
<input type="checkbox"/> City, town or county	No. of connections:		
<input checked="" type="checkbox"/> Subdivision	No. of homes: 50	Avg. No. bedrooms per home: 3	15000
<input type="checkbox"/> School	No. of students:	Size of cafeteria(s): No. of showers:	
<input type="checkbox"/> Apartment	No. of units:	No. units with Washer/Dryer hookups: No. units without W/D hookups:	
<input type="checkbox"/> Commercial Business	No. of employees:	Type of business:	
<input type="checkbox"/> Industry	No. of employees:	Product(s) manufactured:	
<input type="checkbox"/> Resort	No. of units:		
<input type="checkbox"/> Camp	No. of hookups:		
<input type="checkbox"/> RV Park	No. of hookups:	No. of dump stations:	
<input type="checkbox"/> Car Wash	No. of bays:		
<input type="checkbox"/> Other			
Describe the type and frequency of activities that result in wastewater generation. Continuous Home Occupancy			

Engineering Report (required for collection systems and/or land application treatment systems):			<input type="checkbox"/> N/A
<input checked="" type="checkbox"/> Prepared in accordance with Rule 1200-4-2-.03 and Section 1.2 of the Tennessee Design Criteria (see website for more information)			
<input checked="" type="checkbox"/> Attached, or			
<input type="checkbox"/> Previously submitted and entitled:		Approved? <input type="checkbox"/> Yes. Date: <input type="checkbox"/> No	
Wastewater Collection System:			<input type="checkbox"/> N/A
System type (i.e., gravity, low pressure, vacuum, combination, etc.): Low Pressure Gray Water Only			
System Description: Recirculating Sand Filter w/ Drip Field			
Describe methods to prevent and respond to any bypass of treatment or discharges (i.e., power failures, equipment failures, heavy rains, etc.): Holding flow in proposed recirculation tank			
In the event of a system failure describe means of operator notification: System alarms and phone alert to operator			
List the emergency contact(s) (name/phone): Randy Stamps 731-642-1399			
For low-pressure systems, who is responsible for maintenance of STEP/STEG tanks and pumps or grinder pumps (list all contact information)? WWTP Operator Contact: Randy Stamps @ 731-642-1399			
Approximate length of sewer (excluding private service lateral): 6000 lf			
Number/hp of lift stations: /		Number/hp of lift pumps /	
Number/volume of low pressure and or grinder pump tanks		50 lp units/	
Number/volume septic tanks		50@750 gal/	
Attach a schematic of the collection system. <input type="checkbox"/> Attached			
If this is a satellite sewer and you are tying in to another sewer system complete the following section, listing tie-in points to the sewer system and their location (attach additional sheets as necessary):			
<u>Tie-in Point</u>		<u>Latitude (xx.xxxx°)</u>	

Land Application Treatment System:		<input type="checkbox"/> N/A
Type of Land Application Treatment System: <input checked="" type="checkbox"/> Drip <input type="checkbox"/> Spray <input type="checkbox"/> Other, explain:		
Type of treatment facility preceding land application (recirculating media filters, lagoons, other, etc.): Recirculating Sand Filter		
Attach a treatment schematic. <input checked="" type="checkbox"/> Attached		
Describe methods to prevent and respond to any bypass of treatment or discharges (i.e., power failures, equipment failures, heavy rains, etc.): Holding flow in proposed recirculation tank		
For New or Modified Projects:		
Name of Developer for the project: Hammerland, Inc. Attn: Pam Bygden		
Developer address and phone number: 6471 E. Antioch Road, Buchanan, Tennessee 38222, 731-642-1399		
For land application, list:	Proposed acreage involved: 1.66 Inches/week gpd/sq.ft loading rate to be applied: 2.34 in/wk 0.208 gpd/sf	
Is wastewater disinfection proposed?		
<input checked="" type="checkbox"/> Yes	Describe land application area access: Off River Trace Road at WWTP Site	
<input type="checkbox"/> No	Describe how access to the land application area will be restricted:	
Attach required additional Engineering Report Information (see website for more information)		
<input checked="" type="checkbox"/> Topographic map (1:24,000 scale presented at a six inch by six inch minimum size) showing the location of the project including quadrangle(s) name(s) GPS coordinates, and latitude and longitude in decimal degrees should also be included.		
<input checked="" type="checkbox"/> Scaled layout of facility showing the following: lots, buildings, etc. being served, the wastewater collection system routes, the pretreatment system location, the proposed land application area(s), roads, property boundaries, and sensitive areas such as streams, lakes, springs, wells, wellhead protection areas, sinkholes and wetlands.		
<input checked="" type="checkbox"/> Soils information for the proposed land disposal area in the form of a Water Pollution Control (WPC) Soils Map per Chapter 16 and 17 State of Tennessee Design Criteria for Sewage Work. The soils information should include soil depth (borings to a minimum of 4 feet or refusal) and soil profile description for each soil mapped.		
<input checked="" type="checkbox"/> Topographic map of the area where the wastewater is to be land applied with no greater than ten foot contours presented at a minimum size of 24 inches by 24 inches.		
<input checked="" type="checkbox"/> Describe alternative application methods based on the following priority rating: (1) connection to a municipal/public sewer system, (2) connection to a conventional subsurface disposal system as regulated by the Division of Groundwater Protection, and/or (3) land application.		

For Drip Dispersal Systems Only: Unless otherwise determined by the Department, sewage treatment effluent wells, i.e. large capacity treatment/drip dispersal systems after approval of the SOP Application, will be issued an UIC tracking number and will be authorized as Permit by Rule per UIC Rule 1200-4-6-.14(2) and upon issue of a State Operating Permit and Sewage System Construction Approval by the Department.

☐ N/A

Describe the following:

The area of review (AOR) for each Drip Dispersal System shall, unless otherwise specified by the Department, consist of the area lying within a one mile radius or an area defined by using calculations under 1200-4-6-.09 of the Drip Dispersal System site or facility, and shall include, but not be limited to general surface geographic features, general subsurface geology, and general demographic and cultural features within the area. Attach to this part of the application a general characterization of the AOR, including the following: (This can be in narrative form)

☒ A general description of all past and present groundwater uses as well as the general groundwater flow direction and general water quality.

☒ A general description of the population and cultural development within the AOR (i.e. agricultural, commercial, residential or mixed)

☒ Nature of injected fluid to include physical, chemical, biological or radiological characteristics.

☒ If groundwater is used for drinking water within the area of review, then identify and locate on a topographic map all groundwater withdrawal points within the AOR, which supply public or private drinking water systems. Or supply map showing general location of publicly supplied water for the area (this can be obtained from the water provider)

☒ If the proposed system is located within a wellhead protection area or source water protection area designated by Rule 1200-5-1-.34, show the boundary of the protection area on the facility site plan.

☒ Description of system, Volume of injected fluid in gallons per day based upon design flow, including any monitoring wells

☒ Nature and type of system, including installed dimensions of wells and construction materials

Pump and Haul:

☒ N/A

Reason system cannot be served by public sewer:

Distance to the nearest manhole where public sewer service is available:

When sewer service will be available:

Volume of holding tank: gal.

Tennessee licensed septage hauler (attach copy of agreement):

Facility accepting the septage (attach copy of acceptance letter):

Latitude and Longitude (in decimal degrees) of approved manhole for discharge of septage:

Describe methods to prevent and respond to any bypass of treatment or discharges (i.e., power failures, equipment failures, heavy rains, etc.):

Holding Ponds (for non-domestic wastewater only):	<input checked="" type="checkbox"/> N/A
Pond use: <input type="checkbox"/> Recirculation <input type="checkbox"/> Sedimentation <input type="checkbox"/> Cooling <input type="checkbox"/> Other (describe):	
Describe pond use and operation:	
If the pond(s) are existing pond(s), what was the previous use?	
Have you prepared a plan to dispose of rainfall in excess of evaporation? <input type="checkbox"/> Yes <input type="checkbox"/> No	
If so, describe disposal plan:	
Is the pond ever dewatered? <input type="checkbox"/> Yes <input type="checkbox"/> No	
If so, describe the purpose for dewatering and procedures for disposal of wastewater and/or sludge:	
Is(are) the pond(s) aerated? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Volume of pond(s):	Dimensions:
Is the pond lined (Note if this is a new pond system it must be lined for SOP coverage. Otherwise, you must apply for an Underground Injection Control permit.)? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Describe the liner material (if soil liner is used give the compaction specifications):	
Is there an emergency overflow structure? <input type="checkbox"/> Yes <input type="checkbox"/> No	
If so, provide a design drawing of structure.	
Are monitoring wells or lysimeters installed near or around the pond(s)? <input type="checkbox"/> Yes <input type="checkbox"/> No	
If so, provide location information and describe monitoring protocols (attach additional sheets as necessary):	

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

APPLICATION FOR A STATE OPERATION PERMIT (SOP)

INSTRUCTIONS

Purpose of this form A completed SOP application must be submitted to obtain SOP coverage. This permit is required to operate a sewage, industrial waste or other waste collection and/or treatment system that does not have a point source discharge to any surface or subsurface waters. This form must be submitted at least 180 days before starting any new activity, before an existing permit expires, or when renewing a permit.

Complete the form Type or print clearly, using black or blue ink; not markers or pencil. Answer each item or enter "N/A," for not applicable. If you need additional space, attach a separate piece of paper to the SOP application. Applicants may be required to submit engineering reports, plans and specifications. Contact the division for the applicable items, or visit the Division of Water Pollution Control world wide web site at: <http://www.tn.gov/environment/wpc> for more information. **The application will be considered incomplete without supplying all of the required information, Engineering Reports, and an original signature.**

Permittee Identification/Facility Identification Describe and locate the project, use the legal or official name of the facility or site. Provide the latitude and longitude (expressed in decimal degrees) of the center of the site, which can be located on USGS quadrangle maps. The quadrangle maps can be obtained at 1-800-USA-MAPS, or at the Census Bureau world wide web site: <http://www.census.gov/cgi-bin/gazetteer>. Attach a copy of a portion of a 7.5 minute quad map, showing location of site, with boundaries at least one mile outside the site boundaries. If business is mobile give the owner of operations' home, or business office address, and list all current areas of operation by city and county.

Wastewater Collection System These types of systems require engineering reports, refer to the website (<http://www.tn.gov/environment/wpc/>) for more information.

Land Application Treatment System These types of systems require engineering reports, refer to the website (<http://www.tn.gov/environment/wpc/>) for more information. Public access to the treatment area must be restricted, if disinfection is not part of the treatment. Applicants completing this section of the application must also complete the Wastewater Collection System section.

Pump and Haul These types of systems may require engineering reports, refer to the website (<http://www.tn.gov/environment/wpc/>) for more information.

Holding Ponds Given that annual rainfall onto open ponds exceeds annual evaporation (in Tennessee), the permittee must develop a written plan (to be retained on site and be available to the division upon request) that addresses how excess rainfall will be disposed of in compliance with the no discharge requirement of this permit. Treatment ponds are not to be used for stormwater treatment or storage. All new and existing point source industrial stormwater discharges associated with industrial activity require coverage under the Tennessee industrial stormwater multi-sector general permit TMSP, refer to the website (<http://www.tn.gov/environment/permits/stmrh2o.shtml>) for more information. Describe the system for re-routing surface runoff away from ponds in the rainfall disposal plan.

Mobile Wash Operations Indicate whether the operation is run by an individual or a corporation with a fleet of vehicles equipped to wash and collect waste waters. If a corporation, indicate the home office as the "Official Contact". Indicate if operations take place at specific sites and list those counties that apply. Note that this permit covers operations for all of Tennessee. Operations indicated as "statewide" generally apply as a fleet type operation and each office location shall be individually permitted. Equipment may be truck or trailer-mounted, or both, indicate all that applies. Soaps, detergents, and other chemicals used should be non-toxic and biodegradable. All "chemically enhanced" (soaps, detergents, and other chemicals) waste-wash waters must be collected for proper disposal. If no chemically enhanced washwaters are used, clear-wash waters may travel by sheet flow to a gravel or grassy area where there is no opportunity to enter waters of the

APPLICATION FOR A STATE OPERATION PERMIT (SOP)
INSTRUCTIONS - CONTINUED

state. There should be no discharge to a storm water inlet, ditch, conveyance, stream, etc. If you are unsure of your wash area drainage, contact the area Environmental Field Office (EFO) prior to setting up your wash operation.

Fees There is no application fee for this permit. An annual maintenance fee is required and you will be invoiced at a later date.

Submitting the form and obtaining more information Note that this form must be signed by the chief executive officer, owner, or highest ranking elected official. For more information, contact your local EFO at the toll-free number 1-888-891-8332 (TDEC). Submit three complete applications (keep a copy for your records) to the appropriate EFO for the county(ies) where the facility is located, addressed to **Attention: WPC, Permit Section Manager**.

EFO	Street Address	Zip Code	EFO	Street Address	Zip Code
Memphis	2510 Mt. Moriah Road STE E-645	38115-1520	Cookeville	1221 South Willow Ave.	38506
Jackson	1625 Hollywood Dr	38305-4316	Chattanooga	540 McCallie Avenue STE 550	37402-2013
Nashville	711 R S Gass Boulevard	37243	Knoxville	3711 Middlebrook Pike	37921
Columbia	2484 Park Plus Drive	38401	Johnson City	2305 Silverdale Road	37601

Upon receipt of the required items, the division conducts a review of the material, and the applicant is notified of any deficiencies. When all the deficiencies have been corrected, the division makes a determination of whether to publish a draft permit. When a draft permit is generated, a public notice is issued and published in a local newspaper. The draft permit is then reviewed by the applicant, and division field staff. The general public also has an opportunity to review the permit. Based on public response, a public hearing may be held. After considering public comments and a final review, the permit may be issued. The entire process normally takes from five (5) to nine (9) months. Permits are normally valid for five (5) years, except those for pump and haul systems, which are generally valid for one (1) year.

The division has the right to inspect a facility when deemed necessary. In addition, the division has the right to revoke or suspend any permit for violation of permit conditions or any other provisions of the Tennessee Water Quality Control Act and other water pollution control rules.

The division is responsible for regulating any activity, which involves a potential discharge in order to protect waters of the State from pollution and to maintain the highest possible standards in water quality.

Hammerland, Inc.
6471 E. Antioch Road
Buchanan, TN 38222
(731) 642-1399

March 28, 2014

Mr. Wade Murphy, Permits Section
Department of Environment and Conservation
Division of Water Resources - Tennessee Tower
312 Rosa L. Parks Ave., 11th Floor
Nashville, Tennessee 37243-1102

RE: River Trace II Waste Water Treatment
Stewart County, Tennessee
SOP - 13030, Job No. D-202

Dear Mr. Murphy:

In response to the concerns stated by the Tennessee Regulatory Authority, we are dividing our operations into an entity for development (Hammerland, Inc.) and an entity for waste water treatment (Hammerland Utilities, Inc.).

Please consider this letter a request to amend the above application for a State Operating Permit to be in the name of Hammerland Utilities, Inc.

If you have any questions, please call.

Sincerely,



Pamela L. Bygden
Secretary

cc: CE Designers
File

IN THE CHANCERY COURT OF THE STATE OF TENNESSEE

IN AND FOR THE COUNTY OF STEWART AT DOVER

**JEFFREY LYNN GARTON, and wife,
JEANNE FAITH-GARTON.**

Plaintiffs,

VS.

**STATE OF TENNESSEE DEPT. OF
ENVIRONMENT & CONSERVATION;
HAMMERLAND, INC.; and, LAKE
ASSOCIATES, INC.,**

Defendants.

CH-13-CV-124

JURY DEMAND

FILED
CHANCERY COURT

JAN 24 2013

JANE C. LINK, CLERK & MASTER
STEWART COUNTY, TN

VERIFIED COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF

I. NATURE OF THE ACTION

Plaintiffs, JEFFREY LYNN GARTON, and wife, JEANNE FAITH-GARTON;
bring this action seeking injunctive relief against defendants State of Tennessee, Dept. of
Environment & Conservation; Hammerland, Inc.; and, Lake Associates, Inc., for the
operation of an unapproved subsurface sewage system and for monetary damages,
including punitive damages, in excess of \$250,000 for Negligence Per Se, Breach of the
Covenant of Quiet Enjoyment and, Nuisance against Defendants Hammerland, Inc.; and,
Lake Associates, Inc.

This is Plaintiffs' first application for extraordinary relief.

II. PARTIES

1. Plaintiffs, JEFFREY GARTON, and wife, JEANNE FAITH-GARTON (GOODMAN), are residents of Stewart County, Tennessee residing at 321 River Trace

Drive, Dover, Tennessee 37058.

2. Defendant, STATE OF TENNESSEE, DEPT. OF ENVIRONMENT & CONSERVATION, ("DEC") is a state regulatory agency empowered with the approval, inspection and issuance of subsurface sewage disposal system ("SSDS") plans and permits. DEC is also the enforcement agency for SSDS violations. It is believed some actions on behalf of DEC are accomplished through local agents.

3. Defendant, HAMMERLAND, INC., ("Hammerland") is a domestic corporation doing business in the State of Tennessee with its principal address located at 6471 E. Antioch Road, Buchanan, Tennessee 38222-4301.

4. Defendant, LAKE ASSOCIATES, INC., ("Lake") is a domestic corporation doing business in the State of Tennessee with its principal address located at 6471 E. Antioch Road, Buchanan, Tennessee 38222-4301. Lake was the exclusive sales agent for Hammerland. Upon information and belief, Ken Morgan (deceased), owner of LAKE, was also a partner in Hammerland.

III. JURISDICTION AND VENUE

5. Subject matter jurisdiction is vested in this Court pursuant to TCA § 29-3-102 as this Complaint seeks, among other things, injunctive relief.

6. This Court has personal jurisdiction over Hammerland and Lake because they are Tennessee Corporations with their principal place of business and address in Tennessee. Furthermore, the Purchase and Sale Agreement utilized by Lake contains the following specific language at line 78 of their contract:

"GOVERNING LAW AND VENUE: this Agreement is intended as a contract for the purchase and sale of real property and shall be interpreted in accordance with the laws and in the courts of the State of Tennessee."

7. Venue is proper in this Court because the real properties at issue in this matter are wholly located within Stewart County, Tennessee.

IV. ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

8. After March 24, 1995, Defendants Hammerland and Lake constructed or caused to be constructed a subsurface sewage disposal system on property adjacent to the River Trace II Subdivision for purposes of providing sewer capacity to Defendants' property which was being developed as lakeside residential property.

9. On or about October, 2012, an out of state property developer discovered an unmarked SSDS on a parcel he was seeking information on. While exercising due diligence the developer inquired further about the potential discrepancy. DEC conducted a site visit and determined the unmarked SSDS appeared to be serving residences in the River Trace II Subdivision. DEC was unable to locate documentation related to plan submission, approval or inspection of this SSDS as required under TCA § 69-221-401 et seq. In addition DEC representatives determined the unpermitted SSDS was failing and in a state of disrepair.

10. The sales brochure for River Trace distributed by Defendants Hammerland and Lake advertised "Existing Sewer System" in its detailed description of the development amenities. Hammerland and Lake also represented to Plaintiffs that, upon sale of seventy-five percent of the lots in the subdivision, a Homeowners Association ("HOA") would be activated to take care of the subdivision's common areas and the SSDS located on a 5.13 acre parcel that would also be deeded to an HOA. Until that time it would remain the responsibility of the developer. River Trace does not appear to have a deeded interest in or to the 5.13 acre parcel containing the SSDS.

11. Plat Book A, Page 55, of record in the Register's Office of Stewart County ("ROSC"), Tennessee, evidences a comment on the River Trace II Subdivision Plat by Defendant DEC as follows:

"Certificate Of General Approval Of Installation Of Subsurface Sewage Disposal System.

General approval is hereby granted for lots proposed hereon as being suitable for subsurface sewage disposal. Before initiation of construction, the location of the house or other structures and plans for the subsurface sewage disposal system shall be approved by the local health authority. Any cutting or filling after this date, MARCH 24, 1995, will void the approval granted herewith by the local health authority. Robert James (signed). Centralized subsurface sewage disposal system shall be maintained by River Trace Subdivision Homeowners Association."

12. Upon information and belief, Defendants Hammerland and Lake failed to obtain proper engineering, inspection and approval prior to construction of its SSDS located on a 5.13 acre parcel identified as Parcel 006.19 of Map 110, ROSC.

13. Upon information and belief, Defendant DEC, through its agent, Robert James, issued a repair permit for the unapproved sewer system in 2008.

14. Upon information and belief, the SSDS located on the 5.13 acre parcel has not been properly maintained in accordance with the laws of the State of Tennessee.

15. This failure of Defendants Hammerland and Lake to obtain proper engineering, inspection, approval and maintenance of its SSDS has resulted in the State of Tennessee suspending the issuance of electrical permits thus, effectively, restraining Plaintiffs' ability to market and sell their properties.

16. Upon information and belief, Defendants Hammerland and Lake are presently in the process of selling, conveying or transferring remaining lots in River

Trace to expedite turning over the responsibility for repairs and maintenance of the SSDS and common areas to an HOA.

17. Plaintiffs have grave concern that transferring or conveying unsold remaining lots would, as a result, place great responsibility, expenses, liability and/or enforcement actions on property owners for a SSDS that was neither constructed nor maintained in accordance with TCA § 68-221-401 et seq.

18. Upon information and belief no conveyance or easement exists providing Plaintiffs of an HOA with access or usage of the SSDS or common areas.

**V. FIRST CAUSE OF ACTION
(Negligence Per Se)**

19. Plaintiffs re-allege and re-incorporate by reference, as if fully set forth herein, the allegations in paragraphs 1 through 18, above.

20. Defendants Hammerland and Lake intentionally and knowingly failed to construct, operate and properly maintain a SSDS in violation of TCA § 68-221-401 et seq. Said violation is negligence per se.

21. Plaintiffs and their property are being injured on a daily basis as a result of the inability of Defendants' SSDS to process raw sewage from the residences in River Trace entitling Plaintiff to damages in an amount yet to be determined.

**VI. SECOND CAUSE OF ACTION
(Intentional Misrepresentation)**

22. Plaintiffs re-allege and re-incorporate by reference, as if fully set forth herein, the allegations in paragraphs 1 through 21, above.

23. Defendants knowingly and intentionally represented, through their sales brochure, Plat Map and communications with Plaintiffs that River Trace, among other benefits and amenities, had an existing sewer system and common ramp area.

24. Plaintiffs relied on statements and representations of Defendants that River Trace was served by a fully functioning, properly maintained and approved sewer system and other amenities in their decisions to purchase eight separate lots in River Trace.

25. Plaintiffs, and their property, have been injured, in an amount yet to be determined, by Defendants failure to provide a properly maintained and approved sewer system and other promised amenities.

26. The actions by Defendants Hammerland and Lake constitute a material misrepresentation with has resulted in injury to the Plaintiffs and their property.

VII. THIRD CAUSE OF ACTION (Nuisance)

27. Plaintiffs re-allege and re-incorporate by reference, as if fully set forth herein, the allegations in paragraphs 1 through 26, above.

28. Failure by Defendants Hammerland and Lake to provide an approved and properly maintained sewer system has caused a sewer system that fails on a daily basis resulting in noxious odors based on the prevailing winds and saturation of untreated sewage.

29. Paragraph 5, of the River Trace II Subdivision Covenants and Restrictions states:

"No noxious or offensive activity shall be carried on, in or upon any premises nor shall anything be done thereon

which may be *or may become* an annoyance or nuisance to the neighborhood.”

30. Paragraph 20, of the River Trace II Subdivision Covenants and Restrictions states:

“For violation of any of the covenants herein set forth any party hereto may prosecute appropriate proceedings under the law of the State of Tennessee, such as for damages or for abatement of a nuisance, or, in case of attempted violation, for prevention and restraint.”

31. Failure by Defendants Hammerland and Lake to construct, operate and maintain an approved sewer system is a breach of their duty owed to Plaintiffs.

32. As a result of said breach Plaintiffs have been injured in an amount to be determined.

VIII. FOURTH CAUSE OF ACTION (Breach of the Covenant of Quiet Enjoyment)

33. Plaintiffs re-allege and re-incorporate by reference, as if fully set forth herein, the allegations in paragraphs 1 through 32, above.

34. As a result, Plaintiffs are unable to fully enjoy their property to include selling their property because of the restraint placed on the property by the State of Tennessee.

35. Plaintiffs advertised their residence and seven separate lots for sale in River Trace at the time State of Tennessee took action to stop future construction on River Trace lots until further notice.

36. The intentional action or inaction by Defendants Hammerland and Lake, as described herein, constitute a breach of the Plaintiff's right to the quiet enjoyment of their property.

37. As a result of Defendant Hammerland and Lake's breach Plaintiffs have been injured in an amount to be determined.

IX. PUNITIVE DAMAGES

38. Plaintiffs re-allege and re-incorporate by reference, as if fully set forth herein, the allegations in paragraphs 1 through 37, above.

39. The intentional actions and inactions by Defendants Hammerland and Lake have caused Plaintiffs loss of business opportunity, loss of quiet enjoyment, inconvenience, unnecessary expense and emotional distress. As a result, Plaintiffs are entitled to the recovery of punitive damages as a result of the Defendants' intentional acts.

PREMISES CONSIDERED, Plaintiffs respectfully request:

1. That injunctive relief be granted to prevent Defendants Hammerland and Lake from transferring property or other assets that would permit them to be relieved of their obligation, financial and otherwise, to provide River Trace with an approved sewer system, along with necessary property rights thereto, before transferring responsibility for said system over to River Trace Homeowners Association;

2. That Defendants be ordered to take immediate action to insure a properly constructed, inspected and maintained sewer system is in place and operating properly to prevent Plaintiffs from suffering additional and/or unforeseen harm resulting from failure of Defendants Hammerland and Lake to secure and properly maintain an approved sewer system for the benefit of all homeowners in River Trace;

3. That Plaintiffs be permitted to rescind their purchase agreements for their undisturbed lots as a result of the misrepresentations by Defendants Hammerland and

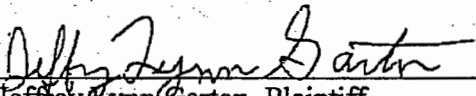
Lake to Plaintiffs that the lots in River Trace were supported by a sewer system and other amenities;

4. That Plaintiffs be awarded a judgment of not less than \$250,000 for loss of enjoyment of their property, inconvenience, and emotional distress;

5. That Plaintiffs be awarded judgment for punitive damages, in an amount sufficient to discourage Defendants Hammerland and Lake from repeating this type of conduct;

6. That Plaintiffs be awarded their attorney's fees and costs as set forth in their purchase agreement and/or restrictions and covenants;

7. Such other further and general appropriate relief to which they may show themselves entitled.

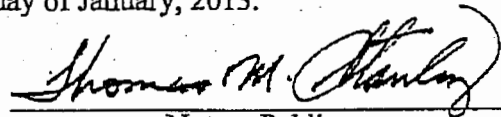

Jeffrey Lynn Garton, Plaintiff


Jeanne Faith-Garton, Plaintiff

STATE OF TENNESSEE)
COUNTY OF STEWART)

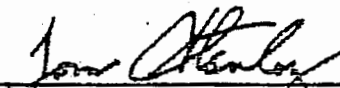
Jeffrey Lynn Garton and Jeanne Faith Garton, being first duly sworn, say that he/she is a plaintiff in the above-entitled action; that he/she has read the foregoing complaint and knows the contents thereof, and that the same is true to his/her own knowledge.

WITNESS my hand and seal, this 24th day of January, 2013.


Notary Public

My Commission Expires: 4-20-2016

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Tom Stanley", written over a horizontal line.

Thomas M. Stanley, #26083

Attorney for Plaintiffs

Post Office Box 559

Dover, Tennessee 37058

(931) 305-4573

Attorney for Plaintiffs

11 PM 1:22

IN THE CHANCERY COURT OF THE STATE OF TENNESSEE
IN AND FOR THE COUNTY OF STEWART AT DOVER

**JEFFREY GARTON, and wife,
JEANNE FAITH-GARTON**

Plaintiffs,

Ys.

**STATE OF TENNESSEE DEPT. OF
ENVIRONMENT & CONSERVATION,
HAMMERLAND, INC., AND LAKE
ASSOCIATES, INC.,**

Defendants.

CH-13-CV-14

FILED
CHANCERY COURT

FEB 19 2013

JANE C. LINK, CLERK & MASTER
STEWART COUNTY, TN

ANSWER TO VERIFIED COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF

Come Defendants, HAMMERLAND, INC. (hereinafter referred to as Hammerland) and LAKE ASSOCIATES, INC. (hereinafter referred to as Lake) and for answer to the *Verified Complaint* (hereinafter the *Complaint*) filed against them would show as follows:

1. The contents of the paragraph entitled "I. Nature of the Action", requires no response.

To the extent that factual allegations are contained in said paragraph, Defendants deny those allegations. Further, Defendants would show that the State of Tennessee Department of Environment and Conservation has been dismissed as a party defendant.

2. Defendants admit the allegations contained in paragraphs number 1, 2 and 3 of the *Complaint*.

3. Defendants admit the allegations contained in the first and second sentences of paragraph number 4 of the *Complaint*. Defendants deny the allegation that Ken Morgan (deceased) is, or was ever, a “partner” in Hammerland and further denies that he ever had any ownership or equitable interest in Hammerland.

4. Defendants admit the allegations concerning jurisdiction and venue contained in paragraphs number 5, 6 and 7 of the *Complaint*.

5. Defendants admit the allegations contained in paragraph number 8 of the *Complaint* as said allegations relate to Hammerland but deny said allegations as they relate to Lake.

6. Defendants have insufficient knowledge or information to either admit or deny the allegations contained in paragraph number 9 of the *Complaint* and demand strict proof thereof.

7. Paragraph number 10 of the *Complaint* contains multiple allegations of fact and conclusions of law in contravention of Tenn. R. Civ. P. 10.02, making a concise answer difficult. Subject to this objection, Defendants admit the allegations contained in paragraph number 10 of the *Complaint* as they relate to Hammerland and deny the allegations as they relate to Lake.

8. The documents referred to in paragraph number 11 of the *Complaint* speak for themselves.

9. Defendants deny the allegations contained in paragraph number 12 of the *Complaint*. Further, Lake denies it has any duty or obligation to do any of the acts described or set forth in said paragraph.

10. Defendants admit the allegations contained in paragraph number 13 of the *Complaint* except that Defendants deny that the sewer system was “unapproved.”

11. Defendants deny the allegations contained in paragraph 14 of the *Complaint*. Further, Lake denies that it has any duty or obligation to perform or undertake any of the acts set forth in said paragraph.

12. Defendants deny the allegations contained in paragraph number 15 of the *Complaint*. Further, Lake denies that it has any duty or obligation to perform any of the acts or make any of the undertakings set forth in said paragraph.

13. Defendants deny the allegations contained in paragraph number 16 of the *Complaint*. Further, Lake denies that it has any authority, power, duty or obligation to do the acts set forth in said paragraph.

14. Defendants have no knowledge of any concerns Plaintiffs may have and demand strict proof thereof. The remaining allegations contained in paragraph number 17 of the *Complaint* are denied.

15. Defendants deny the allegations contained in paragraph number 18 of the *Complaint*.

16. Paragraph number 19 of the *Complaint* requires no answer.

17. Defendants deny the allegations contained in paragraph number 20 of the *Complaint*. Further, Lake has no duty or obligation to do any of the acts set forth in said paragraph.

18. Defendants deny the allegations contained in paragraph number 21 of the *Complaint*.

19. Paragraph number 22 of the *Complaint* requires no answer.

20. Defendants deny the allegations contained in paragraphs number 23, 24, 25 and 26 of the *Complaint*.

21. Paragraph number 27 of the *Complaint* requires no answer.

22. Defendants deny the allegations contained in paragraph number 28 of the *Complaint*.
Further, Lake has no duty or obligation to perform any of the acts set forth in said paragraph.

23. The documents referred to in paragraphs number 29 and 30 of the *Complaint* speak for themselves.

24. Defendants deny the allegations contained in paragraph number 31 of the *Complaint*.
Further, Lake denies that it has any duty or obligation to do any of the acts set forth in said paragraph.

25. Defendants deny the allegations contained in paragraph number 32 of the *Complaint*.

26. Paragraph number 33 of the *Complaint* requires no answer.

27. Defendants deny the allegations contained in paragraph number 34 of the *Complaint*.

28. Defendants have insufficient knowledge or information to either admit or deny the allegations contained in paragraph number 35 of the *Complaint* but any such action on the part of the State of Tennessee, if taken, was unwarranted and unlawful.

29. Defendants deny the allegations contained in paragraph number 36 of the *Complaint*.
Further, Lake denies that it has any duty or obligation to perform any of the acts set forth in said paragraph.

30. Defendants deny the allegations contained in paragraph number 37 of the *Complaint*.

31. Paragraph number 38 of the *Complaint* requires no answer.

32. Defendants deny the allegations contained in paragraph number 39 of the *Complaint*.
Further, Lake has no duty or obligation to Plaintiffs.

33. The *Complaint* fails to state a claim upon which relief can be granted as to Hammerland.

34. The *Complaint* fails to state a claim upon which relief can be granted as to Lake.

35. All issues concerning Plaintiff's *Claim for Injunctive Relief* have been resolved in a previous hearing and an order is to be entered resolving same.

36. Plaintiffs are guilty of laches.

37. The claims of Plaintiffs have been brought outside the relevant statutes of limitation.

38. The claims of Plaintiffs have been brought outside the relevant statutes of repose.

39. Plaintiffs have failed to allege the circumstances they contend constitute fraud and misrepresentation with the specificity required by Tenn. R. Civ. P. 9.02.

40. Hammerland admits that there has been a leak in the sewer system and admits it has taken action and retained an engineer and a contractor in order to repair that leak. Hammerland has complied with all requests and demands of the State of Tennessee and is awaiting approval of a repair permit to remedy the only problem with the system.

41. Hammerland denies that Plaintiffs have been damaged in any way as a result of the leak complained of or its repair or any other matters relating to the septic system.

42. The *Complaint* of Plaintiffs is premature and unwarranted. All septic systems have problems from time to time and require maintenance and repair and that is all that has occurred in this case.

43. Seventy-five percent (75%) of the lots in the subdivision have recently been sold. However, Hammerland has no intention of activating the Homeowners Association or conveying the septic system to it, or to anyone else, until the current leak has been repaired.

44. All allegations contained in the *Complaint*, including Plaintiffs' prayers for relief, not hereinabove specifically admitted, denied or explained, are hereby generally denied as fully and completely as if denied verbatim.

WHEREFORE, Defendants pray that the *Complaint* filed against them be dismissed and that they have judgment for their reasonable costs.

Respectfully submitted,

NEESE & NEESE

By: 

William R. Neese, BPR #007631

314 N. Market St.

Paris, TN 38242

Telephone: 731-642-2188

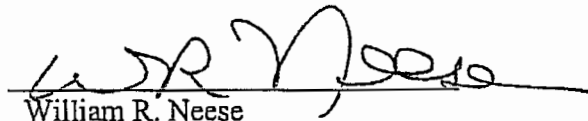
Facsimile: 731-642-2184

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the above and forgoing Answer was served on Counsel for Plaintiffs by U. S. Mail, postage prepaid, addressed as follows:

Thomas M. Stanley, Esquire
Attorney for Plaintiffs
PO Box 559
Dover, Tennessee 37058

this 15 day of February, 2013.


William R. Neese