

TENNESSEE REGULATORY AUTHORITY



502 Deaderick Street, 4th Floor
Nashville, Tennessee 37243

DATE: 2/2/2016

TO: Docket File No. 14-00136

SUBJECT: Memo to File

FROM: Patsy Fulton, Utilities Division

A handwritten signature in black ink, appearing to be "P. Fulton", is written over the "FROM:" line.

RE: Docket No. 14-00136 Petition of Tennessee Wastewater Systems, Inc. for
Approval of Capital Improvement Surcharges and Financing Arrangements

Public Comments Received January 14, 2016 and January 21, 2016
TDEC Dataviewer January 14, 2016 and January 21, 2016
TDEC SOP #06035

Patsy Fulton

From: Hari Akunuri
Sent: Thursday, January 14, 2016 8:06 AM
To: kdean@fmsllp.com
Cc: copperridge303@bellsouth.net; Patsy Fulton; Michelle Ramsey; Charles.Hyatt@adenus.com; 'Roy Denney' (roy.denney@adenus.com); Brad Harris; George Garden; Wade Murphy
Subject: SOP-06035_ Summit_ View_160113_FMS_Public Notice Comments Received Jan_14_2016
Attachments: SOP-06035_ Summit_ View_160113_FMS_Public Notice Comments.pdf

All,

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Hari Akunuri
TDEC/DWR
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We accept and encourage electronic document submittals.

Received
Jan. 13. 2016 3:49PM

Jan 13 2016 02:38pm

No. 7886 P. 1



550 W. Main Street, Suite 600 | P.O. Box 39 Knoxville, Tennessee 37901 | Telephone 865.546.9321

Facsimile Number: 865-637-5249

FAX TRANSMITTAL

TO: Division of Water Resources

FAX NO.: 615-532-0686

FROM: Kevin A. Dean (kdean@fmsllp.com)

DATE: January 13, 2016 Time: _____

RE: In re: Tennessee Wastewater Systems – Summit View Resort
Permit Number SOP-06035
Public Notice Number MMXV-023)
Tennessee Regulatory Authority Docket No. 14-00136

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MESSAGE:

If you do not receive 7 page(s), including cover sheet, please contact our Receptionist or Lori B. Bryson at 865-546-9321.

ARTHUR Jan. 13. 2016 3:49PM

Received

Jan 13 2016 02:38pm

No. 7886 P. 2 46.9321
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January 13, 2016

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(Via Email to Water.Permits@tn.gov)

(Via Fax to 615-532-0686)

ATTN: PUBLIC NOTICE COORDINATOR

RE: TN Wastewater Systems – Summit View Resort; Permit Number SOP-06035
(Public Notice Number MMXV-023)

Dear Public Notice Coordinator:

Pursuant to Rule 0400-40-05-.06(11) and (12), on behalf of my client, Summit View Homeowners' Association (the "HOA"), with respect to the above-referenced permit we submit the following written comments and request that the Commissioner hold a public hearing at the Knoxville, Tennessee TDEC field office.

Written Comments – Rule 0400-40-05-.06(11)

1. The proposal for permit number SOP-06035 to increase design capacity from 8,000 gpd to 18,500 gpd is not needed. Since the system at issue was installed in approximately 2007, the first time the 8,000 gpd capacity was allegedly exceeded was September of 2014. And since installation, the 8,000 capacity has only been exceeded on 3 occasions (and only by a small margin); for the most recent quarter whereby records have been made available (3rd Quarter of 2015), the reported use was as follows:

July	9,570 gpd
August	9,018 gpd
September	4,116 gpd

TOTAL 22,704; Monthly average for 3rd quarter 2015 = 7,568 gpd

Several toilets were found to be running continuously in one of the HOA's largest cabins during a portion of July & August of 2015 which likely contributed to the abnormally high usage figures for these months (Steve Mackenzie, the HOA's maintenance director,

has since repaired that problem). Further, the HOA has taken proactive steps to reduce this usage in the 4th quarter of 2015 by installing low-flow shower heads.

2. Overall Cost of this approved "Plan". To date, no cost information has been supplied and the HOA would respectfully request all relevant financial information (including but not limited to cost to the HOA), be provided well in advance of the requested public hearing. It should also be noted that the HOA has been maintaining the landscaping of the drip field at a cost to the HOA of \$1,400 per month for the past 7 years (TWSI has failed to properly maintain this site as a utility provider); the HOA reserves the right to seek repayment of these amounts.
3. The presently installed wastewater system was designed for the appropriate capacity—there is no factual basis or reasonable support for a system modification that increases design capacity to the 18,500 gpd figure listed in the December 14, 2015 Public Notice Number MMXV-023 for Permit Number SOP-06035. Further, Tennessee Wastewater Systems, Inc. ("TWSI") has purchased additional real property adjoining the real property owned by the HOA on which the present system is located—there is no factual basis or reasonable support for the purchase of additional real property (though the HOA fears TWSI's "plan" may be to join other subdivisions in with the HOA).
4. TWSI's "plan" fails to utilize existing drip lines and real property already owned by the HOA. This "plan" demonstrates TWSI's direction which appears to be to build a system with excess capacity that could then be sold by TWSI to other subdivisions by joining them into the proposed system with excess (18,500 gpd) capacity. Further, the only "plans" the HOA has been given consist of six (6) pages titled "Summit View TF Drip Field Treatment Expansion Sevier County, TN" with a reference "SOP #06035". The HOA respectfully requests TWSI supply a full copy of the entire TWSI/Adenus "plan" for review prior to the requested public hearing.
5. TWSI has failed to properly install and/or maintain the HOA's wastewater system since installation in 2007, which has greatly contributed to the issues that have recently arisen, including but not limited to the following:
 - (a) TWSI installed driplines improperly (not performed in accordance with standard design considerations since the drip lines were not installed parallel to the existing terrain contour grades—see attached Exhibit "1");
 - (b) Given the terrain of the HOA (steep mountain slopes), stormwater runoff can sometimes cause siltation to accumulate around the top of the STEP septic tanks and divert storm water over and onto the top of the tanks (again, see Exhibit "1");
 - (c) TWSI's failure to properly maintain the system over the years has led to a majority of the faults in the current system prior to the present alleged overuse.
6. David K. Beverly recently (September 11, 2015) prepared a letter to Mr. George Garden, Chief Engineer for the Division of Water Resources, outlining additional issues with the TWSI "plan". The HOA adopts this letter (copy attached hereto as Exhibit "1") not only for public comments but to further emphasize the additional information needed with respect to the logic and soundness of the TWSI proposal.

Request for Public Hearing – Rule 0400-40-05-.06(12)

The HOA requests a public hearing given the multiple issues outlined hereinabove with the TWSI “plan” as outlined in the December 14, 2015 Public Notice Number MMXV-023 for Permit Number SOP-06035. The HOA qualifies as an “interested person” under this Rule given TWSI is likely to request the HOA to fund the majority, if not all, of the cost of this “plan” and the majority of the members of the HOA have expressed interest in attending such a hearing. Further, per Rule 0400-40-05-.06(12), “instances of doubt should be resolved in favor of holding the hearing” and the HOA would request that such a hearing be held at the Knoxville, Tennessee TDEC field office to allow as many members of the HOA to attend.

Sincerely,



Arthur G. Seymour, Jr.

Kevin A. Dean

FRANTZ, McCONNELL & SEYMOUR, LLP

KAD/kad
Encls.

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Jan. 13. 2016 3:50PM

David K. Beverly
CONSULTING ENGINEER

301 Wallace Road
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copperridge303@bellsouth.net

(office) 865-992-2467
(cell) 865-271-8373
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September 11, 2015

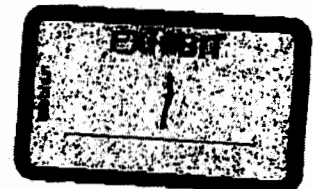
Mr. George C Garden, P.E. BCEE
Chief Engineer
Division of Water Resources
Wm R Snodgrass Tennessee Tower, Floor 11
312 Rosa L. Parks Ave.
Nashville, TN 37243

Re: Summit View Resort
Sevier County

Dear Mr. Garden

I appreciate the opportunity to have met you while attending the onsite field visit at Summit View last week on September 4, 2015. Also attending the meeting was Mr. Bob Pickney representing Tennessee Wastewater Systems, Inc (TWSI), Mr. Michael Caudill - TDEC Knoxville Field Office and Mr. Billy Roach - TDEC Soil Scientist. As you know, I had been requested to attend the meeting as an observer on behalf of the Summit View Home Owners Association (HOA) and then to provide a summary report to the HOA of any discussions and conclusions regarding the pending Corrective Action Plan being proposed by TWSI.

I have also been requested to render my comments and analysis as it may impact the HOA and the individual home owners. I perceive that my role and responsibility to the HOA is not only to provide professional engineering services but also to provide general consultation and offer suggestions of direction for their considerations. With that as my purpose, I would like to present my thoughts and concerns as I ascertain the problems and issues relating to the failing sewer system. I should qualify my conclusions as being basically obvious from a professional engineering perspective. I offer this qualification because I have only been familiar with the problems of the sewer system failures and been involved with this review process for a couple of weeks. The comments below are based on information I have learned from discussions with the HOA and from observing the discussions at the onsite meeting. That was the reason that I requested from Mr. Pickney to be able to receive copies of any design plans and specifications that were being proposed by TWSI. As you recall, Mr. Pickney told me that it was premature and TWSI would not provide to me any of the materials and documentation that I had requested. I am therefore presenting these comments as I understand the issues that may cause the HOA serious concerns with respect to the logic and soundness of the TWSI proposal.



Jan. 13. 2016 3:50PM

Background Information

1. Apparently the problems involving the failure of the sewer drip field began over a year ago.
2. It is my understanding that the original construction of the drip field was not performed in accordance with standard design considerations since the drip lines were not installed parallel to the existing terrain contour grades.
3. It has been stated that the original sewer collection and treatment system was designed for a combined flow of 8,000 gpd and that operational reports have always indicated an average actual total flow less than the 8,000 gpd design flow. However, TWSI recently performed a special supplemental monitoring for one month which indicated significantly more than the original design flow. As I understand, the reason that was given by TWSI was that the subdivision houses were being utilized as rental homes and thus this type of occupancy had caused an increase in flow. It is my understanding that the houses in this development have always been available as daily and weekend rental homes. This intent and fact is reflected in the formal name of this development, *Summit View Resort*. This being the case, the question is raised as to why the monthly reports have not always reflected the higher flows, at least during peak seasonal use times of the year.
4. As background information, it has been stated that each house in the development does not have its own individual STEP type septic tank; that is, more than one house may be connected into each septic tank. The apparent question is if this is in accordance with all of the TDEC submittals and the original design plans for the sewer system.
5. It was stated that one of the septic tanks serving two of the houses was recently damaged by a fallen tree. The question arises as to the nature and extent of the damage and could this have been a source of surface water infiltration, especially during the monthly monitoring period referenced above since they occurred in the same time frame.
6. This situation presents another consideration with regards to operational monitoring and maintenance. Since the terrain of this development is situated on steep mountain slopes, stormwater runoff can sometimes cause siltation to accumulate around the top of the STEP septic tanks and divert storm water over and onto the top of the tanks. If there are other tank lids that have been damaged or are not properly sealed, then this could be another source of infiltration. The question is are all of the tanks routinely monitored and inspected to avoid this possibility. According to the type of septic tank that has been installed, sometimes the side walls of the tanks themselves can be another source of infiltration, either from leaking tank joints or cracked and damaged walls from settlement due to runoff diversion or inadequate foundation on steep slopes.

Considerations

1. The financial burden that would be imposed on the home owners in this development are tremendous if the proposed remedy presented by TWSI is implemented.
2. Why has the existing sewer system not been properly installed, monitored and reported?
3. Is the construction of an entirely new and redundant sewer system needed or warranted?
4. What alternatives have been explored and considered before concluding that the new system should be constructed?
5. Can the existing system be repaired by properly installing drip lines along the contour?
6. Has temporary storage been considered as a means to buffer peak flow periods?
7. Since the proposed CAP is based on higher flow conditions, has there been adequate and proper monitoring performed to determine the actual flow rate that should be incorporated into the design considerations? Has there been any comparison or correlation with the reported high flows and the actual rental or occupancy rate during the recent supplemental monthly monitoring period referenced above? What does the supplemental monitoring indicate when comparing normal average flows and the amount and time of daily high flow periods? What was the methodology and how was that special supplemental monitoring performed and how was it performed differently from the monitoring that has been performed for the past several years? Should this supplemental monitoring be extended into the upcoming Fall season and holiday time frame in order to have better design data with respect to anticipated high flow rates?
8. Have all sources and rates of flow been evaluated such as infiltration and peak flow periods?
9. Is it proper to expect the home owners to pay for additional property in order to construct additional drip line dispersal area?
10. Are the home owners responsible and liable for the initial improper installation of the sewer effluent disposal system?
11. Should the home owners not have the opportunity to review and evaluate the proposed corrective action plan since they would be responsible for paying for it?
12. Should the home owners not have the opportunity to propose an alternative to the plan being presented by TWSI? Should the home owners not have the opportunity to offer an alternative means to contractually control the operations of a repaired sewer system?

In conclusion and on behalf of the home owners, I would suggest that the HOA should either be directly involved in the plans for the correction of the sewer problems and given the opportunity to offer an alternative for correcting the problem or absolved from the financial responsibility to correct the problems as currently proposed by TWSI.

Please advise the HOA if they could be allowed to meet with TDEC and propose alternative actions to correct the sewer system problems. I know that the home owners enjoy and love their homes in the mountains. I also know that they desire to have an economically functional and environmentally safe sewer system.

Thank You for your considerations

Sincerely

David K. Beverly P.E.

David K. Beverly

Patsy Fulton

From: Kevin A. Dean [Kdean@fmsllp.com]
Sent: Thursday, January 21, 2016 12:34 PM
To: Hari Akunuri
Cc: copperridge303@bellsouth.net; Patsy Fulton; Michelle Ramsey; Charles.Hyatt@adenus.com; 'Roy Denney' (roy.denney@adenus.com); Brad Harris; George Garden; Wade Murphy
Subject: RE: SOP-06035_ Summit_ View_160113_FMS_Public Notice Comments Received Jan_14_2016
Attachments: TDEC Flow Report Oct-Nov-Dec 2015 (01357768xA3857).pdf

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Mr. Akunuri,

I would respectfully request the attached flow data for October, November, and December of 2015, which was just received by my office today from Mr. John West, be added to (and supplement) our public comments (specifically section 1 on page 1) and request for public hearing acknowledged below.

Thanks,

Kevin A. Dean Attorney



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From: Hari Akunuri [<mailto:Hari.Akunuri@tn.gov>]
Sent: Thursday, January 14, 2016 9:06 AM
To: Kevin A. Dean <Kdean@fmsllp.com>
Cc: copperridge303@bellsouth.net; Patsy Fulton <Patsy.Fulton@tn.gov>; Michelle Ramsey <Michelle.Ramsey@tn.gov>; Charles.Hyatt@adenus.com; 'Roy Denney' (roy.denney@adenus.com) <roy.denney@adenus.com>; Brad Harris <Brad.Harris@tn.gov>; George Garden <George.Garden@tn.gov>; Wade Murphy <Wade.Murphy@tn.gov>
Subject: SOP-06035_ Summit_ View_160113_FMS_Public Notice Comments Received Jan_14_2016

All,

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JAN 15 2016

TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION DIVISION OF WATER POLLUTION CONTROL MONTHLY OPERATION REPORT FOR STATE OPERATING PERMITS									FACILITY: Summit View Resort PERMITEE: Tennessee Wastewater Systems, Inc. CITY: Sevierville		SOP NO.: 06035 MONTH/YEAR: Nov 2015 COUNTY: Sevier								
DATE	TIME OF SAMPLING	EFFLUENT							COMMENTS ABOUT OPERATION AND COMPLIANCE										
		WASTEWATER FLOW (gpd)	AMMONIA as N (mg/l)	BOD (5) (mg/l)	CBOD (5) (mg/l)	E-COLI (colonies/100ml)	NITRATE as N (mg/l)	TSS (mg/l)											
1									* The crystal and bulb in the ultraviolet light disinfection were replaced and effluent re-sampled for E. Coli on 12/17/15 at 10:40 AM. The result = 7.										
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22									AVERAGE MONTHLY FLOWS (GPD) <table border="1"> <thead> <tr> <th>MONTH</th> <th>FLOW</th> </tr> </thead> <tbody> <tr> <td>October</td> <td>7,643</td> </tr> <tr> <td>November</td> <td>5,033</td> </tr> <tr> <td>December</td> <td>4,189</td> </tr> </tbody> </table>			MONTH	FLOW	October	7,643	November	5,033	December	4,189
MONTH	FLOW																		
October	7,643																		
November	5,033																		
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ACTUAL AVG VALUE		NA	NA	NA		NA			<small>I certify that the submitted information is accurate and complete. I further certify that all sampling was performed in accordance with approved procedures and all analyses were performed in accordance with 40 CFR Part 136. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.</small> SIGNATURE OF OPERATOR <u><i>John G. Lee</i></u> DATE <u>1/7/2016</u> LICENSE NUMBER <u>15064</u> PHONE <u>(615) 220-7200</u> ANALYSIS BY OUTSIDE LABORATORY <u>Yes</u> LABORATORY USED <u>Microbac</u> SIGNATURE OF PRINCIPAL EXECUTIVE OFFICER <u><i>C. R. Lee</i></u> DATE <u>1/8/2016</u>										
PERMIT MAX LIMIT		REPORT	REPORT	45		941													
ACTUAL MAX VALUE		7,643	25.7			>2420													
PERMIT FREQUENCY OF ANALYSIS		Daily	1/Quarter	1/Year		1/Quarter													
PERMIT SAMPLE TYPE		Totalizer	Grab	Grab		Grab													
NO. OF VIOLATIONS		NA	NA			1													