

**IN THE TENNESSEE PUBLIC UTILITY COMMISSION  
AT NASHVILLE, TENNESSEE**

<b>IN RE:</b>	)	
	)	
<b>PETITION OF TENNESSEE</b>	)	
<b>WASTEWATER SYSTEMS, INC., TO</b>	)	<b>DOCKET NO. 18-00107</b>
<b>AMEND ITS CERTIFICATE OF</b>	)	
<b>CONVEIENCE AND NECESSITY</b>	)	

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**CONSUMER ADVOCATE'S FIRST DISCOVERY REQUEST  
TO TENNESSEE WASTEWATER SYSTEMS, INC.**

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This First Discovery Request is hereby served upon Tennessee Wastewater Systems, Inc. (Company or TWS), pursuant to Rules 26, 33, 34 and 36 of the Tennessee Rules of Civil Procedure and Tenn. Comp. R. & Reg. 1220-1-2-.11. The Consumer Advocate Unit of the Attorney General's Office (Consumer Advocate) requests that full and complete responses be provided pursuant to the Tennessee Rules of Civil Procedure. The responses are to be produced at the Office of the Tennessee Attorney General and Reporter, Financial Division, Consumer Advocate Unit, War Memorial Building, 301 6<sup>th</sup> Avenue North, Nashville, Tennessee 37243, c/o Karen H. Stachowski, on or before 2:00 p.m. (CDT), February 18, 2019.

**PRELIMINARY MATTERS AND DEFINITIONS**

1. **Continuing Request.** These discovery requests are to be considered continuing in nature, and are to be supplemented from time to time as information is received by the Company and any of its affiliates which would make a prior response inaccurate, incomplete, or incorrect.
2. **Clear References.** To the extent that the data or information requested is incorporated or contained in a document, identify the document including page/line number if applicable.

3. **Format of Responses.** Provide all responses in the format in which they were created or maintained, for example, Microsoft Word or Microsoft Excel format with all cells and formulas intact and in working order. If a document (including without limitation a financial or other spreadsheet or work paper) is not created or maintained in Microsoft Excel format, convert the document to Microsoft Excel format or provide the document in a format that enables or permits functionality like or similar to Microsoft Excel (including without limitation the functionality of working cells and formulas), or provide the software program(s) that will enable the Consumer Advocate to audit and analyze the data and information in the same manner as would be enabled or permitted if the document were provided in Microsoft Excel format.

4. **Objections.** If any objections to this discovery are raised on the basis of privilege or immunity, include in your response a complete explanation concerning the privilege or immunity asserted. If you claim a document is privileged, identify the document and state the basis for the privilege or immunity asserted. If you contend that you are entitled to refuse to fully answer any of this discovery, state the exact legal basis for each such refusal.

5. The singular shall include the plural, and vice-versa, where appropriate.

6. **Definitions.** As used in this Request:

(a) "You," "Your," "Company," "Tennessee Wastewater," "TWSI" or "TWS" shall mean Tennessee Wastewater Services, Inc. and all employees, agents, attorneys, representatives or any other person acting or purporting to act on its behalf.

(b) "Affiliate" shall mean any entity who, directly or indirectly, is in control of, is controlled by, or is under common control with the Company. For greater clarification, "control" is the ownership of 20% or more of the shares of stock entitled to vote for the election of directors in the case of a corporation, or 20% or more of the equity interest in the case of any other type of entity, or status as a director or officer of a corporation or limited liability company, or status as a partner of a partnership, or status as an owner of a sole proprietorship, or any other arrangement whereby a person has the power to choose, direct, or manage the board of directors or equivalent governing body, officers, managers, employees, proxies, or agents of another person. In addition, the term "Affiliate"

shall mean any entity that directly or indirectly provides management or operational services to the Company or any affiliate (as defined in the preceding sentence) of the Company, or to which the Company provides management or operational services. Further, the payment of money to the Company or receipt by the Company of money from an entity with which the Company has any relationship, other than such payment or receipt, shall include the payor or recipient of such money as an "Affiliate".

(c) "Communication" shall mean any transmission of information by oral, graphic, written, pictorial or otherwise perceptible means, including but not limited to personal conversations, telephone conversations, letters, memoranda, telegrams, electronic mail, newsletters, recorded or handwritten messages, meetings and personal conversations, or otherwise.

(d) "Document" shall have the broadest possible meaning under applicable law. "Document" shall mean any medium upon which intelligence or information can be recorded or retrieved, such as any written, printed, typed, drawn, filmed, taped, or recorded medium in any manner, however produced or reproduced, including but not limited to any writing, drawing, graph, chart, form, letter, note, report, electronic mail, memorandum (including memoranda, electronic mail, report, or note of a meeting or communication), work paper, spreadsheet, photograph, videotape, audio tape, computer disk or record, or any other data compilation in any form without limitation, which is in your possession, custody or control. If any such document was, but no longer is, in your possession, custody or control, state what disposition was made of the document and when it was made?

(e) "Person" shall mean any natural person, corporation, firm, company, proprietorship, partnership, business, unincorporated association, or other business or legal entity of any sort whatsoever.

(f) "Identify" with respect to:

- i. Any natural person, means to state the full name, telephone number, email address and the current or last known business address of the person (if no business address or email address is available provide any address known to you) and that person's relationship, whether business, commercial, professional, or personal with you;
- ii. Any legal person, business entity or association, means to state the full name, the name of your contact person with the entity, all trade name(s), doing business as name(s), telephone number(s), email address(es), and current or last known business address of such person or entity (if no business address is available provide any address known to you);
- iii. Any document, means to state the type of document (e.g., letter), the title, identify the author, the subject matter, the date the document bears and the date it was written; and

- iv. Any oral communication, means to state the date when and the place where it was made, identify the person who made it, identify the person or persons who were present or who heard it, and the substance of it.
- (g) “And” and “or” shall be construed conjunctively or disjunctively as necessary to make the discovery request inclusive rather than exclusive.
- (h) “Including” shall be construed to mean including but not limited to.

### **FIRST DISCOVERY REQUESTS**

- 1-1. In a letter dated October 10, 2018 (Letter), the Tennessee Department of Environment and Conservation (TDEC) informed the Company that its permit application for the Warrioto Hill Treatment Facility (SOP-18024) was incomplete. A copy of this letter is attached as CA Exhibit A. According to the TDEC Permit Dataviewer, the permit application is “incomplete”.<sup>1</sup> Provide responses to the following:
- a. Has the Company addressed the deficiencies as stated in the Letter? If not, when will the deficiencies be addressed?
  - b. If the deficiencies have been addressed, provide a copy of a letter issued by TDEC confirming that the permit application for SOP-18024 is complete.

### **RESPONSE:**

- 1-2. Refer to the Company’s Response to TPUC DR No. 1. The Company states that the capacity of the wastewater system is 17,100 gpd.<sup>2</sup> However, the Company’s TDEC Permit Application states that the Recirculating Media Filter (RMF) is sized for 19,250 gpd.<sup>3</sup>

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<sup>1</sup> The documents for SOP-18024 in the TDEC Permit Dataviewer can be accessed at [http://environment-online.tn.gov:8080/pls/enf\\_reports/f?p=9034:34051:::NO:34051:P34051\\_PERMIT\\_NUMBER:SOP-18024](http://environment-online.tn.gov:8080/pls/enf_reports/f?p=9034:34051:::NO:34051:P34051_PERMIT_NUMBER:SOP-18024).

<sup>2</sup> Also, the Preliminary Engineering Report for the Warrioto Hills Treatment Facility & Drip Disposal states that the RMF is designed for 17,100 gpd. *See Petition to Amend Certificate of Convenience and Necessity*, Exhibit C, TPUC Docket No. 18-00107 (Oct. 16, 2018) (Petition).

<sup>3</sup> The Company’s Permit Application filed with TDEC included a treatment schematic (attached as CA Exhibit B) and an Area of Review (AOR) summary (attached as CA Exhibit C).

Which number is correct for the size of the RMF for this subdivision - 17,100 gpd or 19,250 gpd?

**RESPONSE:**

1-3. Refer to the Company's Response to TPUC DR No. 3 and the treatment schematic filed with TDEC as part of the Company's Permit Application (CA Exhibit B). In the Company's Response to TPUC DR No. 3, the Company states that "[t]he treatment system is designed to handle those flows only." To ensure understanding of the terminology being used in the responses to the TPUC's Data Requests, define what the Company means by the term "treatment system" using the attached treatment schematic. Provide responses to the following:

- a. Does the term "treatment system" as used by the Company refer only to the Watertight Collection System?
- b. Does the term "treatment system" as used by the Company refer only to the 19,250 GPD Recirculating Media Filter?
- c. Does the term "treatment system" as used by the Company refer only to the 5,000 Gallon Recirculating Tank?
- d. Does the term "treatment system" as used by the Company refer only to the 1,500 Gallon Final Dose Tank?
- e. Does the term "treatment system" as used by the Company refer only to Filtration?
- f. Does the term "treatment system" as used by the Company refer only to the Drip Disposal Field (43,000 GPD)?
- g. Does the term "treatment system" as used by the Company refer to a combination of a-e above? If yes, please list the components of the "treatment system".

**RESPONSE:**

1-4. Refer to the Company's Response to TPUC DR No. 2 and your Exhibit 1 (TDEC meeting notes). The TDEC meeting notes state that 4.56 acres of available soil would meet the needs for the 43,0000 gpd requested; however, the recirculating media (sand) filter being installed is sized for a flow of 19,100 gpd. Is it correct that the capacity being considered for authorization under the TDEC State Operating Permit is limited to 19,100 gpd, which is the treatment capacity of the recirculating media (sand) filter?

**RESPONSE:**

1-5. Refer to the Company's Response to TPUC DR No. 2, Exhibit 1 (TDEC meeting notes); TPUC DR No. 3, CA Exhibit B (treatment schematic). It appears there are 4.56 acres of available soil to meet the needs for the 43,0000 gpd, and the recirculating media (sand) filter is sized for a flow of 19,100 gpd. Provide responses to the following:

- a. Is the proposed 5,000-gallon recirculating tank sized to meet the needs of 43,000 gpd or 19,100 gpd?
- b. Is the proposed 1,500-gallon final dose tank sized to meet the needs of 43,000 gpd or 19,100 gpd?

**RESPONSE:**

1-6. Refer to the Company's Response to TPUC DR No. 3. According to the Response, the Company's Petition<sup>4</sup> is for a system providing 43,000 GPD, but "support" was provided for 57 residential lots. Explain by what you mean by the term "support" in the statement that "support was provided for 57 residential lots and a total of 17,100 GPD".

**RESPONSE:**

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<sup>4</sup> The Company's permit application also states that the Subdivision has a flow of 43,000 gpd. See Petition, Exhibit C, pg. 2.

1-7. Refer to the Company's Response to TPUC DR No. 3. According to the Response, the Company's Petition is for a system providing 43,000 GPD, but "support" was provided for 57 residential lots amounting to 17,100 GPD. This results in a capacity difference of 25,900 gpd Petition request and the "support" provided for the 57 residential lots. Provide answers to the following:

- a. Will the 25,900 GPD in unused system capacity be recorded as an asset by any entity?
- b. Who will be responsible for the costs of upgrading the system to serve customers beyond the initial 57 residential lots?
- c. Describe the upgrades that would be necessary for the system to be upgraded to serve additional customers.
- d. Will the unused capacity result in incremental Operations and Maintenance expenses beyond what would be required to serve the 57 residential lots?

**RESPONSE**

1-8. Refer to the Company's Response to TPUC DR No. 6. Does the Sewer Service Agreement cover the conveyance of land for the land in excess of those necessary to serve the 57 lots?

**RESPONSE:**

1-9. Refer to the Company's Response to TPUC DR No. 6. Is there anything in writing between the developer and the Company covering the conveyance of lands beyond those necessary to serve the original 57 lots?

**RESPONSE:**

1-10. Refer to Exhibit J filed with the Company's Petition. Specifically, refer to numbered Paragraph 6 regarding the extension of piping infrastructure to serve future development.

- a. How would the Company record such investments on its books and records?
- b. Since the Company is not earning a rate of return on plant investment is it the company's intention to pass these costs onto the current customers of the utility, the lot owner who desires service, or some other means of recovery?

**RESPONSE:**

- 1-11. Refer to Exhibit J filed with the Company's Petition. Specifically, refer to numbered Paragraph 11 regarding sewer access fees. How does the Company plan on counting the number of plats for "...which a service connection to the wastewater system is available, installed, or expanded but for which no residence, building, or structure has been attached to the service connection"?

**RESPONSE:**

- 1-12. Refer to the Company's Response to TPUC DR No. 10. The Company explained that a typo existed in the Letter of Understanding (LOU), Paragraph 17. Specifically, the last sentence should read "TWS will not incur any costs in procuring easement so pursuing condemnation with the Developer's written approval." Has the Company executed a corrected LOU with the developer? If yes, provide a copy of the executed corrected LOU. If not, explain why not and when a corrected LOU will be executed.

**RESPONSE:**

- 1-13. Refer to the Company's Response to TPUC DR No. 5. At the bottom of page 2 of the Company's TPUC Responses, the Company states that "Sewer contracts are not typically executed until the sewer system is complete . . ." However, in the paragraph before and after this statement, the Company uses the term "Service Agreement" and "Sewer Service



Agreement”. Is the Company using sewer contracts, Service Agreement and Sewer Service Agreement interchangeably in this response? If not, explain the difference.

**RESPONSE:**

1-14. Refer to Exhibit E filed with the Company’s Petition. Specifically, refer to the line “Pumps & Equipment.” Provide narrative responses to the following:


- a. What are the specifications of the pumps being used for this project?
- b. Will the pumps need to be upgraded in the system is ever expanded?
- c. If the answer to b. is yes, who will be responsible for upgrading the pumps?

**RESPONSE:**

1-15. Provide all documents not already provided that were used or relied upon in responding to these Requests.

**RESPONSE:**

RESPECTFULLY SUBMITTED,

  
KAREN H. STACHOWSKI (BPR #019607)  
Assistant Attorney General  
Office of the Tennessee Attorney General  
Financial Division, Consumer Advocate Group  
P.O. Box 20207  
Nashville, Tennessee 37202-0207  
(615) 741-2370  
Karen.Stachowski@ag.tn.gov

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served via U.S. Mail or electronic mail upon:

Jeff Riden  
General Counsel  
Tennessee Wastewater Systems, Inc.  
851 Aviation Parkway  
Smyrna, TN 37169  
(615) 220-7171  
Email: [jeff.riden@adenus.com](mailto:jeff.riden@adenus.com)

This the 1<sup>st</sup> day of February, 2019.

  
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KAREN H. STACHOWSKI



STATE OF TENNESSEE  
DEPARTMENT OF ENVIRONMENT AND CONSERVATION  
DIVISION OF WATER RESOURCES

William R. Snodgrass - Tennessee Tower  
312 Rosa L. Parks Avenue, 11th Floor  
Nashville, Tennessee 37243-1102

October 10, 2018

Mr. Charles R. Hyatt, CEO  
Adenus Group, LLC  
e-copy: charles.hyatt@adenus.com  
849 Aviation Parkway  
Smyrna, TN 37167

Subject: State Operating Permit No. SOP-18024  
Tennessee Wastewater Systems, Inc.- Warrioto Hills Treatment Facility  
Clarksville, Montgomery County, Tennessee

Dear Mr. Hyatt:

The Division of Water Resources (the division) has received your application for the above referenced project on October 4, 2018. We have reviewed the application for completeness in accordance with TDEC rule 0400-40-05-.05 (2) and find the application to be incomplete. The processing of this application has been suspended until the following information has been submitted:

- 1) The certified copy of the soils map with pit profile descriptions need to be submitted for review.
- 2) Preliminary Plans should be submitted in support of the Preliminary Engineering Report (PER).

You should be aware that in accordance with TDEC Rule 0400-40-05-.05 (2), your receipt of this notice does not preclude the division from later requesting additional material that subsequent to the notice of completeness is determined to be necessary for permit processing.

If you have questions, please contact the Nashville Environmental Field Office at 1-888-891-TDEC; or, at this office, please contact me at (615) 532-5819 or by E-mail at [Allen.Rather@tn.gov](mailto:Allen.Rather@tn.gov).

CA Exhibit A

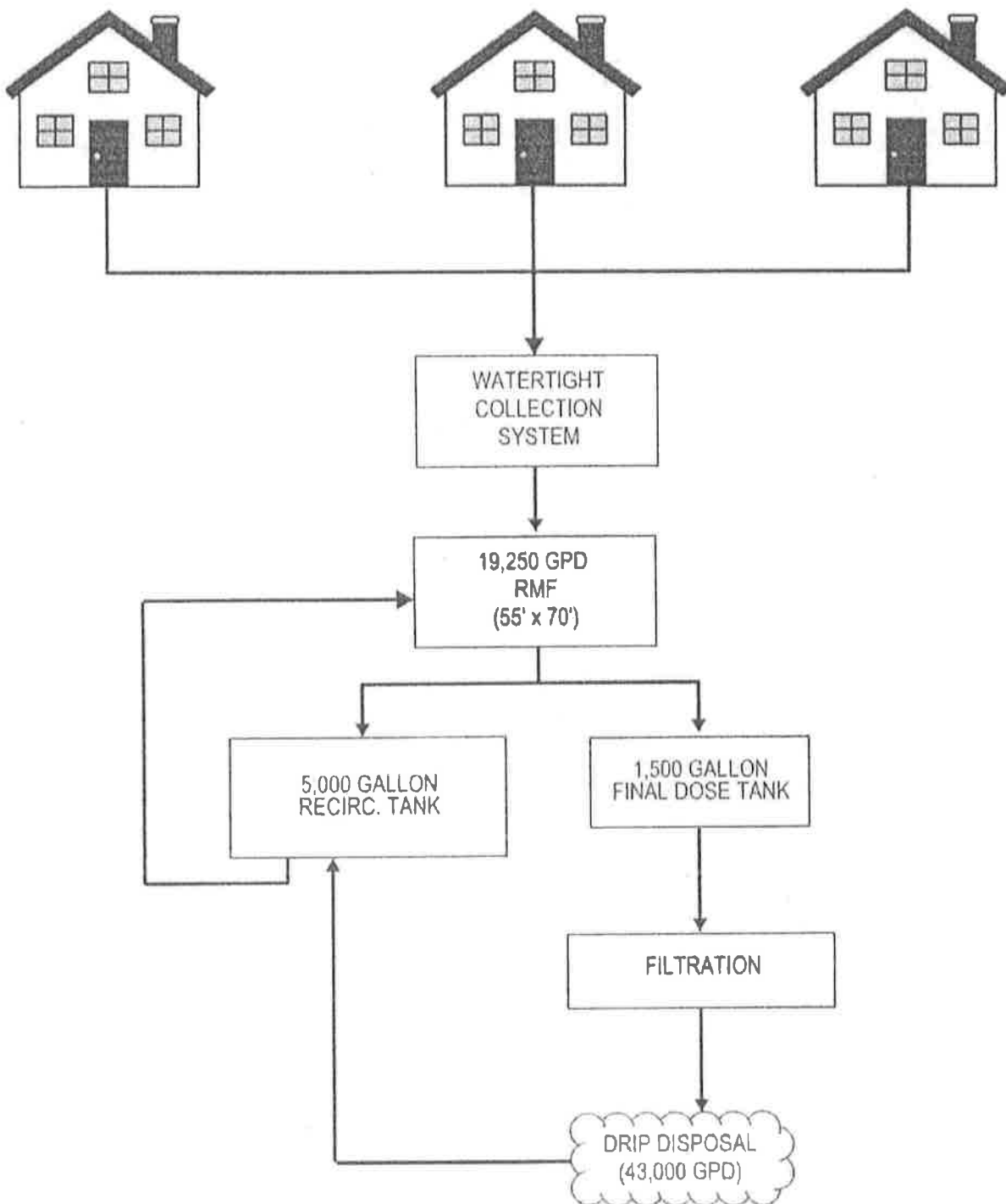
Sincerely,

A handwritten signature in cursive script that reads "Allen Rather".

Allen Rather  
Land-Based Systems

cc: Nashville Environmental Field Office

**CA Exhibit A**



**CA Exhibit B**

## AREA OF REVIEW (AOR)

*Groundwater uses within the AOR (past & present):* Past and present groundwater uses within the AOR include residential and agricultural supply from private wells.

*Groundwater General Description:* The proposed region is a mix of dense and sparse woodlands with silty loam, and deep moderately well drained soils. The Warrioto Hills wastewater treatment area drainage flow path migrates north to The Cumberland River.

*Population and Cultural Development:* The majority of the Area of Review is mixed woodland. The Cumberland River is located to the north. HWY 48 is located to the west. County planning data suggests the region as a growth area. The surrounding area is predominantly large tracts of residential properties and mature woodlands.

*Nature of Fluid:* The Warrioto Hills Treatment Facility is designed as a stand-alone system to accommodate typical residential sanitary wastewater influent.

*Public Water Supply:* Cunningham Utility District supplies public drinking water within the AOR.

Cunningham Utility District  
125 Attaway Rd  
Clarksville, Tennessee 37040  
Information (931) 387-3387

*Nature and Type of System:* The Warrioto Hills Treatment Facility is a new facility that will be designed for wastewater treatment accomplished by Recirculating Media Filter (RMF) technology, with a treatment capacity of 19,250 GPD. Treated wastewater will be disposed of via Netafim Bioline plowed in place in dedicated disposal soils area.

### Disposal Capacity:

The Warrioto Hills Treatment Facility will serve the proposed Warrioto Hills subdivision. Total treatment is expected to be 19,250± GPD. Approximately 4.97± acres of TDEC approved drip disposal soils will be utilized for the purposes of dispersal. With a loading rate of 0.2 GPD/SF, total dispersal capacity will be approximately 43,298± GPD.