

**BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION**

<b>IN RE:</b>	)	
	)	
<b>PETITION OF CARTWRIGHT CREEK, LLC</b>	)	
<b>TO AMEND SERVICE TERRITORY TO</b>	)	<b>Docket No. 19-00042</b>
<b>INCLUDE THE WILSON PARCEL AND</b>	)	
<b>GARRETT PARCEL FOR THE</b>	)	
<b>TROUBADOUR DEVELOPMENT IN</b>	)	
<b>WILLIAMSON COUNTY</b>	)	

**SUPPLEMENTAL INFORMATION IN SUPPORT OF THE  
PETITION AND REQUEST FOR WAIVER OF SOME FILING REQUIREMENTS**

Cartwright Creek, LLC (“Cartwright Creek”) submits the following supplemental information in support of its Petition and asks, as explained below, that the Hearing Officer allow the utility to forego certain filing requirements either under the “law of the case” doctrine or if the utility and the agency staff agree that the information is not needed to evaluate the utility’s request to expand its service area. *See*, T.P.U.C. Rule 1220-01-01-05 which allows the Commission to waive any rule in a particular proceeding “for good cause.”

Council for the utility has discussed this motion with the Consumer Advocate Unit in the Financial Division of the Tennessee Attorney General’s Office (“Advocate”), also a party to this docket, and is authorized to say that the Advocate does not oppose granting the relief requested in the motion although the Advocate expressly reserves taking any position on the issue discussed in footnote 7, *infra*, regarding whether or not, in light of the language of T.C.A. § 65-4-201(a), Cartwright Creek is required to file this petition to serve an adjacent unserved area.

**Summary**

This is not a typical petition by a wastewater utility asking for a certificate of convenience and necessity to provide service to a new development. Here, the utility is already providing service to an existing development pursuant to a certificate issued by the Commission in 2007. At that time,

the Commission (then called the Tennessee Regulatory Authority) found that there was a public need for wastewater service at this development of “approximately 500 residences and a golf course clubhouse” and that Cartwright Creek had the “managerial, financial and technical capabilities to provide the applied for wastewater services.” *See*, “Order Approving Petition to Amend Certificate of Public Convenience and Necessity,” Docket 07-00180, November 19, 2007.

The development, formerly known as “Stillwater,” then “Hideaway” and now “Troubadour,” has recently been redesigned to make it a more upscale community by reducing the total number of houses to 375 and increasing the total amount of land in the development through the addition of two, adjacent parcels that lie just outside the utility’s service area.

The sole purpose of this Petition is to ask the Commission to adjust the boundaries of the utility’s service area to include the two adjacent parcels. Since the Commission has already authorized Cartwright Creek to serve this development, most of the voluminous filings normally required of a wastewater company seeking to serve a new area (*see*, T.P.U.C. rule 1220-04-13-.17) are unnecessary. The Petitioner therefore respectfully asks that, the Commission staff and the utility collaboratively determine what information the staff needs, which the utility will promptly provide, and that the Commission consider and approve the Petition.

#### Statement of Facts

Cartwright Creek provides wastewater service to “Troubadour,” a development in Williamson County, Tennessee. The development company, a partnership called Arrington Property Holdings,<sup>1</sup> has recently purchased two adjacent tracts of land and plans to build about twenty houses on one of the tracts.<sup>2</sup> Both tracts will become part of the Troubadour development. At the same

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<sup>1</sup> See the attached chart (Exhibit A) showing the history of this development.

<sup>2</sup> The larger of the two parcels, known as the Wilson Parcel, covers 110 acres. Although the development company has

time, the development company has redesigned Troubadour to reduce the total number of houses, including the houses to be built on the new tract, from 495 to no more than 375.<sup>3</sup>

### Discussion

The only reason for filing this Petition is to adjust the boundary lines established in Docket 07-00180. In that docket, the agency held that Cartwright Creek has the technical, managerial and financial capabilities to provide even more service than the development now needs.<sup>4</sup> The utility's certificate and the findings in the order supporting the issuance of that certificate remain in effect today. Those findings are "the law of the case" and cannot be re-litigated by any party or reconsidered by the agency absent a substantial change in the law or the facts since the earlier decision.<sup>5</sup>

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not yet determined how many houses will be built on that tract, the company estimates there will be twenty to twenty-two houses. No houses are planned on the other parcel.

<sup>3</sup> Attached as Exhibit C is a map of the redesigned development. The Williamson County Planning Commission has not yet approved this redesign because Cartwright Creek must amend its CCN, as requested in this Petition, before the planning commission will review the new design.

As in most, multi-phase developments, the wastewater system at Troubadour is being built in phases as the development is built out. The first phase of the system is capable of serving up to 203 homes. There are fifty homes currently connected to the system and approximately fifteen more under construction. Cartwright Creek has applied for and received a draft permit from the Tennessee Department of Environment and Conservation ("TDEC") to expand the existing treatment system to serve up to 375 houses. A copy of the draft permit is attached as Exhibit B. This second and final phase of the treatment system is expected to be completed in 2020.

<sup>4</sup> Attached as Exhibit D is a letter from Nolensville/College Grove Utility District confirming that the utility district has released its right to provide wastewater service to the Wilson Parcel, which is the 110 acre parcel recently acquired by the developer of Troubadour and described in footnote 2, supra.

<sup>5</sup> The "law of the case" doctrine means that in circumstances where a case is tried a second time, prior rulings by the trial court that were not appealed or any appellate rulings following the first trial become the "law of the case" and may not be litigated again absent unusual circumstances. As the Tennessee Supreme Court explained in State v. Jefferson, 31 S.W.3d 558, 561 (Tenn. 2000),

"The law of the case doctrine is not a constitutional mandate nor a limitation on the power of a court. Rather, it is a longstanding discretionary rule of judicial practice which is based on the common sense recognition that issues previously litigated and decided by a court of competent jurisdiction ordinarily need not be revisited. This rule promotes the finality and efficiency of the judicial process, avoids indefinite relitigation of the same issue, fosters consistent results in the same litigation, and assures the obedience of lower courts to the decisions of appellate courts."

In the alternative, the utility asks that the Hearing Officer permit the utility and the staff to waive certain filing requirements pursuant to T.P.U.C. Rule 1220-01-01-05. Because of the limited nature of the utility's request, there is no need for the agency to require the utility to submit all of the corporate documents and evidence of technical, managerial and financial competence that a utility seeking to serve a new development would otherwise be required to file.<sup>6</sup> Of course, the utility will promptly submit whatever information the staff needs to review the utility's request to adjust the boundaries of its service area to include the two adjacent parcels. This abbreviated process, however, will be far more efficient and cost-effective for both the utility and the staff than requiring literal compliance with the agency's filing rules.<sup>7</sup>

### Conclusion

Cartwright Creek already has both the right and the obligation to provide wastewater service in the Troubadour development. The addition of two relatively small, adjacent tracts to the development is not sufficient reason to require the utility to demonstrate again that it has the

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<sup>6</sup> For example, the rules require an applicant seeking a new CCN to file, *inter alia*, an organizational chart; a list of owners, members and officers of the utility with an address, telephone number and percentage of ownership of each individual; a list of affiliates and description of any transactions between the utility and its affiliates; the utility's articles of incorporation; its license to engage in business in Tennessee; the location of the treatment system; details of the proposed treatment system; contracts between the utility and the developer; biographies of utility staff members; the State Operator Certificate of the system operator; a letter of certification from an engineer that the treatment system was built in accordance with TDEC-approved plans; a chart of accounts, a list of all plant-in-service accounts and account balances, depreciation rates; detailed construction costs, estimates of costs and future customers by month over the next five years; evidence of a performance bond, a list of all available funding sources, and pro forma income statements for the next three years.


While these filing requirements might be appropriate in most circumstances, they are clearly unnecessary in this case where the utility is already serving the development and asks only to adjust its service territory because the boundaries of the development have changed.

<sup>7</sup> Under T.C.A. § 65-4-201(a), this Petition may not be necessary. The statute, which requires every public utility to have a certificate, states that a public utility already providing service is not required to obtain a certificate for "an extension into territory . . . contiguous to its . . . system" that is not already being served by another similar utility. Since Cartwright Creek is already providing service to Troubadour, it appears the utility may not need to amend its certificate to provide service to an adjacent parcel that is not currently being served by another wastewater utility. Nevertheless, the utility has filed this Petition at the staff's request in order to inform the Commission of the expansion of the utility's service territory.

technical, managerial and financial capabilities to serve this development.

For these reasons, the utility asks the Hearing Officer to allow the staff and the utility to focus their resources on information that is relevant to the Petition and forego any filing requirements that the staff and utility agree are unnecessary.

Respectfully submitted,

By:   
Henry Walker (B.P.R. No. 000272)  
Bradley Arant Boult Cummings, LLP  
1600 Division Street, Suite 700  
Nashville, TN 37203  
Phone: 615-252-2363  
Email: [hwalker@babbc.com](mailto:hwalker@babbc.com)

Attorneys for Cartwright Creek, LLC

**CERTIFICATE OF SERVICE**

I hereby certify that on the 10<sup>th</sup> day of March, 2019, a copy of the foregoing document was served on the parties of record, via electronic email transmission and regular U.S. Mail, postage prepaid, addressed as follows:

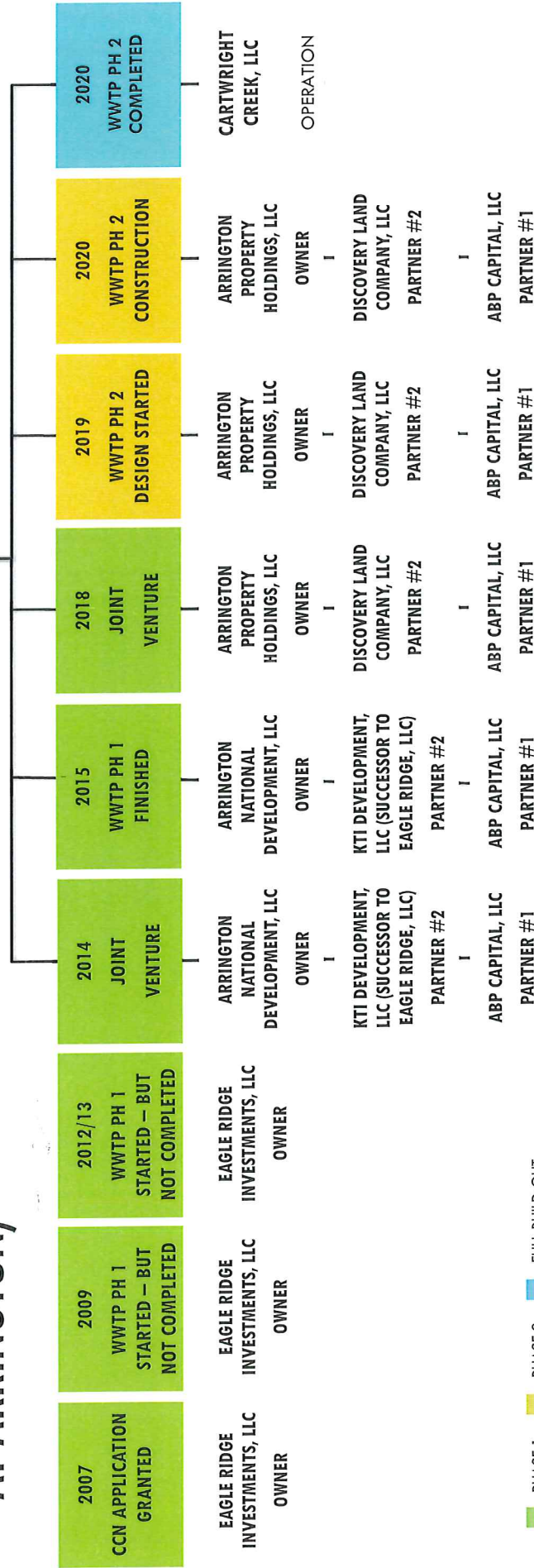
Karen Stachowski, Asst. Atty. Gen.  
Financial Division, Consumer Advocate Unit  
Office of the Tennessee Attorney General  
P.O. Box 20207  
Nashville, TN 37202-0207

  
\_\_\_\_\_  
HENRY WALKER

# **TROUBADOUR** **OWNERSHIP CHAIN** **(FORMERLY HIDEAWAY** **AT ARRINGTON)**

ABP CAPITAL, LLC  
PROJECT LENDER

CARTWRIGHT CREEK, LLC  
WWTP OWNER/OPERATOR



PHASE 1 PHASE 2 FULL BUILD-OUT





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

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

December 19, 2017

Mr. Bruce Meyer, Operations Manager  
Cartwright Creek, LLC  
e-copy: bmeyer@sheafferwws.com  
1551 Thompson's Station Rd W.  
Thompsons Station, TN 37179

**Re: State Operating Permit No. SOP-07090  
Cartwright Creek, LLC - Hideaway Wastewater Treatment Facility (Formerly Stillwater  
Resource Conservation Development WWTP)  
Thompson Station, Williamson County, Tennessee**

Dear Mr. Meyer:

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

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

If you have questions, please contact the Nashville Environmental Field Office at 1-888-891-TDEC; or, at this office, please contact Mr. John Newberry at (615) 532-7743 or by E-mail at [John.Newberry@tn.gov](mailto:John.Newberry@tn.gov).

Sincerely,

Brad Harris, P.E.  
Manager, Land-Based Systems

Enclosure

cc/ec: Land-Based Systems File  
Nashville Environmental Field Office  
Mr. Delmar Reed, Operations & Construction Mgr, Cartwright Creek, LLC, [drreed19612@mail.com](mailto:drreed19612@mail.com)  
Ms. Michelle Ramsey, Utilities Division, Tennessee Regulatory Authority, [michelle.ramsey@tn.gov](mailto:michelle.ramsey@tn.gov)





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

**Permit No. SOP-07090**

**PERMIT**

**For the operation of Wastewater Treatment Facilities**

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

**PERMISSION IS HEREBY GRANTED TO**

Cartwright Creek, LLC – Hideaway Wastewater Treatment Facility (formerly Stillwater)  
Thompson Station, Williamson County, Tennessee

**FOR THE OPERATION OF**

Individual E-One grinder pump units, deep cell lagoon and storage cell (Sheaffer system), filtration, UV disinfection and drip irrigation for phase 1 system located at latitude 35.815194 and longitude -86.67697 in Williamson County, Tennessee to serve approximately 203 homes and a clubhouse in the Hideaway Wastewater Treatment Facility. The design capacity of the system is .06 MGD.

This permit is issued as a result of the application filed on August 29, 2017, in the office of the Tennessee Division of Water Resources and in conformity with approved plans, specifications and other data submitted to the Department in support of the above application, all of which are filed with and considered as a part of this permit, together with the following named conditions and requirements.

**This permit shall become effective on: February 1, 2018**

**This permit shall expire on: January 31, 2023**

**Issuance date: December 19, 2017**



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for Tisha Calabrese Benton  
Director

A. GENERAL REQUIREMENTS

The treatment system shall be monitored by the permittee as specified below:

<u>Parameter</u>	<u>Sample Type</u>	<u>Daily Maximum</u>	<u>Monthly Average</u>	<u>Measurement Frequency</u>
Flow *	Totalizer			Daily
BOD <sub>5</sub>	Grab	45 mg/l	N/A	Once/Year
Ammonia as N	Grab	Report	N/A	Once /Quarter
<i>E. Coli</i>	Grab	941 colonies/100 ml	N/A	Once /Quarter

\* Report average daily flow for each calendar month.

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

This permit allows the operation of a wastewater collection, treatment, and storage system with disposal of treated wastewater through approved land application areas. There shall be no discharge of wastewater to any surface waters or to any location where it is likely to enter surface waters. There shall be no discharge of wastewater to any open throat sinkhole. In addition, the drip irrigation system shall be operated in a manner preventing the creation of a health hazard or a nuisance.

The land application component shall be operated and maintained to ensure complete hydraulic infiltration within the soil profile, transmission of the effluent away from the point of application, and full utilization of the soil profile as a portion of the treatment system.

Instances of surface saturation, ponding or pooling within the land application area as a result of system operation are prohibited. Instances of surface saturation, ponding or pooling shall be promptly investigated and noted on the Monthly Operations Report. The report shall include details regarding location(s), determined cause(s), the actions taken to eliminate the issue, and the date the corrective actions were made. Any instances of surface saturation, ponding or pooling not associated with a major precipitation event not corrected within three days of discovery shall be reported to the local Environmental Field Office at that time for investigation. Surface saturation, ponding or pooling resulting in the discharge of treated wastewater into Waters of the State or to locations where it is likely to move to Waters of the State shall be immediately reported to the local Environmental Field Office.

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

All drip lines shall be buried and maintained 6 to 10 inches below the ground surface.

The site shall be inspected by the certified operator or his/her designee, at a minimum, once per fourteen days (default) OR in accordance with an operating and maintenance inspection schedule in the permit administrative file record. The default inspection frequency will apply if an operating and maintenance inspection schedule is not submitted to be a part of the permit administrative file record. The operating and maintenance inspection schedule shall at a minimum evaluate the following via onsite visits or telemetry monitoring or a combination of the two:

- the condition of the treatment facility security controls (doors, fencing, gates, etc.),
- the condition of the drip area security controls (doors, fencing, gates, etc.),
- the condition of the site signage,
- the operational status of the mechanical parts of the treatment system (pumps, filters, telemetry equipment, etc.)
- the condition of the UV bulbs (if applicable)
- the condition of the land application area including the location of any ponding
- the name of the inspector
- the description of any corrective actions

Submission of the schedule, or revisions to the schedule, may be submitted to the division electronically. The schedule shall be submitted on or before the effective date of the permit. The permittee is responsible for maintaining evidence that the schedule, or revisions, have been submitted to the division.

## **B. MONITORING PROCEDURES**

### **1. Representative Sampling**

Samples and measurements taken in compliance with the monitoring requirements specified above shall be representative of the volume and nature of the monitored discharge, and shall be taken at the following location(s):

Effluent to drip irrigation plots.

### **2. Test Procedures**

Unless otherwise noted in the permit, all pollutant parameters shall be determined according to methods prescribed in Title 40, CFR, Part 136.

## **C. DEFINITIONS**

The "daily maximum concentration" is a limitation on the average concentration, in milligrams per liter, of the discharge during any calendar day.

The "**monthly average concentration**", other than for *E. coli* bacteria, is the arithmetic mean of all the composite or grab samples collected in a one-calendar month period.

A "grab sample" is a single influent or effluent sample collected at a particular time.

For the purpose of this permit, "*continuous monitoring*" means collection of samples using a probe and a recorder with at least one data point per dosing cycle.

A "quarter" is defined as any one of the following three-month periods: January 1 through March 31, April 1 through June 30, July 1 through September 30, and/or October 1 through December 31.

"Wastewater" for the purpose of this permit means "sewage" as defined in TCA 69-3-103

#### **D. REPORTING**

##### **1. Monitoring Results**

Monitoring results shall be recorded consistent with the general requirements imposed in Part A above OR in accordance with the operating and maintenance inspection schedule in the permit administrative file record and submitted quarterly.

Submittals shall be postmarked no later than 15 days after the completion of the reporting period. A copy should be retained for the permittee's files. Monitoring results shall be reported in a format approved by the division. Operation reports and any communication regarding compliance with the conditions of this permit must be sent to:

Division of Water Resources  
Nashville Environmental Field Office  
711 R.S. Gass Boulevard  
Nashville, TN 37216

The first operation report is due on the 15<sup>th</sup> of the month following the quarter containing the permit effective date.

##### **2. Additional Monitoring by Permittee**

If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit, using approved analytical methods as specified in Rule 0400-40-05-.07(2)(h)2, the results of such monitoring shall be included in the calculation and reporting of the values required in the Quarterly Operation Report. Such increased frequency shall also be indicated.

### 3. Falsifying Reports

Knowingly making any false statement on any report required by this permit may result in the imposition of criminal penalties as provided for in Section 69-3-115 of the Tennessee Water Quality Control Act.

### 4. Signatory Requirement

All reports or information submitted to the commissioner shall be signed and certified by the persons identified in Rules 0400-40-05-.05(6)(a-c).

## PART II

### A. GENERAL PROVISIONS

#### 1. Duty to Reapply

The permittee is not authorized to discharge after the expiration date of this permit. In order to receive authorization to discharge beyond the expiration date, the permittee shall submit such information and forms as are required to the Director of Water Resources (the "Director") no later than 180 days prior to the expiration date.

#### 2. Right of Entry

The permittee shall allow the Director, or authorized representatives, upon the notification of permittee and presentation of credentials:

a. To enter upon the permittee's premises where an effluent source is located or where records are required to be kept under the terms and conditions of this permit, and at reasonable times to copy these records;

b. To inspect at reasonable times any monitoring equipment or method or any collection, treatment, pollution management, or discharge facilities required under this permit; and

c. To sample at reasonable times any discharge of pollutants.

#### 3. Availability of Reports

All reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Division of Water Resources.

#### 4. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems (and related appurtenances) for collection and treatment which are installed or used by the permittee to achieve compliance with the terms and conditions of this permit. Proper operation and maintenance also includes adequate laboratory and process controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. Backup continuous pH and flow monitoring equipment are not required.

The monitoring frequency stated in this permit shall not be construed as specifying a minimum level of operator attention to the facility. It is anticipated that visits to the treatment facility by the operator will occur at intervals frequent enough to assure proper operation and maintenance, but in no case less than one visit every fourteen days OR in accordance with an operating and maintenance inspection schedule in the permit administrative file record. If monitoring reports, division's inspection reports, or other information indicates a problem with the facility, the permittee may be subject to enforcement action and/or the permit may be modified to include increased parameter monitoring, increased monitoring frequency or other requirements as deemed necessary by the division to correct the problem. The permittee shall ensure that the certified operator is in charge of the facility and observes the operation of the system frequently enough to ensure its proper operation and maintenance regardless of the monitoring frequency stated in the permit

Dilution water shall not be added to comply with effluent requirements.

#### 5. Property Rights

The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State, or local laws or regulations.

#### 6. Severability

The provisions of this permit are severable. If any provision of this permit due to any circumstance, is held invalid, then the application of such provision to other circumstances and to the remainder of this permit shall not be affected thereby.

#### 7. Other Information

If the permittee becomes aware that he failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, then he shall promptly submit such facts or information.

## **B. CHANGES AFFECTING THE PERMIT**

### **1. Planned Changes**

The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility.

### **2. Permit Modification, Revocation, or Termination**

a. This permit may be modified, revoked and reissued, or terminated for cause as described in Section 69-3-108 (h) of the Tennessee Water Quality Control Act as amended.

b. The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.

### **3. Change of Ownership**

This permit may be transferred to another person by the permittee if:

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

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

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

### **4. Change of Mailing Address**

The permittee shall promptly provide to the Director written notice of any change of mailing address. In the absence of such notice the original address of the permittee will be assumed to be correct.

## **C. NONCOMPLIANCE**

### **1. Effect of Noncompliance**



Any permit noncompliance constitutes a violation of applicable State laws and is grounds for enforcement action, permit termination, permit modification, or denial of permit reissuance.

## 2. Reporting of Noncompliance

### a. 24-Hour Reporting

In the case of any noncompliance which could cause a threat to public drinking supplies, or any other discharge which could constitute a threat to human health or the environment, the required notice of non-compliance shall be provided to the appropriate Division environmental field office within 24 hours from the time the permittee becomes aware of the circumstances. (The environmental field office should be contacted for names and phone numbers of emergency response personnel.)

A written submission must be provided within five days of the time the permittee becomes aware of the circumstances unless this requirement is waived by the Director on a case-by-case basis. The permittee shall provide the Director with the following information:

- i. A description of the discharge and cause of noncompliance;
- ii. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
- iii. The steps being taken to reduce, eliminate, and prevent recurrence of the non complying discharge.

### b. Scheduled Reporting

For instances of noncompliance which are not reported under subparagraph 2.a. above, the permittee shall report the noncompliance on the Quarterly Operation Report. The report shall contain all information concerning the steps taken, or planned, to reduce, eliminate, and prevent recurrence of the violation and the anticipated time the violation is expected to continue.

## 3. Overflow

a. "**Overflow**" means the discharge of wastewater from any portion of the collection, transmission, or treatment system other than through permitted outfalls.

b. Overflows are prohibited.

c. The permittee shall operate the collection system so as to avoid overflows.

d. No new or additional flows shall be added upstream of any point in the collection system, which experiences chronic overflows (greater than 5 events per year) or would otherwise overload any portion of the system. Unless there is specific enforcement action to the contrary, the permittee is relieved of this requirement after: 1) an authorized representative of the

Commissioner of the Department of Environment and Conservation has approved an engineering report and construction plans and specifications prepared in accordance with accepted engineering practices for correction of the problem; 2) the correction work is underway; and 3) the cumulative, peak-design, flows potentially added from new connections and line extensions upstream of any chronic overflow point are less than or proportional to the amount of inflow and infiltration removal documented upstream of that point. The inflow and infiltration reduction must be measured by the permittee using practices that are customary in the environmental engineering field and reported in an attachment to a Monthly Operating Report submitted to the local TDEC Environmental Field Office on a quarterly basis. The data measurement period shall be sufficient to account for seasonal rainfall patterns and seasonal groundwater table elevations.

e. In the event that more than 5 overflows have occurred from a single point in the collection system for reasons that may not warrant the self-imposed moratorium or completion of the actions identified in this paragraph, the permittee may request a meeting with the Division of Water Resources EFO staff to petition for a waiver based on mitigating evidence.

#### 4. Upset

a. "**Upset**" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

b. An upset shall constitute an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the permittee demonstrates, through properly signed, contemporaneous operating logs, or other relevant evidence that:

- i. An upset occurred and that the permittee can identify the cause(s) of the upset;
- ii. The permitted facility was at the time being operated in a prudent and workman-like manner and in compliance with proper operation and maintenance procedures;
- iii. The permittee submitted information required under "Reporting of Noncompliance" within 24-hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five days); and
- iv. The permittee complied with any remedial measures required under "Adverse Impact."

#### 5. Adverse Impact

The permittee shall take all reasonable steps to minimize any adverse impact to the waters of Tennessee resulting from noncompliance with this permit, including such accelerated or

additional monitoring as necessary to determine the nature and impact of the noncomplying discharge. It shall not be a defense for the permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

## 6. Bypass

- a. **"Bypass"** is the intentional diversion of wastewater away from any portion of a treatment facility.
- b. Bypasses are prohibited, unless:
  - i. The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
  - ii. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
  - iii. For anticipated bypass, the permittee submits prior notice, if possible at least ten days before the date of the bypass; or
  - iv. For unanticipated bypass, the permittee submits notice of an unanticipated bypass within 24 hours from the time that the permittee becomes aware of the bypass.
- c. A bypass that does not cause effluent limitations to be exceeded may be allowed only if the bypass is necessary for essential maintenance to assure efficient operation.
- d. "Severe property damage" when used to consider the allowance of a bypass means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

## D. LIABILITIES

### 1. Civil and Criminal Liability

Nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance. Notwithstanding this permit, the permittee shall remain liable for any damages sustained by the State of Tennessee, including but not limited to fish kills and losses of aquatic life and/or wildlife, as a result of the discharge of wastewater to any surface or subsurface waters. Additionally, notwithstanding this Permit, it shall be the responsibility of the

permittee to conduct its wastewater treatment and/or discharge activities in a manner such that public or private nuisances or health hazards will not be created.

2. Liability Under State Law

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law.

**PART III  
OTHER REQUIREMENTS**

**A. CERTIFIED OPERATOR**

The waste treatment facilities shall be operated under the supervision of a Biological Natural System certified wastewater treatment operator and collection system shall be operated under the supervision of a the grade I certified collection system operator in accordance with the Water Environmental Health Act of 1984.

**B. PLACEMENT OF SIGNS**

The permittee shall place a sign at the entrance to the land application area if fenced or all reasonsable approaches to the land application area. The sign should be clearly visible to the public. The minimum sign size should be two feet by two feet (2' x 2') with one inch (1") letters. The sign should be made of durable material.

**RECLAIMED WASTEWATER  
DRIP IRRIGATION  
(PERMITTEE'S NAME)  
(PERMITTEE'S PHONE NUMBER)  
TENNESSEE DIVISION OF WATER  
RESOURCES  
Nashville Environmental Field Office  
PHONE NUMBER: 1-888-891-8332**

**C. ADDITION OF WASTE LOADS**

The permittee may not add wasteloads to the existing treatment system without the knowledge and approval of the division.

**D. OWNERSHIP OF THE TREATMENT FACILITIES**

a. The permittee shall own the treatment facilities (and the land upon which they are constructed) including the land to be utilized for drip or spray irrigation. A perpetual easement

(properly recorded) may be accepted in lieu of ownership. Evidence of ownership of the treatment facility land application site(s) and/or a copy of the perpetual easement(s) must be furnished to the division for approval prior to construction of the wastewater collection and treatment system. Signed agreements stating the intent of the existing landowner to transfer ownership may be provided to support permit issuance. Final SOP's will not be issued without establishing ownership/access rights.

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

Attachment 1  
STATE OF TENNESSEE  
**DEPARTMENT OF ENVIRONMENT AND CONSERVATION**  
**DIVISION OF WATER RESOURCES-LAND BASED SYSTEMS UNIT**  
William R. Snodgrass Tennessee Tower  
312 Rosa L. Parks Avenue  
Nashville, Tennessee 37243

**MEMORANDUM**

TO: Brad Harris, P.E. Land Based Systems Unit

FROM: Allen Rather, DWR- Land Based Systems Unit

DATE: 12/08/2017

SUBJECT: LCSS/SFDS (Class V Injection) Approval  
Cartwright Creek-Hideaway Wastewater Treatment Facility  
College Grove, Williamson County, Tennessee  
UIC File WIL 0000084 SOP-07090

The Division of Water Resources has reviewed the submittal of an Application for Authorization to Operate a Class V Underground Injection Well (Large Capacity Septic System/Subsurface Fluid Disposal System) utilizing drip dispersal for the waste water at the Hideaway Wastewater Treatment Facility located at College Grove, Williamson County, Tennessee. This Division approves the application dated 10/05/2017.

If at any time the Division learns that a ground water discharge system may be in violation of The Tennessee Water Quality Control Act, the Division shall:

- a. require the injector to apply for an individual permit;
- b. order the injector to take such actions including, where required, closure of the injection well as may be necessary to prevent the violation; or
- c. take enforcement action.

All groundwater discharge activities must operate in such a manner that they do not present a hazard to groundwater.

In accordance with Underground Injection Control (UIC) Rule 0400-45-06-.14 (3) "The owner of a Class V well shall be responsible for notifying the Department of change in ownership." This notification must be made to this Division within thirty (30) days of the change in ownership.

Also note that according to Underground Injection Control (UIC) Rule 0400-45-6-.14 (8)(d) "Upon completion of the well, the owner or operator must certify to the Department that the well has been completed in accordance with the approved construction plan, and must submit any other additional information required". The certification must be submitted to the UIC Program within thirty (30) days upon the completion/closure of the Class V well.

No drip emitters are to discharge directly into an open throat or crevice in the subsurface. All drip lines are to be installed on contour.

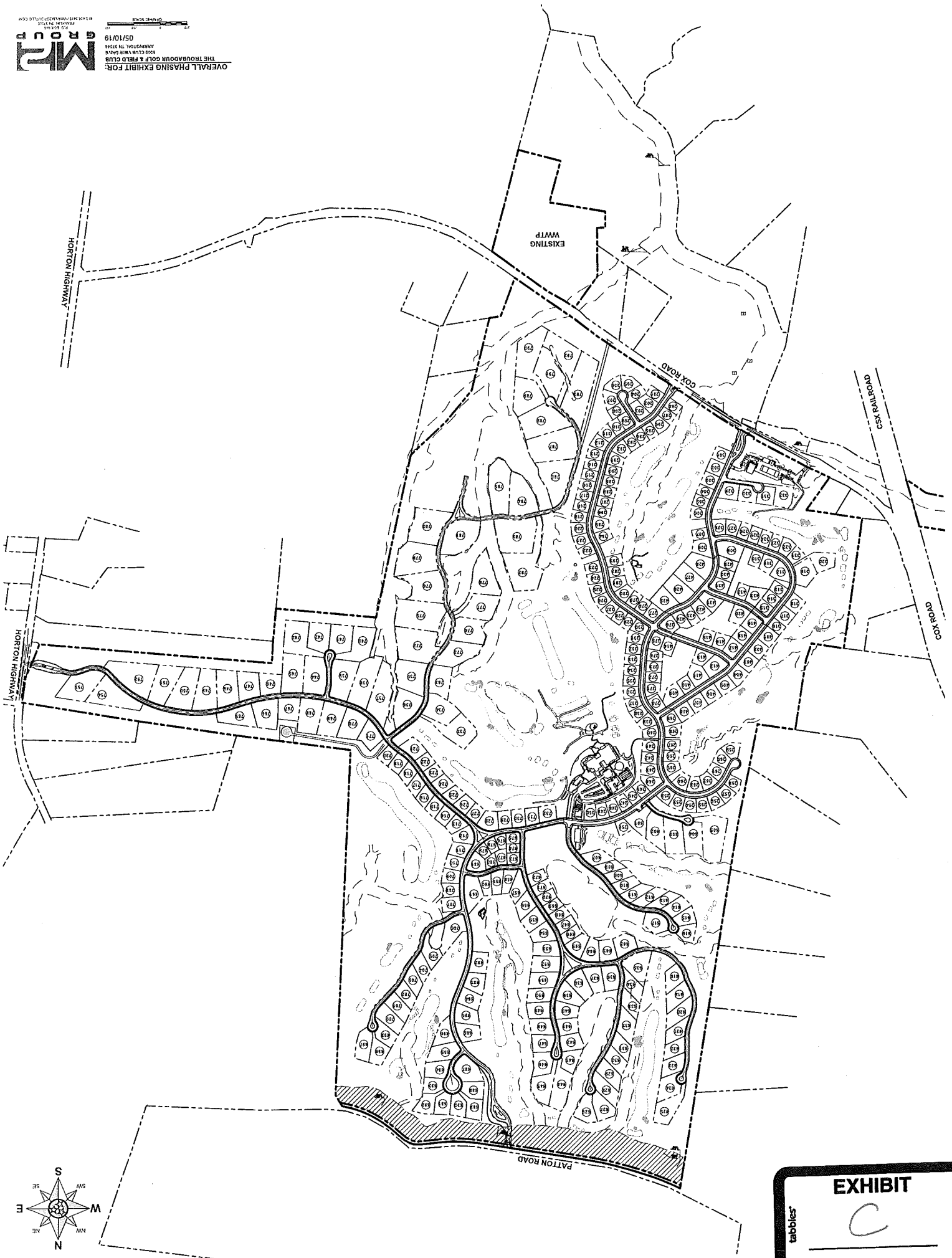
Our concurrence with your approach does not imply that this procedure is exempt from future changes or restrictions in the Underground Injection Control (UIC) Regulations, or any additional requirements set forth by the Division in order to protect the groundwater of Tennessee.

A copy of this authorization must be kept on site until the development has been completed and must be made available to inspection personnel.

Should you have any questions or comments please feel free to contact me at (615) 532-5819 or [allen.rather@tn.gov](mailto:allen.rather@tn.gov).

c: file





EXHIBIT

C

tabbles

N Nolensville/College Grove Utility District  
C P.O. Box 127, 2002 Johnson Industrial Blvd., Nolensville, TN 37135  
G Phone No. 615-776-2511 - Fax No. 615-776-2591

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March 25, 2019

Matt Bryant  
M2 Group, LLC

Re: Sanitary Sewer Service Release : Wilson Parcels on Cox Rd. ( Map 136 ) ( Parcel 12.01 ,  
12.02 ) and (Map 141) (Parcel 8.00)

Dear Mr. Bryant

Nolensville College Grove Utility District by your request hereby releases its charter rights to  
provide sanitary sewer service to the proposed development known as The Wilson Parcel on  
Cox Rd. (Map 136) (Parcel 12.01 , 12.02) and (Map 141) (Parcel 8.00)

Please feel free to contact me if I can be of further assistance.

Sincerely,

A handwritten signature in black ink that reads "Mike E. Polston". The signature is written in a cursive style.

Mike E Polston  
General Manager  
NCG Utility District

