

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

IN RE:)
)
PETITION OF TENNESSEE)
WASTEWATER SYSTEMS, INC.,)
FOR APPROVAL TO USE ITS) **DOCKET NO. 19-00085**
ESCROW & RESERVE FUNDS FOR)
CAPITAL IMPROVEMENTS AT)
HIDDEN SPRINGS RESORT)

DIRECT TESTIMONY OF MATTHEW NICKS

Q1. What is your name and business address?

A. My name is Matthew Nicks and my business address is 849 Aviation Parkway, Smyrna TN, 37167.

Q2. By whom are you employed and in what capacity?

A. I am President of Tennessee Wastewater Systems, Inc. (TWSI).

Q6. What is the purpose of your testimony in this proceeding?

A. The purpose of my testimony is to provide support to TWSI's petition for approval of the use of its escrow and reserve funds to pay for the expansion of the wastewater treatment facilities at the Hidden Springs Resort in Sevierville, TN.

Q5. What is the history of the treatment facility at the Hidden Springs Resort?

A. TWSI was granted a CCN for Hidden Springs Resort in 2000.¹ The developer originally planned to build a cabin community of approximately 400 cabins. This was going to be done in phases so there was a plan established to build the wastewater treatment facilities in phases as well, based on the development of the resort. The plan involved the construction of three different treatment systems, a sand filter, an Advantex pod, and finally an RBC. The sand filter was constructed, but soon afterwards the developer went bankrupt and the other phases of the treatment facilities were not built.

¹ *Order Approving Petition for On-Site Systems, Inc. To Amend its Certificate of Public Convenience and Necessity*, TPUC Docket No. 00-00379 (August 14, 2000). Originally, the plan was to have one sewer system serve two developments: (1) Hidden Springs Resort and (2) Starr Crest. However, later the decision was made to have separate sewer systems for these two developments.

At the time the sand filter for Hidden Springs was designed, little was known about the type of use or overuse wastewater plants would receive from these rental cabin communities. The plant was approved by TDEC for 200 gpd of flow per unit for 56 units. There ended up being 114 cabins constructed and tied to the system. At the time, the Utility believed it had an obligation to serve all the cabins connected to the system and had no recourse against the developer who filed for bankruptcy.

Back when Hidden Springs was being developed, there was not the formal building permitting process the county has in place now. Developers routinely represented that 2-3 bedroom cabins were to be built and then built 6-8 bedroom mini-hotels generating more flows than initially anticipated when the system was designed. This problem no longer exists as the county now requires developers to obtain a letter from TWSI certifying that capacity is available before any permits are granted, but that was not the case in the early 2000's.

Q7. What is the current operating condition of the treatment facility at Hidden Springs Resort?

- A. Currently, the sand filter has been taken offline as it is no longer capable of properly treating the wastewater coming into the plant from the cabins. In 2017, TWSI installed two FAST system units, which are temporary package treatment plants. These units currently provide very minimal treatment; however, due to their small size and the volume of wastewater flow coming into the plant, the units have also become overloaded.

Q8. Has any enforcement action been taken by TDEC regarding the treatment facility at Hidden Springs Resort?

- A. In December of 2018, the Tennessee Department of Environment and Conservation (TDEC) issued a Commissioner's Order alleging certain violations of the State Operating Permit for the facility.² TWSI appealed the Commissioner's Order and is currently working on an Agreed Order with TDEC to resolve the matter.

Q10. Has TWSI developed plans to address the issues with the treatment facility?

- A. Yes. TDEC required TWSI to develop a Corrective Action Plan to address the issues at the Hidden Springs facility. TWSI determined that the system needs to be replaced in order to handle normal as well as peak flows coming into the system. To accomplish this, TWSI has proposed the installation of a system utilizing three (3) Bio-Clere units which will provide up to 45,000 gallons per day of treatment.³ TWSI will also need to expand the drip disposal area to achieve the necessary disposal capacity. The Hidden Springs Resort Home Owners' Association (HOA) has granted TWSI a permanent easement for the land identified by TWSI for the plant expansion and additional drip areas.⁴

² *Petition*, Exhibit 1.

³ *Petition*, Exhibit 2.

⁴ A copy of the permanent easement is marked as Exhibit 3 of the *Petition*.

Q11. How does TWSI propose to fund the system expansion at Hidden Springs Resort?

A. TWSI proposes to fund the new system by utilizing the company's escrow and CIAC reserve funds. The utility currently has over \$1M in its escrow and reserves.⁵ The Utility's monthly sewer bill includes as a portion of its rates, an amount set aside for escrow. TWSI has over 3500 customers and, on average, receives about \$43,000 per month for escrow. TWSI will not need to seek additional funding for this project from its customers.

Q12. Why isn't the developer or subsequent developer responsible to fund the construction of the new plant?

A. The original developer is no longer involved with Hidden Springs and, presently, there is no new developer for the resort. While there is a possibility that new development could happen within the resort, we are only seeking to address the issues with the current system that affect the current residents. Any new development will require an expansion of the treatment plant and that developer or cabin owners will be responsible for funding the expansion.

Q13. Who will perform the work at Hidden Springs?

A. TWSI and Adenus Solutions Group, LLC will perform the majority of the work. There is some concrete work that will be handled by a third-party.

Q14. Does Adenus Solutions Group, LLC have a valid and current contractor's license by the applicable licensing board of the State of Tennessee?

A. Yes. Adenus Solutions Group, LLC is licensed by the Tennessee Board for Licensing Contractors for two classifications: (1) Building Construction (BC), which includes residential, commercial and industrial construction; and (2) Municipal and Utility Construction (MU).⁶

Q15. Did TWSI seek bids for the proposed work at Hidden Springs?

A. No. Historically when TWSI projects have been bid, TWSI and/or Adenus have come in with the lowest bid, usually significantly lower than the next closest bid. The engineer's estimate for this work came in at approximately \$1.2M and TWSI has been able to get that down to just over \$800,000.⁷ Also, given the time constraints we're under to get the project started – we need to start before Winter when the ground will be too hard to plow in drip and do other work - going through a bid process will set us back an additional 60-90 days which will further delay getting the work started and push the competition date into next Fall.

Q16. What is the timeline for competition of the work to expand the Hidden Springs system?

A. This project is the top priority for TWSI, and work will commence as soon as plans and funding are approved. It is anticipated that construction will take approximately 10 months

⁵ Copies of the escrow and CIAC reserves are marked as Exhibits 6-7 of the *Petition*.

⁶ A copy of the contractor's license is marked as Exhibit 5 of the *Petition*.

⁷ A copy of the budget and supporting documentation is marked as Exhibit 4 to *Petition*.

weather permitting. Furthermore, TWSI is working with TDEC on an Agreed Order to resolve the Commissioner's Order in the matter and the Agreed Order will contain a compliance schedule for the work.

Q17. Is all information submitted for this *Petition* true and correct to the best of your knowledge and belief?

A. Yes.

Q18. Does this complete your testimony?

A. Yes.

AFFIDAVIT

My name is Matthew Nicks and the attached direct testimony is true and correct to the best of my knowledge.


Matthew Nicks

County of Rutherford)
State of Tennessee)

On this 16 th day of September 2019, personally appeared before me, Suzanne Christman, a notary public, the above-named Matthew Nicks known to me personally who was duly sworn and on oath executed the above Affidavit.


Notary

My commission expires: 02/21/2022

