

Office of the Attorney General



HERBERT H. SLATERY III
ATTORNEY GENERAL AND REPORTER

P.O. BOX 20207, NASHVILLE, TN 37202
TELEPHONE (615)741-3491
FACSIMILE (615)741-2009

July 20, 2022

Charles B. Welch, Jr.
Tyler A. Cosby
Farris Bobango PLC
414 Union Street, Suite 1105
Nashville, TN 37219

Electronically Filed in TPUC Docket
Room on July 20, 2022 at 12:02 p.m.

Re: Tennessee Public Utility Commission, Docket No. 21-00053, *Application of Limestone Water Utility Operating Company, LLC for Authority to Sell or Transfer Title to the Assets, Property, and Real Estate of a Public Utility, Cartwright Creek, LLC, and for a Certificate of Public Convenience and Necessity.*

Dear Mr. Welch and Mr. Crosby:

The Consumer Advocate has reviewed the *Order Approving the Settlement Agreement and Transfer of Systems, and Granting Certificate of Convenience and Necessity* ("Final Order") in the above-referenced docket issued by the Tennessee Public Utility Commission on January 24, 2022. The Final Order and Settlement Agreement (Exhibit A to Final Order) set out several deadlines to be met post issuance of the Final Order. Specifically, Limestone Water Utility Operating Company, LLC is directed to file a report in this docket demonstrating its compliance with the filing documentation required by Paragraphs 5, 9, 13, 16, 17, 18, 19, 20, 21, and 22 of the Stipulation and Settlement Agreement.¹

- Paragraph 5. The Parties agree and accept the Consumer Advocate's recommendation that Limestone will be required to submit for Commission review and approval prior to closing all accounting entries related to the acquisition, including the transferred balances in each escrow account. **This information appears to have been filed in the Docket on January 28, 2022.**²
- Paragraph 9. The Parties agree that Limestone shall be required to file, within 30 days after closing, a balance sheet and supporting general ledger, in the format prescribed by the Uniform System of Accounts and in accordance with Commission Rule 1220-04-01-.11, showing Cartwright Creek's ending balances of the assets acquired by Limestone as of the date of acquisition. Limestone also shall be required to file a balance sheet and supporting general ledger, in the format prescribed by the Uniform System of Accounts and in accordance with

¹ Final Order at p. 11, No. 3.

² A copy of this documentation is found on TPUC's docket page at [Tennessee Public Utility Commission Electronic Docket Number 2100053](#).

Commission Rule 1220-04-01-.11, showing Limestone's beginning balances of the assets acquired from Cartwright Creek as of the date of the acquisition. [Although Limestone filed financial documentation in this Docket on January 28, 2022, the supporting general ledger appears to be missing.³](#) Please provide the supporting general ledger in its native Excel format. Additionally, the Consumer Advocate requests a copy of the filed Balance Sheet in its native Excel format.

- Paragraph 13. The Parties agree that Limestone be required to adopt Cartwright Creek's presently tariffed rates, charges and terms of service and it shall file a new tariff substituting itself in place of Cartwright Creek as the service provider within 30 days after the date of acquisition. The tariff shall identify all residential subdivisions by each subdivision name, as well as any commercial customers being served within Limestone's CCN. [On January 25, 2022, Limestone asked the Commission to substitute "Limestone Water Utility Operating Company, LLC" in each instance for "Cartwright Creek, LLC" in the current tariff. Such a request is confusing for a consumer. Especially, since the contact information within the tariff is that of the previous owner. Please provide a copy of Limestone's tariff for Cartwright Creek that is updated showing Limestone's ownership including corrected contact information found within the tariff.](#)
- Paragraph 16. The Parties agree that Limestone be required to post a bond compliant with the Commission's financial security rules within 30 days of the date of acquisition. [A surety bond for Limestone was filed on January 24, 2022.⁴](#)
- Paragraph 17. The Parties agree that Limestone be required to file within 30 days of execution copies of contracts or pricing agreements between Limestone and any affiliate and between Limestone and contractors that provide ongoing operations and maintenance or billing services to the Cartwright Creek systems or customers served by those systems. [The Consumer Advocate could not locate this information in the Docket. Please provide a report on the status of compliance for this requirement.](#)
- Paragraph 18. The Parties agree Limestone be required to file copies of recorded deed(s) for land where Cartwright Creek's facilities are located and registered easements in Limestone's name for all the land and ownership rights for any and all access to the acquired water system and wastewater systems within 30 days after the date of recording. [This information appears to have been filed in the Docket on January 25, 2022.⁵](#)
- Paragraph 19. The Parties agree that Limestone be required to file a copy of the Purchase and Sale Agreement that has been fully executed by Seller and Buyer and acknowledged by the Title Company with the recorded effective date and with all exhibits attached, complete with documentation, within 30 days after the date of acquisition. [This information appears to have been filed in the Docket on January 25, 2022.⁶](#)
- Paragraph 20. The Parties agree Limestone be required to file a copy of the final executed Assignment of Rights Agreement within 30 days after the date of

³ A copy of this documentation is found on TPUC's docket page at [Tennessee Public Utility Commission Electronic Docket Number 2100053](#).

⁴ A copy of this documentation is found on TPUC's docket page at [2100053ai.pdf \(tn.gov\)](#)

⁵ A copy of this documentation is found on TPUC's docket page at [2100053aj.pdf \(tn.gov\)](#)

⁶ *Id.*

acquisition. This information appears to have been filed in the Docket on January 25, 2022.⁷

- Paragraph 21. The Parties agree Limestone be required to file a copy of the State Operating Permit "Request for Transfer" for current permits, both for water and wastewater, within 30 days of issuance. This information appears to have been filed in the Docket on January 26, 2022. Also, Limestone filed a copy of the National Pollutant Discharge Elimination System (NPDES) Permit on February 7, 2022.⁸
- Paragraph 22. The Parties agree Limestone be required to file copies of maps and engineering designs for the water and wastewater systems within 30 days of availability. The Consumer Advocate could not locate this information in the Docket. Please provide a report on the status of compliance for this requirement.

The Final Order states that if the required documentation, cited above, is not filed within six (6) months of this order, then Limestone Water Utility Operating Company, LLC is directed to file a report on the status of the compliance on each of the filing requirements.

In reviewing information from the Water Permit Dataviewer of the Tennessee Department of Environment and Conservation ("TDEC"), the Consumer Advocate located a recently issued Notice of Violation ("NOV") regarding the Grasslands system.⁹ A copy of this NOV from TDEC is attached for convenience. Limestone's response to TDEC was due July 15, 2022; however, a copy of the response is not available in the TDEC Dataviewer. Please provide a copy of Limestone's response to TDEC's NOV.

The Consumer Advocate would like to thank, in advance, Limestone's attention to the Consumer Advocate's request. If you have questions regarding this request, please contact me at (615) 741-2370.

Respectfully,



Karen H. Stachowski
Senior Assistant Attorney General

cc: Patsy Fulton, TPUC
Kelly Cashman-Grams, TPUC

⁷ *Id.*

⁸ A copy of this documentation is found on TPUC's docket page at [2100053ak.pdf \(tn.gov\)](https://www.tn.gov/2100053ak.pdf)

⁹ The publicly available documentation for the Grasslands System is located at https://dataviewers.tdec.tn.gov/dataviewers/f?p=9034:34051:::34051:P34051_PERMIT_NUMBER:TN0027278.



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

Nashville Environmental Field Office
711 R.S. Gass Blvd.

Nashville, Tennessee 37216

Phone 615-687-7000

Statewide 1-888-891-8332

Fax 615-687-7078

June 8, 2022

Mr. Josiah Cox | Director
e-copy: jcox@cswrgroup.com
Central States Water Resources (CSWR)
500 Northwest Plaza Drive, Suite 500
St. Ann, MO 63074

RE: Compliance Evaluation Inspection and Notice of Violation
Limestone Water Utility Operating Company, LLC
Grassland Sewage Treatment Plant (STP)
NPDES Permit #TN0027278
Franklin, Williamson County

Dear Mr. Cox,

On May 17, 2022, Mr. Jordan Fey and Ms. Jenny Strobel, with the Division of Water Resources (Division), performed a Compliance Evaluation Inspection on the Grassland STP, operated by Limestone Water Utility Operating Company, LLC, to determine compliance with National Pollutant Discharge Elimination System (NPDES) Permit #TN0027278. The Minor Modification Permit transferred the permit from Cartwright Creek, LLC to Limestone Water Utility Operating Company, LLC. This permit became effective on January 1, 2022 and will expire on November 30, 2026.

The time period covered by this inspection is from January 2022 to April 2022. While on site, Division staff were assisted by Mr. Delmar Reed and Mr. Mark Butler. The Division is appreciative of everyone's time and courtesy demonstrated during the course of the inspection.

Permit and Records Review

A current copy of the NPDES permit and records required by the permit were available on site and the facility retains more than three years of effluent data. A review of the facility's Discharge Monitoring Reports (DMRs) and EPA's Integrated Compliance Information System (ICIS) shows that the facility has reported the following violations of the permit effluent limits:

- 1 Carbonaceous Biochemical Oxygen Demand (CBOD) – March 2022

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Review of testing documentation found that information does not transfer accurately from laboratory benchsheets to Monthly Operation Reports (MORs) to DMRs. Discrepancies were observed in February, March, and April 2022:

February 2022

- Settleable Solids mL/L daily maximum was reported as 0.0 on the DMR; however, the MOR indicated <0.1 for each analysis for the month. The value for the daily maximum should have been reported on the DMR as <0.1 instead of 0.0.
- The Ammonia lbs/day monthly average and weekly average were reported as 0.0 on the DMR. There was no lbs/day data entered on the MOR. Based on the lab results for the month, there should have been values other than 0.0 on the DMR.
- *E. coli* monthly geomean and daily maximum was reported as 0 on the DMR. For the purpose of determining the geometric mean, individual samples having an *E. coli* group concentration of less than 1 per 100 mL shall be considered as having a concentration of 1 per 100 mL.
- BOD lbs/day monthly average was reported as 0.0 but there was a weekly average reported as 15.71. If there is a weekly average, there should be a monthly average.

March 2022

- Settleable Solids mL/L daily maximum was reported as 0.0 on the DMR; however, the MOR indicated <0.1 for each analysis for the month. The value for the daily maximum should have been reported on the DMR as <0.1 instead of 0.0.
- Ammonia Total Nitrogen (as N) lbs/day monthly average and weekly average was reported as 0.0 on the DMR where a value other than 0.0 should have been submitted.
- The Ammonia mg/l weekly average was also reported as 0.0 on the DMR. There were values on the DMR for monthly average and daily maximum and therefore should have had a value for weekly average.
- The Total Phosphorus lbs/day monthly average and daily maximum were reported as 0.0 on the DMR when values were reported on the Pace lab reports.
- Total Chlorine Residual monthly average was reported as 0.0 mg/l on the DMR, but the daily maximum was reported as 0.08 mg/l. If there is a daily maximum value, there should also be a monthly average value. Also, the MOR had several days with values that should have equaled a monthly average other than 0.0.

April 2022

- Total Suspended Solids lbs/day monthly average was reported on the DMR as 0.0 but the weekly average was reported as 2.4. If there was a weekly average, there should also be a monthly average.
 - Settleable solids mL/L daily maximum was reported as 0.0 on the DMR; however, the MOR indicated <0.1 for each analysis for the month.
 - Ammonia Total Nitrogen (as N) lbs/day monthly average and weekly average was reported as 0.0 on the DMR where a value other than 0.0 should have been submitted.
 - Total Chlorine residual monthly average was reported as 0.0 mg/l, but the daily maximum was reported as 0.13 mg/l. If there is a daily max value, there should also be a monthly average value. Also, the MOR had several days with values that should have equaled a monthly average other than 0.0.
-

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- BOD lbs/day monthly average was reported as 0.0 but there was a weekly average reported as 13.63. If there is a weekly average, there should be a monthly average. Also, the lab results had several values that should have equaled a monthly average other than 0.0.

There were some instances where 0.0 was reported on the MOR when Pace Analytical lab reports indicated Non-Detect (ND). This is allowable; however, if all results within the month were ND or Below Detection Limit (BDL), the permittee should report NODI=B on the DMR instead of 0.0.

The Permittee has reported the Total Nitrogen rolling annual average as 13.31 lbs/day for January, February, March, and April on the DMRs. The MORs indicate that this reported value is incorrect. The Division believes that the discrepancies noted during the file review of this inspection can be avoided in the future by enrolling the permittee in the eMOR program. The Division will contact Grassland STP separately about the enrollment process.

When asked if a Standard Operating Procedure (SOP) was available for review, Mr. Reed stated that the Hach Equipment Manuals for the lab instruments were used as SOPs. While the permittee should utilize the Hach Manuals to accurately use the equipment, an SOP establishing Quality Assurance/Quality Control procedures to reduce reporting, transcription, and calculating errors should be available. The previous inspection indicated an SOP was available for review.

Mr. Reed expressed concerns about how Total Nitrogen is calculated by Pace Analytical. The Division is researching the concern and will report their findings as soon as possible.

Site Review

No changes in the wastewater treatment process have been established since the last inspection. The treatment of domestic wastewater at Grassland STP consists of extended aeration activated sludge and chlorination and dechlorination. The influent stream enters a compartmentalized aboveground aeration treatment unit that contains an aeration basin, a clarifier, and one digester unit. The interior walls surrounding the digester unit have rusted out and therefore the unit is inoperable. A polyethylene tank is utilized to hold solids until they are hauled offsite.

There is no screening at the facility. Mr. Reed manually removes inorganic material from the basin and disposes of it in a dumpster that goes to the landfill and/or collected by Onsite Environmental. Recently, Grassland STP has contracted Onsite Environmental to pump and haul inorganic material and excess solids in the aeration basin from the facility. A "island" of solids was observed in the aeration basin near the stairs.

The clarifier was observed in poor condition. The weirs around the clarifier had a build-up of algae. The clarifier does not have a skimmer arm but does have a bottom rake. Grit, grease, pin floc, and debris were observed floating in the clarifier. The floating grit and grease were observed in the chlorination/dechlorination basin as well.

Chlorine gas is used for disinfection and sulfur dioxide gas for dechlorination. Chlorination/dechlorination occurs in what used to be the aboveground "tertiary filtration" unit of the plant. According to Mr. Reed, the internal components of the tertiary filter have been removed for years. Mr. Reed manually adjusts chlorine dosing based on flow and chlorine residual results. Flow proportional control is preferred over manual control for smaller facilities. The chlorine and sulfur dioxide cylinders are stored in the same room with a

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dividing wall in the southeast corner of the control building. The room is secure and equipped with a ventilation system and cylinders are properly secured with chains.

A significant amount of corrosion of the aboveground units was observed. Mr. Butler stated that CSWR was in the beginning stages of designing a new facility but that it could take approximately 5 years or more before the facility is constructed. The structural integrity of the treatment unit walls and equipment is questionable. This issue has been a continuing problem noted in previous inspections.

Influent flow is measured by a strap-on meter and effluent flow is measured by ultrasonic meter. The meters are calibrated on a yearly basis by Independent Controls. An Inflow and Infiltration (I/I) project was completed in September 2019 and June 2020 that rehabilitated 20 manholes and lined 15 pipe segments. Mr. Reed stated that the project helped with I/I issues in the summer months, but no improvements were noted in winter months, when rainfall was the heaviest.

Lab Review

The lab was reviewed during this inspection. Analysis for pH, dissolved oxygen (DO), settleable solids, and total chlorine residual are performed on site and the remaining effluent parameters are contracted out to Pace Analytical.

Dead gnats were observed in the pH storage solution cup. The solution should be changed on a routine basis. The bottle containing distilled water was discolored and had what appeared to be mold growing on the side of the container. The cap on the Luminescent DO probe was scratched. Extra caps were not available on site. Having an additional cap available at the facility is recommended. There was not an IDEXX Quanti-Tray comparator available on site. The comparator is used for distinguishing threshold positive results from negative results by comparison. The refrigerator used to store samples until Pace collects them also contained drink and food items. The facility must purchase a separate refrigerator for samples.

The facility uses pH 7.0 and 10.0 buffer solutions. The containers were marked with an open date and were within the expiration date. The equipment in the lab is serviced by LabtronX on a yearly basis with the latest date being March 1, 2022. Temperature ranges for incubators and ovens were within the appropriate range except the *E. coli* incubator which read at 37.1°C. The incubator temperature should read at 35±.05°C. Don't forget to include the correction factor on the LabtronX tag when reading temperatures.

Lab bench sheets and daily records for analysis conducted contained the appropriate information including the lab technician's initials, date, and time of analysis. The benchsheets should also include the analysis method number or reference the current edition of *Standard Methods for Water and Wastewater Analyses*. The influent and effluent samplers are kept in good operational condition. Both samplers are flow proportional. Temperature ranges for the samplers were well below 6°C.

Conclusion

Compliance with NPDES Permit #TN0027278 helps ensure discharges that are protective of downstream fish and aquatic life and water quality. The treatment units have surpassed their useful lifetime. Mr. Reed's ability to operate the wastewater treatment plant in its current condition is commendable. The permit requires proper operation and maintenance of the treatment facility. Corrosion, I/I, inaccurate reporting, and lack of maintenance are ongoing issues at the treatment plant and are a violation of the permit. As such,

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this letter serves as a **Notice of Violation** of the NPDES permit and the *Tennessee Water Quality Control Act*.

Action Items and Recommendations

- Review February, March, and April MORs and DMRs and make appropriate corrections.
- Develop and keep an SOP at the facility.
- Change pH storage solution on a routine basis.
- Change or thoroughly clean distilled water containers.
- Keep a spare LDO cap on site.
- Purchase an IDEXX Quanti-Tray comparator.
- Purchase a separate refrigerator for samples.
- Adjust *E. coli* incubator temperature to read $35 \pm .05^{\circ}\text{C}$.
- The lab benchsheets should include the analysis method number or reference the current edition of *Standard Methods for Water and Wastewater Analyses*.
- Proper Operation and Maintenance of the facility must improve.

The division requests that you develop and submit, by **July 15, 2022**, a detailed action plan and proposed implementation schedule detailing what corrective actions have been taken or will be taken to address the action items. The plan should also update the Division on the current status of plans to upgrade the facility.

Thank you for your efforts to ensure permit compliance and to protect state water quality. If you have questions or concerns about the inspection or this letter, please contact Jenny Strobel at (615) 289-0384 or via email at Jenny.Strobel@tn.gov.

Sincerely,



Michael P. Murphy
Program Coordinator
Division of Water Resources

e-copy: Delmar Reed, Certified Operator in Charge, dreed@midwestwaterop.com
Charles Steffen, DMR Signatory, csteffen@midwestwaterop.com
Joe Stoops, Regulatory Compliance Manager, jstoops@midwestwaterop.com
Jordan Fey, TDEC DWR, Jordan.Fey@tn.gov
Michael Lancaster, TDEC DWR, Michael.Lancaster@tn.gov
Cassi Savage, TDEC DWR, Cassi.Savage@tn.gov
