

STATE OF TENNESSEE

Office of the Attorney General



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July 12, 2023

Melvin Malone
Katherine Barnes
Butler Snow LLP
150 Third Avenue South
Suite 1600
Nashville, TN 37201

Electronically Filed in TPUC Docket
Room on July 12, 2023 at 8:19 a.m.

Re: Tennessee Public Utility Commission ("TPUC" or the "Commission"), Docket
No. 23-00036, *Limestone Water Utility Operating Company, LLC's*
Application to Expand its Certificate of Convenience and Necessity to Serve
the Nash Ridge Subdivision

Mr. Malone & Ms. Barnes:

The Consumer Advocate has reviewed the Application filed by Limestone Water Utility Operating Company, LLC ("Limestone") in the above-referenced docket. The Application requests that the Commission expand Limestone's Certificate of Convenience and Necessity to include the Nash Ridge Subdivision in Williamson County. Accordingly, the Consumer Advocate has reviewed Limestone's compliance with the minimum filing requirements set forth in TPUC Rule 1220-04-01-.13.

The Consumer Advocate appreciates the time and effort that Limestone put into compiling the Application. However, the Consumer Advocate could not locate, and thus seeks clarification on, the items set forth in Attachment A hereto, relating to compliance with TPUC Rule 1220-04-01-.13. Please note that this is not a discovery request by the Consumer Advocate, but a review of Limestone's compliance with TPUC's minimum filing requirements.

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

Respectfully,

A handwritten signature in blue ink that reads "Karen H. Stachowski".

Karen H. Stachowski
Senior Assistant Attorney General

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

ATTACHMENT A

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Rule 1220-04-13-.17(2)(a) General Information

1. *Rule 1220-04-13-.17(2)(a)8.* The Consumer Advocate could not locate the permit modification application for the Grasslands System to accommodate the additional wastewater load from the new development, Nash Ridge. The Consumer Advocate also searched the Dataviewer¹ of the Tennessee Department of Environment & Conservation (“TDEC”) but could not locate any such documents. As a result, the Consumer Advocate contacted TDEC about its knowledge of Limestone’s filing in TPUC Docket No. 23-00036. Mr. Wade Murphy with TDEC responded to the inquiry by email. A copy of this email is attached as CAD MFR Exhibit 1. Regarding the possibility of permitting Limestone’s proposed plan to include Nash Ridge as a part of Grasslands System, Mr. Murphy stated:

Limestone’s future plans may not be easily “permissible”. Numbered Page 5 of the document at the docket link you provide below says that Limestone is in the process of applying for and obtaining a modification to its existing Grasslands WWTP permit with TDEC to modify and expand the existing system. Limestone plans on building a new, expanded, treatment plant. To my knowledge, the Division of Water Resources is not working on engineering plans or a permit modification for replacement or expand the existing system. An NPDES permit modification will not likely be an issue if Limestone only proposes to replace its 0.25 MGD treatment plant with another 0.25 MGD treatment plant. The Division of Water Resources will not be in a position to propose any increase in discharge pollutant loads from an expanded treatment plant without an acceptable antidegradation justification from Limestone including water quality modeling to demonstrate an increased discharge will not cause or contribute to a condition of pollution. All of that may be expensive and time-consuming to produce. Limestone and its consultants need to determine whether the existing treatment plant can accommodate sewage from the new development without causing or contributing to overflows in the collection system and washouts at the treatment plant.

Please provide an estimate of when Limestone will file, with TDEC, a permit modification application for the Grasslands System to accommodate the additional wastewater load from the new development, Nash Ridge. Also, what is Limestone’s plan if TDEC denies the additional wastewater load from the Nash Ridge development?

Rule 1220-04-13-.17(2)(c) Sufficient Managerial Ability

1. *Rule 1220-04-13-.17(2)(c)3.* The Consumer Advocate could not locate “copies of all contracts related to any pending merger or acquisition of the applicant, corporate parent or

¹ One can access information regarding the Grasslands System permit at https://dataviewers.tdec.tn.gov/dataviewers/f?p=2005:34051:13328998518582:::34051:P34051_PERMIT_NUMBE R:TN0027278.

affiliate.”² The Consumer Advocate notes, however, that a waiver of the rule has been sought and is under consideration by the Commission.³

Rule 1220-04-13-.17(2)(d) Sufficient Technical Ability

1. *Rule 1220-04-13-.17(2)(d)4.* In its Petition, Limestone shared a copy of the Consent Order with TDEC and stated that there were “[n]o complaints or notice of violations pending with TDEC. However, Mr. Murphy stated in his email:

Limestone is already violating its NPDES permit. Limestone’s permit prohibits “washouts” which is where more than 30% of the active bacteria providing the treatment gets washed out of the treatment reactor. These are particularly bad because it can take days following the washout for the operators to adjust the treatment plant back into good operation. That increases potential to discharge pollutants in excess of permit limits. Washouts also have the potential to result in partially treated sewage being discharged to the river directly. Limestone’s current discharge permit places the burden on Limestone to take all reasonable steps to minimize any adverse impact to the waters of Tennessee resulting from noncompliance with their permit. As you are aware, they currently have a consent order with TDEC to address problems with the sewer system. Consent Order WPC22-0086 required submission of a Corrective Action Plan. Limestone submitted that plan timely in May, 2023. Record available to me indicates that the Division of Water Resources found it omits elements required in an engineering report developed per good engineering practices. We may not have communicated that back to Limestone yet. It’s possible that this corrective action plan is a potential mechanism for them to explain how they will address and fix treatment plant problems in time to meet demand of the 39 additional lots without worsening the existing problems. I have attached three recent notifications to DWR of washouts.

Mr. Murphy identified “washouts” as being a violation of the Grasslands System permit and described the effect of such washouts on the treatment system. Copies of Limestone’s three notifications to TDEC of washouts are part of CAD MFR Exhibit 1.⁴ In reviewing the TDEC Dataviewer, Limestone notified TDEC of two additional incidents regarding its Grasslands System permit: (1) April 6, 2023, email notice of a sanitary sewer overflow (“SSO”) and (2) June 20, 2023, email notice of the overflow of the sludge holding container. A copy of these two emails is attached as CAD MFR Exhibit 2.⁵

² Tenn. Comp. R. & Regs. 1220-04-13-.17(2)(c)3.

³ Petition, Appendix 2, Exhibit 3.3, p. 168.

⁴ One can access these notification to TDEC at

https://dataviewers.tdec.tn.gov/dataviewers/f?p=2005:34051:13328998518582:::34051:P34051_PERMIT_NUMBE R:TN0027278.

⁵ *Id.*

ATTACHMENT A

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Rule 1220-04-13-.17(2)(e) Sufficient Financial Ability

1. *Rule 1220-04-13-.17(2)(e)6.* It appears Limestone provided cost estimates for the construction of the collection system for Nash Ridge and tie-in to the Grasslands System. However, there are no cost estimates for modifications to the existing Grasslands System to accommodate the additional wastewater flow from Nash Ridge. Please provide the cost estimates to the existing Grassland System.
2. *Rule 1220-04-13-.17(2)(e)7.* Limestone states that it will provide a detailed breakdown of the estimated Contribution in Aid of Construction (“CIAC”) once it is available. The rule doesn’t require the actual CIAC will be recorded on Limestone’s books but requires an “estimated amount of CIAC.” Please provide a date when Limestone will have an estimate of the amount of CIAC as required by the rule.

From: [Wade Murphy](#)
To: [Cole McCormick](#)
Cc: [Daniel Pleasant](#); [Michael P. Murphy](#); [Michael Lancaster](#); [Karen H. Stachowski](#); [Timothy Hill](#); [Angela Jones](#)
Subject: RE: Commission Docket No. 23-00036 (Limestone - Nash Ridge)
Date: Friday, June 23, 2023 4:27:40 PM
Attachments: [image001.png](#)
[Washout_Combined Email Notifications to TDEC.pdf](#)

Cole, thanks for contacting TDEC via the email below and your phone call to me also on June 21, 2023. I have researched your concern in coordination with some colleagues. I understand your concern to be what permitting and/or enforcement actions are relevant to Limestone's proposal to expand its service area of the Grasslands STP to encompass a new 39 lot subdivision called Nash Ridge. My three thoughts pertain to addition of service area on the basis of a collection system only, Limestone's responsibility under their permit, and Limestone's stated future plans.

Regarding the collection system, TDEC can view it within TPUC's jurisdiction to expand this utility's service area, to encompass the Nash Ridge Subdivision, on the basis of a new low pressure sewer system connected to Limestone's existing sewer system (collection system and treatment plant). TDEC looks positively at low pressure sewer systems as the type of design that has the least potential for allowing extraneous water into the sewer system.

Limestone is already violating its NPDES permit. Limestone's permit prohibits "washouts" which is where more than 30% of the active bacteria providing the treatment gets washed out of the treatment reactor. These are particularly bad because it can take days following the washout for the operators to adjust the treatment plant back into good operation. That increases potential to discharge pollutants in excess of permit limits. Washouts also have the potential to result in partially treated sewage being discharged to the river directly. Limestone's current discharge permit places the burden on Limestone to take all reasonable steps to minimize any adverse impact to the waters of Tennessee resulting from noncompliance with their permit. As you are aware, they currently have a consent order with TDEC to address problems with the sewer system. Consent Order WPC22-0086 required submission of a Corrective Action Plan. Limestone submitted that plan timely in May, 2023. Record available to me indicates that the Division of Water Resources found it omits elements required in an engineering report developed per good engineering practices. We may not have communicated that back to Limestone yet. It's possible that this corrective action plan is a potential mechanism for them to explain how they will address and fix treatment plant problems in time to meet demand of the 39 additional lots without worsening the existing problems. I have attached three recent notifications to DWR of washouts.

Limestone's future plans may not be easily "permissible". Numbered Page 5 of the document at the docket link you provide below says that Limestone is in the process of applying for and obtaining a modification to its existing Grasslands WWTP permit with TDEC to modify and expand the existing system. Limestone plans on building a new, expanded, treatment plant. To my knowledge, the Division of Water Resources is not working on engineering plans or a permit modification for replacement or expand the existing system. An NPDES permit modification will not likely be an issue if Limestone only proposes to replace its 0.25 MGD treatment plant with another 0.25 MGD treatment plant. The Division of Water Resources will not be in a position to propose any increase in discharge pollutant loads from an expanded treatment plant without an acceptable antidegradation

justification from Limestone including water quality modeling to demonstrate an increased discharge will not cause or contribute to a condition of pollution. All of that may be expensive and time-consuming to produce. Limestone and its consultants need to determine whether the existing treatment plant can accommodate sewage from the new development without causing or contributing to overflows in the collection system and washouts at the treatment plant.

The Consumer Affairs Division of the AG's office reached out to our office to see what we know about this situation. I'm copying that agency's representative on this email as a courtesy as well as staff in our field office and Compliance and Enforcement and Engineering Services Units.

I know this is a lot of information. Feel free to call or respond with questions.

Respectfully,



Wade D. Murphy | E.I.
Division of Water Resources, Water-Based Systems Unit
William R. Snodgrass TN Tower, 11th Fl
312 Rosa L. Parks Ave 37243
p. 615-532-0666
wade.murphy@tn.gov
tn.gov/environment

Internal Customers: We value your feedback! Please complete our [customer satisfaction survey](#).

External Customers: We value your feedback! Please complete our [customer satisfaction survey](#).

From: Cole McCormick <Cole.McCormick@tn.gov>
Sent: Wednesday, June 21, 2023 11:45 AM
To: Wade Murphy <Wade.Murphy@tn.gov>
Subject: Commission Docket No. 23-00036 (Limestone - Nash Ridge)

Hello Wade,

Here is the link to Commission Docket No. 23-00036 which is Limestone's proposed expansion to their Grasslands CCN for the Nash Ridge Subdivision: [Tennessee Public Utility Commission Electronic Docket Number 2300036](#)

Here is some information pulled from the Petition (I tried to pull some of the main points but there is more in the Petition itself):

Page 12 of the (05/23/2023) Petition filing, PDFp.13 says: "Wastewater services to Nash Ridge will be

provided through a to-be constructed wastewater system and an existing wastewater system. The to-be constructed system will utilize precast concrete septic tanks for each home with E1 grinder pumps and controls and PVC pipe collection force mains. The wastewater will be transported to an existing manhole in the existing Grasslands WWTP collection system and ultimately make its way to the Grasslands WW Treatment Plant, which is an extended aeration treatment facility followed by clarification and chlorination and owned and operated by Limestone under its current CCN."

Design Capacity = 0.25 MGD or 250,000 GPD. Because this is an NPDES Permit, there are specific limits of various bacterial and elemental deposits allowed according to Exhibit 14 PDFp.87

PDFp.16 explains: "Limestone currently holds discharge permit TN0027278 for the Grasslands system that will serve Nash Ridge. Limestone is in the process of requesting a modification of that permit from TDEC to expand their system to serve the Nash Ridge subdivision.

Limestone did receive a notice of violation on its grasslands system in 2022 from TDEC. See Case no. WPC22-0086

PDFp.16 says: Limestone entered into a Consent Order and Assessment ("Consent Order") with TDEC on February 13, 2023. The Consent Order resolved violations that had occurred at the Grasslands facility and set forth a corrective action plan. A copy of the Consent Order is attached as Exhibit 21. No complaints or notices of violation are pending with TDEC.

Sincerely,
Cole

Cole McCormick
Tennessee Public Utility Commission
Utilities Consultant/Utilities Division
Office Phone: 615-770-6871
Cell Phone: 931-787-3174

Wade Murphy

From: Dana Douglas <dana.douglas@clearwatersol.com>
Sent: Friday, March 3, 2023 8:34 AM
To: Daniel Pleasant
Cc: Mark Butler; Chris Carroll; Joe Stoops; Josh Martin
Subject: [EXTERNAL] Grasslands Facility Washout

Daniel,

The Grasslands facility began washing out yesterday due to the heavy rains.

Thank you,
Dana Douglas
CWS TN Area Supervisor
615-603-6812

Wade Murphy

From: Dana Douglas <dana.douglas@clearwatersol.com>
Sent: Sunday, March 26, 2023 11:07 AM
To: Daniel Pleasant
Cc: Joe Stoops; Josh Martin; Chris Carroll
Subject: [EXTERNAL] Grasslands Facility

Follow Up Flag: Follow up
Flag Status: Completed

Daniel,

I was informed yesterday afternoon by the weekend operator the Grasslands facility was washing out. This is due to heavy rains received overnight Friday, resulting in high flows due to I&I.

Thank you,
Dana Douglas
CWS TN Area Supervisor
615-603-6812

Wade Murphy

From: Dana Douglas <dana.douglas@clearwatersol.com>
Sent: Thursday, April 6, 2023 7:42 AM
To: Daniel Pleasant
Cc: Joe Stoops; Josh Martin; Chris Carroll
Subject: [EXTERNAL] Grasslands WWTP

Good morning, Daniel,

The Grasslands facility is washing out today. This is due to 2" of rain over night causing I&I in the collection system. The I&I causes flows at the plant to exceed the design capacity.

Please reach out if there is anything else you need from me.

Thank you,
Dana Douglas
CWS TN Area Supervisor
615-603-6812

From: [Dana Douglas](#)
To: [Daniel Pleasant](#); [Joe Stoops](#); [Josh Martin](#)
Cc: [Chris Carroll](#)
Subject: [EXTERNAL] SSO
Date: Friday, April 7, 2023 6:46:53 AM

Daniel,

In addition to the email sent yesterday concerning the plane washing out, the WWTP discharge manhole, immediately past the tertiary treatment was/is overflowing. This is also due to the 2 inches of rain received overnight Wednesday into Thursday. Combined with the Harpeth River being flooded, this has caused the WWTP discharge line to be hydraulically maxed out causing the SSO.

Please reach out if you have any questions or concerns.

Thank you,
Dana Douglas
CWS TN Area Supervisor
615-603-6812

From: [Dana Douglas](#)
To: [Daniel Pleasant](#)
Cc: [Chris Carroll](#); [Joe Stoops](#); [Josh Martin](#)
Subject: [EXTERNAL] Sludge Overflow
Date: Tuesday, June 20, 2023 6:20:28 PM

Daniel,

Upon arrival at the Grasslands facility this morning, the operator noticed the sludge holding container was overflowing. The airlift pump had been turned off over night to allow the sludge to thicken for wasting today. We just had a blower motor replaced and the main electrical panel repaired, the operator(s) fired up the third blower to increase aeration and aid in NH3 removal. We assume the increased pressures somehow activated the airlift pump sometime overnight, causing the spill. We have Onsite Environmental cleaning up the spill. When I am able to get an estimate on the amount of spillage, I will let you know.

If you have any questions, please reach-out.

Thank you,
Dana Douglas
CWS TN State Manager
615-603-6812