

STATE OF TENNESSEE

Office of the Attorney General



JONATHAN SKRMETTI
ATTORNEY GENERAL AND REPORTER

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April 23, 2024

Jeff Riden
Tennessee Wastewater Systems, Inc
851 Aviation Parkway
Smyrna, TN 37167
jeff.riden@adenus.com

Electronically Filed in TPUC Docket
Room on April 23, 2024 at 1:09 p.m

Re: Tennessee Public Utility Commission ("TPUC" or the "Commission"), Docket
No. 24-00015, *Petition of Tennessee Wastewater Systems, Inc. to Amend its
Certificate of Convenience and Necessity to Include the Chesterfield Farms
Subdivision in Bedford County, Tennessee*

Mr. Riden:

The Consumer Advocate has reviewed the *Petition* filed by Tennessee Wastewater Systems, Inc. ("TWSI") in the above-referenced Docket.

The Consumer Advocate appreciates the time and effort that the Applicant put into compiling the *Petition*, as well as the Applicants' attention to the Commission's minimum filing requirements. 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 1220-04-13-.17. Please note that this is not a discovery request by the Consumer Advocate, but a review of TWSI's compliance with TPUC's minimum filing requirements.

Please be aware that the Consumer Advocate is simply reviewing TWSI's filings to determine if required documentation has been filed with the Commission. The Commission Staff will determine the completeness of the filings. The Consumer Advocate requests you review the requirements and comments set forth in Attachment A. We thank you for your time and attention to this request. If you have questions, please contact me at (615) 741-2370.

Respectfully,

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

Karen H. Stachowski
Deputy Attorney General

cc: Kelly Cashman-Grams, TPUC

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

1. *Rule 1220-04-13-.17(2)(a)3.* The rule requires a list of owners that include the address, telephone number, and percentage of ownership. It appears that the *Petition* fails to include the phone number for each owner/member. Please update the filing with this list including the phone number for each.
2. *Rule 1220-04-13-.17(2)(a)7.* The rule requires a complete description of the geographical territory, including the name and location of the development and the number of acres. However, the map is difficult to read. Please update the filing with the number of acres mentioned in your description on page 2 of the *Petition*.
3. *Rule 1220-04-13-.17(2)(a)7(i).* This rule requires a map that shows the location of the wastewater system, i.e., treatment plant, pre-application treatment facilities, collection infrastructure, building(s) for equipment, drip fields, disposal fields and/or wetland cells. Please update the filing with a map that includes these listed items.

Rule 1220-04-13-.17(2)(b) Property Rights – Public Need

1. *Rule 1220-04-13-.17(2)(b)3.* This rule requires all contracts or agreements between the builder(s) of the treatment and/or collection system, the utility, and the property and/or subdivision developer that show entitlement or ownership to the land, system specifications, costs for the wastewater system, timeline for the system to be built, and rights to the system once it is completed. Documents presented by the applicant should be signed by all parties and bear marks or stamps, such as those provided by notaries or public officials, as necessary. In reviewing the *Petition*, these documents were filed Confidentially. Could you provide these documents to the Consumer Advocate to review? The Consumer Advocate will treat all confidential documents as such.

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

1. *Rule 1220-04-13-.17(2)(d)4.* The rule requires a list of any complaint(s), notices of violation or administrative action filed with or issued by a regulatory agency. Identify the nature of the complaint notices of violation or administrative action, which the agency is involved, and how the issue was or is being resolved. The *Petition* did not address this rule nor did the *Testimony*. However, after a review of the Tennessee Department of Environment and Conservation (“TDEC”) dataviewer, the Consumer Advocate found recent correspondence regarding issues with the following systems:
 - SOP-11020, The Bluffs at Bradbury Farms. On September 15, 2023, TDEC issued a Notice of Violation¹ (“NOV”) citing the following issues: (1) permit description differs from the as-built site; (2) a discrepancy in the dates samples in a 2021 1st Quarter Operating Report; (3) the ponding of water on drip fields not being reported to TDEC; and (4) the possible need of utilizing the reserve area to prevent ponding and damp

¹ Exhibit CA-1.

spots in the existing drip fields. In a letter dated October 13, 2023,² TWSI responded that items (1) and (2) above were addressed and disputed items (3) and (4) above.

- SOP-17020, Terravista Subdivision. On October 31, 2023, TDEC issued a Compliance Evaluation Inspection letter³ citing the following issues: (1) the lack of fencing to prevent unauthorized entry to the sand filter; (2) the incorrect permit number was used in the 2nd quarterly 2023 report; (3) the need to secure the relief valve to prevent unauthorized discharges into the relief pond; (4) lack of a response procedure in the event of a discharge to the relief pond. In a letter dated November 28, 2023,⁴ TWSI responded to items (1) – (3) above, and TWSI stated that it has never had a system discharge into a storage pond in Williamson County, unless repairs are being made to system.
- SOP-99016, Townsend Town Square. On September 19, 2023, TDEC issued a NOV⁵ regarding overflowing sewage from a drip field pump station into drainage leading to the Little River. Additionally, effluent was flowing onto the surface of the ground in the drip field and failing to assimilate into the soil. TDEC required a corrective action plan to be submitted. The Consumer Advocate could not locate TWSI's response in the TDEC dataviewer; and
- TN0074764, River Road STP. On September 7, 2023, TDEC issued a NOV⁶ regarding the inactive status of the most recent permit (expired on Sept. 30, 2015), and the incomplete permit renewal application filed on April 15, 2023. The NOV noted that a Compliance Evaluation Inspection occurred on July 5, 2023, and the following observations were made: (1) the facility receives sewerage from 5 residences; (2) the control building has not been construct as set out in the approved design plans; and (3) there is no power to transfer the lagoon's effluent into the chlorine contact chamber of flow measurement. These conditions have been noted in previous inspections in 2021, 2003, 2008, 2015, 2016.

TDEC stated that since the “lagoon does not hold water, even after major flooding events like in 2010, indicate the lagoon liner is failing or was not installed properly.” Also, TWSI has not installed a level gauge into the lagoon which is required by TDEC's design criteria to monitor potential leakage in the pond. TDEC directed TWSI to evaluate the lagoon liner by a qualified third party. A written report of this evaluation was due October 15, 2023. TDEC also set a Compliance Review Meeting on September 20, 2023.

In a letter dated October 9, 2023,⁷ TWSI responded to the issued identified by TDEC. TWSI disputes that the clay liner of the lagoon is failing. TWSI states it will file an executed easement of the system property once it receives it from the partnership

² Exhibit CA-2.
³ Exhibit CA-3.
⁴ Exhibit CA-4.
⁵ Exhibit CA-5.
⁶ Exhibit CA-6.
⁷ Exhibit CA-7.

formed by the Pickney family (pending since 2016). A new water level gauge will be installed. In a letter dated November 3, 2023,⁸ TDEC issued a Compliance Review Follow-up letter, TDEC stated that it appeared that “no viable solutions have been proposed nor have the requested calculations from TWSI been submitted” therefore the matter was being referred to TDEC’s Compliance and Enforcement Unit.

Please provide the status or, if the matter is resolved, the resolution of the issues identified by TDEC. Also, please update the filing with the required information regarding those issues.

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

2. *Rule 1220-04-13-.17(2)(e)1.* The rule requires financial statements of CSWR/Limestone covering the most recent year ended. Include a balance sheet, income statement, and a statement of cash flows. Exhibits 23a-c were filed confidentially. Could you provide these documents to the Consumer Advocate to review? The Consumer Advocate will treat all confidential documents as such.
2. *Rule 1220-04-13-.17(2)(e)2.* The rule requires Pro forma income statements for the wastewater utility for the first three (3) years of operations. Exhibits 23 & 31 were filed confidentially. Could you provide these documents to the Consumer Advocate to review? The Consumer Advocate will treat all confidential documents as such.
3. *Rule 1220-04-13-.17(2)(e)4.* The rule requires a list of all plant-in-service account numbers with account names and estimated account balances as of the state of operations. Exhibit 26 was filed confidentially for this rule. Could you provide these documents to the Consumer Advocate to review? The Consumer Advocate will treat all confidential documents as such.
4. *Rule 1220-04-13-.17(2)(e)6.* The rule requires the total estimated detailed cost of construction of the wastewater system to be constructed for the proposed service area. If the wastewater system is constructed in phases, provide detailed construction cost estimates for each phase. Could you provide these documents to the Consumer Advocate to review? The Consumer Advocate will treat all confidential documents as such.
5. *Rule 1220-04-13-.17(2)(e)9.* The rule requires estimates of costs and customers added by month for the first five (5) years based upon the construction build-out schedule for developers in the service area of the proposed wastewater system. For each year, by month, provide an estimated number of customers by customer class anticipated to be served by the wastewater system. Include the utility's basis and assumptions used for this projection. Provide this information in a spreadsheet in Microsoft Excel format with all assumptions clearly documented. Exhibit 31 was filed confidentially. Could you provide these documents to the Consumer Advocate to review? The Consumer Advocate will treat all confidential documents as such.

ATTACHMENT A – CCN MFRs

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6. *Rule 1220-04-13-.17(2)(e)13.* The rule requires information demonstrating compliance with the financial security requirement of Rule 1220-04-13-.07. Neither the *Petition* nor Testimony addressed this rule. In TPUC Docket No. 18-00053, TWSI filed a petition to post alternative financial security, which the Commission approved on June 18, 2018. Please confirm TWSI's compliance with the rule.



**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

September 15, 2023

Mr. Jeff Riden, Chief Executive Officer
Tennessee Wastewater Systems, Inc.
e-copy: jeff.riden@adenus.com
849 Aviation Pkwy
Smyrna, TN 37167

RE: Compliance Evaluation Inspections and Notice of Violation
Tennessee Wastewater Systems, Inc.
The Bluff at Bradbury Farms
Permit #SOP-11020
Montgomery County

Dear Mr. Riden,

On Wednesday August 30, 2023, Mrs. Christina Wingett performed a Compliance Evaluation Inspection at The Bluff at Bradbury Farms treatment facility for compliance with State Operating Permit SOP-11020, which became effective on December 2, 2021, and will expire on November 30, 2026. She met with Mr. Tracy Nichols and Mrs. Jenny Nichols on site. The Division would like to thank Mr. and Mrs. Nichols for their time and courtesy shown while on site.

Permit and Records Review

A current copy of the permit was able to be electronically accessed. The permit description differs from the as-built site. The permit description incorrectly states ultraviolet (UV) is present and does not provide an approximated drip field acreage. Mrs. Nichols has emailed the Division to correct this issue.

Copies of quarterly reports and maintenance logs were provided via email on August 29, 2023. All permit parameters are analyzed by a contract laboratory. During review of the quarterly operating reports, it was noted a sample was collected on February 24, 2021, on the contract laboratory report but February 4, 2021, was reported on the Operating Report. The other reporting issues noted such as placing an 'X' in the column when the sample was below the detection limit rather than the MDL were corrected before submitting the reports.

Mr. and Mrs. Nichols were made aware of the permit requirements regarding reporting of ponding water on drip fields on Operating Reports and instances that cannot be repaired within three days must be reported to the Nashville Environmental Field Office and to report overflows and releases in the collections system to the Nashville Environmental Field Office per permit requirements.

Site Review

The sand filter appeared well maintained and services approximately 50 homes. No divots were visible in the surface and the grounds around the filter tanks are sufficiently vegetated with no woody growths or observable indications of leaks. Pumps and wet wells were observed with no signs of corrosion or other problems. Mr. Nichols indicated that site is visited every month at the minimum, and logbooks confirmed this. Preventative maintenance measures are in place. Effluent was slightly turbid but clear and free of excessive odors. UV Disinfection is not present, in contrast to the permit description. Telemetry is in use and the field lines for the ~2.4 acres of active drip are fenced and locked with a sign present with ~1 acre of reserve drip. I observed multiple wet and damp spots across all three zones, including on hill slopes. When questioning Mr. Nichols, he replied that the soils are causing the ponding water. The reserve area may need to be utilized to prevent oversaturation of the current zones.

Conclusions and Action Items

Failure to report the ponding water in the drip fields, and the presence of the saturated soils are violations of the permit. Therefore, this letter also serves as a notice of violation.

Please provide a written response to the following action items within **30 days** of the receipt of this letter or by October 15, 2023, whichever occurs first:

1. Maintain communication with the Division to correct the permit to match the site, copy your inspector on all correspondence for this facility.
2. Resubmit a corrected 1st Quarter 2021 Operating Report to the Division.
3. Report overflows and releases if they occur, record ponding water in the drip fields on operating reports, and report instances of ponding water that cannot be repaired within three days per permit requirements.
4. Operate the facility in a way as to not violate permit parameters for ponding water on the drip fields potentially through use of the reserve capacity.

The Division would like to thank Mr. and Mrs. Nichols again for their courtesy and cooperation shown during these inspections. If you have any questions or concerns, please contact your inspector at 615-961-3875 or christina.wingett@tn.gov.

Sincerely



Michael Murphy
Program Coordinator
Division of Water Resources

e-copy: Matt Nicks, Project Coordinator, matthew.nicks@adenus.com
Jenny Nichols, Quality Control Technologist, jenny.nichols@adenus.com
Tracy Nichols, Operator, tracy.nichols@adenus.com
Timmy Jennette, TDEC, tim.jennette@tn.gov
Brad Harris, TDEC, brad.harris@tn.gov



851 Aviation Parkway
Smyrna, TN 37167

October 13, 2023

Ms. Christina Wingett
Tennessee Department of Environment and Conservation
Nashville Environmental Field Office
711 R.S. Gass Blvd.
Nashville, TN 37216

VIA EMAIL: christina.wingett@tn.gov

Re: Compliance Evaluation Inspection and Notice of Violation
The Bluffs at Bradbury Farms – SOP #11020
Montgomery County, Tennessee

Ms. Wingett:

This letter is in response to the Compliance Evaluation Inspection and Notice of Violation (“Report”) conducted at the Bluffs at Bradbury Farms treatment facility on August 30, 2023. You identified four action items in the report and requested a response by October 15, 2023.

Action Item Responses:

1. The Report states “Mrs. Nichols has emailed the Division to correct this issue”.
2. The corrected 1st Quarter 2021 Operations Report has been submitted to the Division.
3. TWSI is aware of the reporting requirements for ponding. Ponding was not observed in the drip fields at the time of the inspection. Saturated soils and “wet and damp spots” are not violations of the permit.
4. The system is being operated in compliance with the permit. Operators will continue to monitor any issues related to ponding.



851 Aviation Parkway
Smyrna, TN 37167

If you have any further questions or concerns, please contact Matthew Nicks at matthew.nicks@adenus.com or 615-220-7700

Regards,

Jeff Riden
General Counsel

Cc: Matthew Nicks – matthew.nicks@adenus.com
Jenny Nichols – jenny.nichols@adenus.com
Tracy Nichols – tracy.nichols@adenus.com
Timmy Jennette – tim.jennette@tn.gov
Brad Harris – brad.harris@tn.gov



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

October 31, 2023

Mr. Jeff Ridsen | Chief Executive Officer
e-copy: jeff.ridsen@adenus.com
Tennessee Wastewater Systems, Inc.
849 Aviation Pkwy
Smyrna, TN 37167

RE: Compliance Evaluation Inspection
Long-Kelly Treatment Facility
Permit #SOP-17020
Williamson County

Dear Mr. Ridsen,

On September 21, 2023, I performed a Compliance Evaluation Inspection (CEI) at the Long-Kelly Treatment Facility servicing the Terravista Subdivision in Williamson County to determine compliance with the State Operating Permit SOP-17020, which is operated by Adenus Utilities. This inspection covers the time period from November 2020 to August 2023. While on site, I met with the operator in charge Mr. Tracy Nichols. Mrs. Jenny Nichols provided the requested quarterly reports electronically. I would like to thank your staff for their collective time and courtesy shown during the inspection.

Records and Reports

The permit became effective on November 1, 2020, and will expire on October 31, 2025. A copy of the current permit is kept on file at Adenus' central office. The subdivision's development began providing flow to the treatment facility during 2nd quarter of 2023. Daily flow averages are approximately 35% of the facility's design capacity during this time. The facility's first quarterly report submitted to the Division of Water Resources (Division) for April 2023 to June 2023 was reviewed. No effluent violations were observed for the facility and sampling is occurring at the required frequencies for each parameter. The permit number submitted was TN0074764; this is incorrect, and the 2nd quarterly 2023 report will need to be resubmitted with the correct permit number.

Site Review

This system treats sewage from approximately 30 to 40 homes with a designed capacity for 99 homes.

Long Kelly Treatment Facility CEI, SOP-17020

October 31, 2023

Page 2 of 2

The subdivision is currently under active construction. The filter gravel was level and free of vegetation. The facility is visited a minimum of once per month as specified by the TDEC approved maintenance plan. Site visits are recorded on a log stored in the locked control room. The sandfilter did not have a fence preventing unauthorized entry but Mr. Nichols informed the Division the sandfilter should have a fence installed by the subdivision's developer in approximately three months. Adjacent to the sandfilter is a storage pond that would serve as emergency relief in case of failure or an upset to the treatment facility. The discharge line to the storage pond appeared to require manual actuation. The Division recommends securing the relief valve to prevent an unauthorized discharge to the storage pond.

According to the engineering report submitted to the Division, the drip field totals approximately 3.42 acres and is accompanied by an area of reserve totaling approximately 3.44 acres. The effluent going to the drip fields was clear and free of solids and did not have a noticeable odor. Identification signs were posted outside the fence surrounding the drip fields and displayed the correct information. The drip field and reserve area were well maintained, and no observable ponding or soft soils were observed during the inspection. Telemetry is used in case of failure of the system.

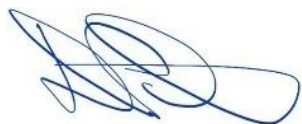
Conclusions

The facility is well maintained and operated and produces acceptable effluent. Please provide the following information by November 30, 2023:

- The proposed date when the fence is to be installed around the sandfilter; photographic documentation of the fence should be sent when completed.
- Corrected quarterly report for the 2nd quarter of 2023.
- Method(s) implemented to prevent unauthorized discharges to the relief pond.
- Response procedure in the event of discharging wastewater into the relief pond.

You may submit these documents to my email at the bottom of this letter. I would like to thank Ms. Jenny Nichols and Mr. Tracey Nichols again for the courtesy and cooperation shown during this inspection and file review. This document will not be physically mailed unless requested. If you have any questions or concerns, please contact me at 615-970-1222 or daniel.pleasant@tn.gov.

Sincerely,



Daniel Pleasant
Environmental Scientist II
Division of Water Resources

e-copy: Michael Murphy, TDEC DWR, michael.p.murphy@tn.gov
Matthew Nicks, Adenus, matthew.nicks@adenus.com
Jenny Nichols, Adenus, jenny.nichols@adenus.com
Tracy Nichols, Adenus, tracy.nichols@adenus.com

November 28, 2023

Mr. Daniel Pleasant
Tennessee Department of Environment and Conservation
Nashville Environmental Field Office
711 R.S. Gass Blvd.
Nashville, TN 37216

VIA EMAIL: daniel.pleasant@tn.gov

Re: Compliance Evaluation Inspection
Long Kelly Treatment Facility
Permit #SOP-17020
Williamson County, Tennessee

Mr. Pleasant:

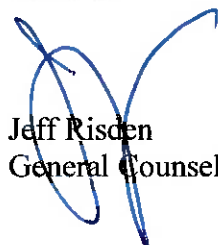
This letter is in response to the Compliance Evaluation Inspection ("CEI") conducted at the Long Kelly Treatment Facility ("System") on September 21, 2023. You identified certain action items in the report and requested a response by November 30, 2023.

Action Item Responses:

1. The fence is scheduled to be installed by February 27, 2024.
2. The corrected quarterly report for 2nd quarter 2023 has been submitted.
3. The buildings and gates are locked to prevent unauthorized access to the pumps that handle the discharges to the relief pond.
4. The storage pond is a Williamson County requirement. TWSI has never had a system discharge to a storage pond in Williamson County. The only time a discharge to the pond would occur is if it was needed for backup while making repairs to the system. In the event of a discharge to the pond, the treated effluent would either be left to evaporate or pumped, if necessary.

If you have any further questions or concerns, please contact Matthew Nicks at matthew.nicks@adenus.com or 615-220-7700

Regards,



Jeff Riscden
General Counsel

Cc: Matthew Nicks – matthew.nicks@adenus.com
Jenny Nichols – jenny.nichols@adenus.com
Tracy Nichols – tracy.nichols@adenus.com
Michael Murphy – michael.murphy@tn.gov



STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
KNOXVILLE ENVIRONMENTAL FIELD OFFICE
DIVISION OF WATER POLLUTION CONTROL
3711 MIDDLEBROOK PIKE
KNOXVILLE, TN 37921
PHONE 865-594-6035 STATEWIDE 1-888-891-8332 FAX 865-594-6105

9-19-2023

Tennessee Wastewater Systems Inc

RE: State Operating Permit No. SOP-99016
Tennessee Wastewater Systems Inc – Townsend Town Square
Townsend, Blount County, Tennessee

To Whom it may concern:

On September 19, 2023, William Luke from the Tennessee Division of Water Resources conducted a complaint investigation due to the discharge of sewage from failing treatment facilities and drip fields from Townsend Town Square operating under State Operating Permit 99016. Mr. Luke met with a member of Tennessee Wastewater Inc and discussed the state of the system. Below are the findings.

Investigation Findings

During the investigation the day of September 19, 2023, the Townsend Town Square wastewater treatment plant was observed overflowing sewage from the dip field pump station and running into drainage leading to the Little River. Also noted in this investigation the effluent is flowing on the surface of the ground in the drip field area and not assimilating into the soil profile. The recirculating sand filter appeared to have some minor ponding. The representative from TWI stated they had been exceeding 4000 gallons per day in wastewater flow Based on these observations the following are **violations** of the effluent limits established in State Operating Permit 99016.

Part II.A.4. of the State Operating Permit states:

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.

Part II.C.2.a & 3.b Reporting of Noncompliance & Overflow

SOP-99016

Tennessee Wastewater Systems Inc – Townsend Town Square

2.a. 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.

3.b. Overflows are prohibited.

SOP-99016

Tennessee Wastewater Systems Inc – Townsend Town Square



SOP-99016

Tennessee Wastewater Systems Inc – Townsend Town Square

Tennessee Wastewater Systems Inc must respond in writing to this Notice of Violation by December 31, 2023 with a plan for correcting the violations documented in this letter. At this time, a Corrective Action Plan (CAP) must be developed and implemented to ensure compliance with current State Operating Permit 99016. The CAP should include, but not be limited to, modifications to operation and maintenance necessary to eliminate violations and a timeline in which the modifications will be put into operation.

If you have any questions concerning this investigation or if we may be of any further assistance to you in any way, please feel free to contact Michael Caudill by phone at (865) 594-5476 or by email at Michael.caudill@tn.gov.

Sincerely,

A handwritten signature in cursive script, appearing to read "Michael Atchley".

Michael Atchley

Environmental Program Manager
Knoxville Environmental Field Office
Division of Water Resources
cc: Enforcement & Compliance Section, Nashville, WPC



STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
Division of Water Resources
Nashville Environmental Field Office
711 R.S. Gass Blvd.
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September 7, 2023

Jeff Ridsen, Owner
e-copy: jeff.ridsen@adenus.com
Adenus Group, LLC
849 Aviation Parkway
Smyrna, TN 37167

RE: Compliance Evaluation Inspection, Notice of Violation, and Compliance Review Meeting
Tennessee Wastewater Systems – River Road Lagoon
NPDES Permit # TN0074764
Cheatham County

Dear Mr. Ridsen,

On Thursday, July 5, 2023, Mr. Jordan Fey and Mr. Daniel Pleasant, with the Division of Water Resources (Division), performed a Compliance Evaluation Inspection (CEI) at the Tennessee Wastewater Systems River Road Lagoon to assess compliance with the National Pollutant Discharge Elimination System (NPDES) Permit #TN0074764. This permit became effective on November 1, 2010, expired on September 30, 2015, and the permit renewal has been incomplete since April 15, 2015. Therefore, this letter serves as a **Notice of Violation** for operating without permit coverage. The time period covered by this inspection is from July 2020 to June 2023. While on-site, they met with Mrs. Jenny Nichols and Mr. Tracy Nichols. I would like to thank your personnel for their time and courtesy shown during this inspection.

Permit and Records Review

This facility is currently unpermitted. The facility retains at least three years of effluent data as required by the expired permit. Maintenance records, Discharge Monitoring Reports (DMRs), and Monthly Operational Reports (MORs) from July 2020 through June 2023 were reviewed. The facility reported “No Discharge” from Outfall 001 during that time.

No copy of the expired permit was available due to the application process being deemed incomplete. A notice of an incomplete application was sent by letter dated April 9, 2015. The expired NPDES permit was issued to Tennessee Wastewater Systems, Inc. (TWSI), a corporation owned by Adenus

Group, LLC. However, the facility is located on property owned by Lost Hollow Limited Partnership. A letter dated October 19, 2016, from Mr. Charles Hyatt, indicated the required information for the permit renewal will be forthcoming in the next thirty days, and an easement has been drafted and will be executed granting permanent access and rights to TWSI for the land encompassing the wastewater treatment facilities, including the lagoon. It was anticipated the easement would be completed and recorded within thirty days of the letter, and once recorded, a copy of the easement would be provided to the Division. A report overview from TWSI was submitted on October 5, 2018, to the Tennessee Public Utility Commission (TPUC), stating TWSI is awaiting a signed easement for the land occupied by the sewer system. There is no record the Division has received the required documentation for the permit renewal and easement as of the date of this letter.

Site Review

The facility receives sewerage from five residences in the surrounding area. The lagoon consists of one facultative cell separated by an earthen berm. Disinfection is to be achieved from the facility's chlorine contact chamber. However, the control building has not been constructed from the approved design plans, and no power supply is available to transfer the lagoon's effluent into the chlorine contact chamber or flow measurement. This has been noted from prior inspections conducted in 2001, 2003, 2008, 2015, and 2016. The lagoon and chlorine contact chambers are adequately fenced and locked to prevent unauthorized access.

The fact that the lagoon does not hold water, even after major flooding events like in 2010, indicate the lagoon liner is failing or was not installed.

There is no level gauge installed within the lagoon. The Division's design criteria require a level gauge installed to a stationary structure. This is necessary to determine when significant water level drops occur to indicate potential leakage. A level gauge must be installed, and the gauge readings be documented during each facility inspection. This was detailed in the 2015 and 2016 Notice of Violations (NOVs). The lagoon had significant vegetation surrounding the berm, preventing a proper assessment of the embankment's integrity. During the inspection, significant rodent activity was discovered on the southern, eastern, and northern perimeter. Keeping the embankments clear of heavy vegetation is necessary to allow routine inspection of the structure for damage caused by burrowing animals, erosion, or leakage. This was explained in the 2016 NOV. The location of the outfall was inaccessible due to overgrown vegetation. An accessible path must be maintained to assess the condition of the outfall and its required.

Lab and Sampling Review

Mrs. Nichols provided the requested MORs electronically on June 6, 2023. Sampling has not been occurring due to the facility not actively discharging to its outfall—the appropriate No Data Indicator (NODI) code has been recorded for the facility not discharging to its outfall.

Conclusions

The treatment facility is incomplete per the approved engineering specification; no operational control exists. The violations and compliance items cited in the previous inspections have not been corrected. The lagoon and surrounding property are not properly maintained to allow for the routine inspections

detailed in this letter. Not providing proper maintenance of the wastewater system and failure to complete system construction per the approved engineering plans and specifications are violations of the *Tennessee Water Quality Control Act*.

Action Items and Recommendations

The lagoon liner must be evaluated for its presence and integrity. This must be completed by a qualified third party. The evaluation and an official report must be completed by October 15, 2023, and submitted to the Division, to the attention of Mr. Daniel Pleasant at his email address below, by the same date. After the evaluation, if warranted, a Corrective Action Plan (CAP) must be developed and submitted to the Division within 30 days of the final report. The CAP must detail how the liner will be repaired or installed, with a completion date no longer than 120 days from the plan submittal.

Due to the repeat and ongoing nature of the violations outlined in this letter, Adenus Group, LLC is required to attend a Compliance Review Meeting to outline what is being done to correct and prevent the violations from continuing and to show why the Division should not pursue further enforcement action. Attendees should include yourself or your designee, as well as any other personnel that you feel would be helpful for this meeting. The Compliance Review Meeting will be held at the Nashville Environmental Field Office; the address is provided at the top of this letter, on **September 20, 2023, at 10:30 AM**. You should be prepared to discuss all the violations outlined in this letter and any other items related to the operation of the facility at your site.

The Division would like to thank your staff for their time and cooperation while on site and for Adenus Group's attention to these matters. If you have any questions or concerns, please contact Mr. Daniel Pleasant at 615-970-1222 or Daniel.Pleasant@tn.gov

It is requested a written response be provided to this office by October 7, 2023, detailing specific actions with completion dates taken or estimated to address these concerns. The response letter can be submitted by email to Mr. Daniel Pleasant. If you have any questions or concerns, please contact Mr. Daniel Pleasant at 615-970-1222 or daniel.pleasant@tn.gov

Sincerely,



Michael Murphy
Program Coordinator
Division of Water Resources

e-copy: Matthew Nicks, Adenus, matthew.nicks@adenus.com
 Jenny Nichols, Adenus, jenny.nichols@adenus.com
 Tracy Nichols, Adenus, tracy.nichols@adenus.com
 Jordan Fey, TDEC DWR, jordan.fey@tn.gov
 Michael Murphy, TDEC DWR, michael.p.murphy@tn.gov
 Timmy Jennette, TDEC-DWR, tim.jennette@tn.gov



851 Aviation Parkway
Smyrna, TN 37187

October 9, 2023

Mr. Daniel Pleasant
Tennessee Department of Environment and Conservation
Nashville Environmental Field Office
711 R.S. Gass Blvd.
Nashville, TN 37216

VIA EMAIL: daniel.pleasant@tn.gov

Re: Compliance Evaluation Inspection and Notice of Violation, and
Compliance Review Meeting

Tennessee Wastewater Systems – River Road Lagoon
NPDES Permit #TN0074764
Cheatham County, Tennessee

Mr. Pleasant:

This letter is in response to the Compliance Evaluation Inspection (“CEI”) conducted at the River Road Lagoon (“System”) on July 5, 2023. You identified certain action items in the report and requested a response by October 7, 2023.

As a preliminary matter, some comments about the system and the CEI report:

1. The status of the permit was noticed by TWSI several months ago. At that time TWSI contacted the Department and began discussions as to how to remedy the situation. Those talks have been ongoing. Current TWSI leadership was not involved with the permit renewal in 2016. The person responsible at that time for the renewal ceased employment with Adenus/TWSI shortly after the application was made. The renewal application for the NPDES permit was made within the required 180-day window. Attached is the only communication TWSI has from the Department regarding the application. The document seeks some additional information, but no additional required documentation. While



851 Aviation Parkway
Smyrna, TN 37167

- its renewal application has been pending with the Department, TWSI has continued to operate the system in compliance with the permit that was in effect at the time the renewal application was made. MOR's have been provided to the Department monthly to this effect.
2. As noted in the report, the System only has 5 residences connected to it. This results in an average daily flow of around 875 gpd into the lagoon. Calculations based solely on evaporation loss shows evaporation exceeds the amount of daily flow into the plant and a decrease in water over time should be expected.
 3. The System is a non-discharging system, meaning no effluent is discharged into any receiving waters. This is due to how few connections there are to the system and the size of the lagoon. All necessary treatment for the effluent happens within the lagoon ecosystem.
 4. Because the System is non-discharging, items such as the control building are not yet needed because there is nothing to control within the system to achieve the level of treatment required for discharge or disposal in general. The plan has always been to add those components once discharge is necessary.
 5. The report states that the lagoon does not hold water and a liner is not present yet provides no evidence of such claims. It was mentioned at the Compliance Review Meeting that the belief that the lagoon leaks is based on aerial photographs taken after the 2010 flood, however how the loss was calculated and how much water loss occurred could not be explained to the TWSI representative. Current photographs of the lagoon clearly show it is holding water.
 6. The report states that the level gauge is a requirement under the design criteria. The design criteria are guidelines, not requirements.
 7. Lost Hollow Limited Partnership is a partnership formed by the Pickney family. Adenus Group, LLC which is the sole shareholder of TWSI is owned by three of the Pickney's involved with Lost Hollow (River Road is the family property of the Pickneys). The easement over the System property was drafted back in 2016 and has been waiting on the partnership to execute it. There is and has been no issue with TWSI ever having access to the property for any purpose. TWSI has always owned and operated the system.
 8. The NPDES permit is silent about vegetation and rodent control around the facility.



851 Aviation Parkway
Smyrna, TN 37167

Action Item Responses:

1. The lagoon contains a compacted clay liner that was installed when the lagoon was first constructed. The Department should have record of this from any construction inspection report made when the Department inspected the construction as required under Tenn. Comp. R & Regs 0400-40-02-.08. Furthermore, the fact that the lagoon is holding water despite such low flow into the lagoon is further evidence of the presence of a liner.
2. TWSI will file a copy of the executed easement for the System property once received from Lost Hollow General Partnership.
3. The vegetation around the lagoon will be cut down.
4. A water level gauge will be installed in the lagoon (one had been installed but was washed away).

If you have any further questions or concerns, please contact Matthew Nicks at matthew.nicks@adenus.com or 615-220-7700

Regards,



Jeff Ridsen
General Counsel

Cc: Matthew Nicks – matthew.nicks@adenus.com
Jenny Nichols – jenny.nichols@adenus.com
Tracy Nichols – tracy.nichols@adenus.com
Jordan Fey – jordan.fey@tn.gov
Michael Murphy – michael.murphy@tn.gov
Timmy Jennette – tim.jennette@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

April 9, 2015

Mr. Roy Denney, Chief Technical Officer

e-copy: roy.denney@adenus.com

Adenus Group LLC

849 Aviation Parkway

Smyrna, TN 37167

**Subject: NPDES Permit No. TN0074764
 Notice of Incomplete Application
 TN Wastewater Systems - River Road STP - Lost Hollow Subdivision
 Ashland City, Cheatham County, Tennessee**

Dear Mr. Denney:

The Division of Water Resources (the division) has received your application for the above referenced project on March 24, 2015. We have reviewed the application for completeness in accordance with TDEC rule 0400-40-5-.05 (2) and find the application to be incomplete. The processing of this application has been suspended until the following information has been submitted:

1. Regarding signatory to the application: EPA and TN rules require the application to be submitted "by a responsible corporate officer, i.e., president, secretary, treasurer, or vice president of the corporation in charge of a principal business function....". Because this facility is owned by Lost Hollow Limited Partnership and is located on property owned by the Partnership, Parcel 065-099.00, we request that you submit evidence that Mr. Denney holds a role as a "responsible corporate officer" for Lost Hollow Limited Partnership.
2. Because the lagoon has not discharged to surface waters but apparently discharges to ground water, please explain why you are applying for a surface water discharge permit rather than a State Operating Permit for a subsurface discharge.

A complete application should be submitted at the address above within 30 days of the date of this letter. You should be aware that in accordance with TDEC Rule 0400-40-5-.05 (2), your receipt of this notice does not preclude the division from later requesting additional material that subsequent to the notice of completeness is determined to be necessary for permit processing.

If you have questions, please contact the Nashville Environmental Field Office at 1-888-891-TDEC; or, at this office, please contact Mr. Bob Alexander at (615) 532-0659 or by E-mail at Robert.Alexander@tn.gov.

Sincerely,

Vojin Janjic
 Manager, Water-Based Systems

cc: Permit File & Nashville Environmental Field Office
 Land-based Systems (brad.harris@tn.gov)
 Mr. Charles R. Hyatt, CEO, Adenus Group, LLC, Charles.Hyatt@adenus.com



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

November 3, 2023

Jeff Risdén, Owner
e-copy: jeff.risden@adenus.com
Adenus Group, LLC
849 Aviation Parkway
Smyrna, TN 37167

RE: Compliance Review Meeting Follow Up
Tennessee Wastewater Systems (TWSI) – River Road Lagoon
NPDES Permit # TN0074764
Cheatham County

Dear Mr. Risdén,

We appreciate Mr. Matthew Nicks meeting with personnel from the Division of Water Resources (Division) for a Compliance Review Meeting (CRM) on September 20, 2023, to discuss items noted in the September 7, 2023, Compliance Evaluation Inspection (CEI) and Notice of Violation (NOV).

During the meeting, Division representatives discussed the history of previous NOV's from the Division, the inactive status of the most current permit application, and the facility's condition during the July 5, 2023, CEI. Also discussed was a previous NOV response letter from Mr. Charles Hyatt in 2016 indicating a drafted easement would be executed granting permanent access and rights to TWSI for the land encompassing the wastewater treatment facilities, including the lagoon.

Mr. Nicks informed the Division his calculations of the volume of wastewater flowing to the lagoon could be naturally managed and agreed to provide said calculations when requested during the CRM. Given the Division's concerns about the lagoon's integrity, lack of operational control, and its ability to properly treat wastewater, Mr. Nicks proposed a potential solution of installing an appropriately sized Bioclere treatment system and dismantling the existing lagoon. The Division never received the requested calculations or proposed alternate treatment solution(s) from your October 9, 2023, response letter.

The Division agreed to Mr. Nick's request to postpone our decision resulting from the September 20, 2023, CRM so TWSI could consider his proposed solutions. Given the contents of TWSI's response

Compliance Review Meeting Follow Up

Exhibit CA-8

NPDES #TN0074764

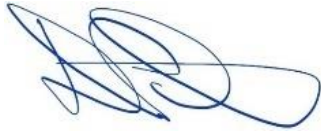
November 3, 2023

Page 2 of 2

letter from October 9, 2023, no viable solutions have been proposed nor have the requested calculations from the CRM been submitted. We will be referring this case to the Compliance and Enforcement unit for possible further enforcement action.

The Division would like to thank Mr. Nicks for meeting with us to discuss these issues. If you have any questions regarding this letter, please reach out to me at daniel.pleasant@tn.gov or (615) 970-1222.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Daniel Pleasant', with a stylized, cursive script.

Daniel Pleasant
Environmental Scientist II
Division of Water Resources

e-copy: Matthew Nicks, Adenus, matthew.nicks@adenus.com
 Jordan Fey, TDEC DWR, jordan.fey@tn.gov
 Michael Murphy, TDEC DWR, michael.p.murphy@tn.gov
 Timmy Jennette, TDEC-DWR, tim.jennette@tn.gov
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 Ryne Ruddock, TDEC-DWR, ryne.ruddock@tn.gov